

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

40-7580

In re:) Chapter 11)
)
FANSTEEL INC., *et al.*,¹) Case No. 02-10109 (JJF)
) (Jointly Administered))
)
Debtors.)

Deadline for Objections to Bidding Procedures: August 29, 2003 at 4:00 p.m. E.T.

Hearing On Bidding Procedures: September 5, 2003 at 11:00 a.m. E.T.

Auction Date: To Be Determined

Deadline for Objections to Sale: To Be Determined

Sale Hearing: To Be Determined

NOTICE OF MOTION FOR ORDERS UNDER 11 U.S.C. §§ 363, 365 AND 1146(c) AND FED. R. BANKR. P. 6004 AND 6006: (I) SCHEDULING HEARING ON APPROVAL OF BIDDING PROCEDURES, AND BREAK-UP FEE; (II) (A) APPROVING BIDDING PROCEDURES AND BREAK-UP FEE IN CONNECTION WITH THE PROPOSED SALE OF CERTAIN ASSETS, (B) SCHEDULING A HEARING DATE, AUCTION DATE AND BIDDING DEADLINE IN CONNECTION WITH THE SALE OF SUCH ASSETS AND ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND LEASES, AND (C) APPROVING FORM AND MANNER OF NOTICE THEREOF; AND (III) (A) APPROVING THE ASSET PURCHASE AGREEMENT AMONG FANSTEEL INC., PHOENIX AEROSPACE CORPORATION AND THE PROPOSED PURCHASER, (B) APPROVING THE SALE OF THE ASSETS; (C) DETERMINING THAT SUCH SALE IS EXEMPT FROM STAMP, TRANSFER, RECORDING OR SIMILAR TAXES; AND (D) APPROVING ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES [DOCKET NO. 1111]

TO: ALL PARTIES WHO HAVE REQUESTED NOTICE PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 2002; COUNSEL FOR THE PROPOSED PURCHASER; TAXING AUTHORITIES; ALL PARTIES WHO HAVE MADE WRITTEN EXPRESSIONS OF INTEREST IN PURCHASING THE PURCHASED ASSETS; OFFICE OF THE UNITED STATES TRUSTEE; AND COUNSEL FOR THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS

¹The Debtors are the following entities: Fansteel Inc., Fansteel Holdings, Inc., Custom Technologies Corp., Escast, Inc., Wellman Dynamics Corp., Washington Mfg. Co., Phoenix Aerospace Corp., and American Sintered Technologies, Inc.

BKRPD1

PLEASE TAKE NOTICE THAT on July 24, 2003, the captioned debtors and debtors in possession (collectively, the "Debtors") filed a Motion For Orders Under 11 U.S.C. §§ 363, 365 And 1146(C) And Fed. R. Bankr. P. 6004 And 6006: (I) Scheduling Hearing On Approval Of Bidding Procedures, And Break-Up Fee; (II) (A) Approving Bidding Procedures And Break-Up Fee In Connection With The Proposed Sale Of Certain Assets, (B) Scheduling A Hearing Date, Auction Date And Bidding Deadline In Connection With The Sale Of Such Assets And Assumption And Assignment Of Executory Contracts And Leases, And (C) Approving Form And Manner Of Notice Thereof; And (III) (A) Approving The Asset Purchase Agreement Among Fansteel Inc., Phoenix Aerospace Corporation And The Proposed Purchaser, (B) Approving The Sale Of The Assets; (C) Determining That Such Sale Is Exempt From Stamp, Transfer, Recording Or Similar Taxes; And (D) Approving Assumption And Assignment Of Certain Executory Contracts And Unexpired Leases [Docket No.1111] (the "Motion") with the United States Bankruptcy Court for the District of Delaware, 824 Market Street, Wilmington, Delaware 19801.

PLEASE TAKE FURTHER NOTICE THAT ATTACHED HERETO AS Exhibit (I) is a copy of the Order Scheduling a Hearing on Debtors' Motion to Approve Bidding Procedures and Break up Fees in Connection with the Proposed Sale of Assets (the "Bidding Procedures Scheduling Order") [Docket No. 1169]. The Bidding Procedures Scheduling Order sets September 5, 2003 at 11:00 a.m. Eastern Time, as the date and time to consider the proposed bidding procedures and break-up fee described in the Motion (the "Proposed Bidding Procedures"), and sets August 29, 2003 at 4:00 p.m. Eastern Time as the deadline for service and filing of objections to the Proposed Bidding Procedures.

PLEASE TAKE FURTHER NOTICE THAT ATTACHED HERETO as Exhibit (II) is a true and correct copy of the Motion.

PLEASE TAKE FURTHER NOTICE THAT ATTACHED HERETO as Exhibit (III) is a true and correct copy of the redlined version of Asset Purchase Agreement by and among Fansteel Inc., Phoenix Aerospace Corporation, as Seller, and Stoutheart East Corporation WPC III Inc., as Purchaser and Richard Burkhart, as a Guarantor, dated July 29, 2003 (the "Redlined Asset Purchase Agreement") [Docket No. 1181]. A form of the Asset Purchase Agreement, was filed with the Court as Exhibit D to the Motion. The Redlined Asset Purchase Agreement shows the differences between form of the Asset Purchase Agreement, as Exhibit D to the Motion and the actual Agreement executed by the Parties. A full copy of the executed Asset Purchase Agreement, including all disclosure schedules and exhibits thereto, will be filed with the Court, on or around August 15, 2003.

Objections or responses, if any, to the Bidding Procedures, must be filed with the United States Bankruptcy Court for the District of Delaware, 824 Market Street, Wilmington, Delaware 19801, on or before August 29, 2003 at 4:00 p.m. Eastern Time. At the same time, you must also serve a copy of the response or objection upon co-counsel for the Debtors: (i) Schulte Roth & Zabel LLP, 919 Third Avenue, New York, New York 10022 (Attn: Jeffrey S. Sabin, Esq., attorney for the Debtors); (ii) Benesch, Friedlander, Coplan & Aronoff LLP, 2300 BP Tower, 200 Public Square, Cleveland, OH 44114, (Attn: Peter K. Shelton, Esq., attorney for the Proposed Purchaser; (iii) the Office of the United States Trustee, 844 King Street, Suite 2313, Lockbox 35, Wilmington, Delaware 19801 (Attn: David Buchbinder, Esq.), and (iv) Freeborn & Peters, 311 S. Wacker Drive, Suite 3000, Chicago, IL 60606-6677 (Attn: Frances Gecker, Esq., attorney for the Official Committee of Unsecured Creditors).

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED BY THE BIDDING PROCEDURES MOTION WITHOUT FURTHER NOTICE OR HEARING.

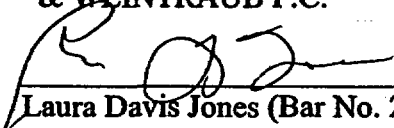
YOU WILL RECEIVE FURTHER NOTICE OF OTHER DATES PERTINENT TO THE MOTION ONCE SUCH DATES ARE SET BY THE COURT.

Dated: August 11, 2003

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Co-Counsel for Debtors and
Debtors-in-Possession

EXHIBIT I

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:) Chapter 11
)
FANSTEEL INC., et al.,¹) Case No. 02-10109 (JJF)
) (Jointly Administered)
)
Debtors.)

**ORDER SCHEDULING HEARING ON DEBTORS' MOTION
TO APPROVE BIDDING PROCEDURES AND BREAK-UP FEE IN
CONNECTION WITH THE PROPOSED SALE OF ASSETS**

Upon the motion (the "Motion") of Fansteel Inc. ("Fansteel") and its affiliated debtors and debtors-in-possession (the "Debtors") for entry of (I) an order scheduling a hearing date to approve the bidding procedures and a break-up fee, (II) an order under 11 U.S.C. §§ 105 and 363 and Fed. R. Bankr. P. 6004(f) (A) approving bidding procedures (the "Bidding Procedures Order") and a break-up fee in connection with the proposed sale by Fansteel and Phoenix Aerospace Corporation ("Phoenix") to Stoutheart East Corporation ("Stoutheart"), WPC III Inc. ("WPC") and Richard Burkhart ("Burkhart") (Stoutheart, WPC and Burkhart collectively, the "Proposed Purchaser") of substantially all of the assets, property and businesses of Phoenix and the divisions of Fansteel known as California Drop Forge, Hydro Carbide-Gulfport and Hydro Carbide-Latrobe ("Fansteel Cal Drop and Hydro Carbide Divisions"), the accounts receivable and inventory of the Fansteel division known as VR/Wesson-Plantsville ("Plantsville Division"), and the equipment and inventory located at Fansteel's facility in Lexington, Kentucky (collectively, the "Purchased Assets"), (B) scheduling a hearing date, auction date, and bidding deadlines and procedures in connection with the sale of the Purchased Assets, and (C) and

¹ The Debtors are the following entities: Fansteel Inc., Fansteel Holdings, Inc., Custom Technologies Corp., Escast, Inc., Wellman Dynamics Corp., Washington Mfg. Co., Phoenix Aerospace Corp., and American Sintered Technologies, Inc.

approving the form and manner of notice thereof (collectively, "Part I of the Motion"); and (III) an order (the "Sale Order") under 11 U.S.C. §§ 105, 363, 365 and 1146(c) and Fed. R. Bankr. P. 2002(a)(2) and (c)(1), 6004 and 6006, (A) approving the Asset Purchase Agreement among Fansteel, Phoenix and the Proposed Purchaser substantially in the form of the Agreement attached to the Motion as Exhibit "D" (the "Asset Purchase Agreement"), or a modification thereof if another party is the Successful Bidder, (B) approving the sale of the Purchased Assets to the Proposed Purchaser or such other party making a higher and better offer therefore (the "Successful Bidder"), free and clear of liens, interests, claims, restrictions, encumbrances, encroachments and charges of every kind (except as otherwise provided in the Asset Purchase Agreement), (C) determining that such sale is exempt from any stamp, transfer, recording or similar taxes, and (D) approving the assumption by the Debtors and the assignment to the Buyer of certain pre-petition executory contracts and unexpired leases (collectively, "Part II of the Motion"); and it appearing that no other or further notice need be given; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that a hearing to consider that part of the Motion seeking approval of the Bidding Procedures and Break-up Fee shall be held before the Honorable Joseph J. Farnan on ~~September 5, 2003~~ at 11:00 a.m. *OK*
~~August 2003~~ at ~~11:00~~ a.m. (EST) at the United States Bankruptcy Court for the District of Delaware, located in Wilmington, Delaware or as soon thereafter as counsel may be heard; and it is further

ORDERED that a copy of this order, together with the Motion shall be served by regular mail upon (i) Benesch, Friedlander, Coplan & Aronoff LLP, 2300 BP Tower, 200 Public Square, Cleveland, OH 44114, Attn: Peter K. Shelton, Esq., attorney for the Proposed Purchaser; (ii) the Office of the United States Trustee; (iii) counsel to the Creditors' Committee; (iv) all

appropriate federal, state and local taxing authorities, (v) all parties who have made written expressions of interests in acquiring the Purchased Assets; and (vi) all parties having filed a notice of appearance in the Debtors' chapter 11 cases, which service shall constitute good and sufficient notice of this order and the hearing on the Bidding Procedures and Break-up Fee; and it is further

ORDERED that all objections to the Bidding Procedures and Break-up Fee as described in the Motion must be in writing, must state the name of the objecting party, must state the particularity of the reasons and basis for the objection, and be filed with the Court (with a copy delivered to Chambers) and served upon (i) Schulte Roth & Zabel LLP, 919 Third Avenue, New York, New York 10022, Attn: Jeffrey S. Sabin, Esq., attorney for the Debtors, (ii) Benesch, Friedlander, Coplan & Aronoff LLP, 2300 BP Tower, 200 Public Square, Cleveland, OH 44114, Attn: Peter K. Shelton, Esq., attorneys for the Proposed Purchaser, (iii) the Office of the United States Trustee, 844 King Street, Ste. 2313, Wilmington, DE 19801, Attn: David Buchbinder, and (iv) Freeborn & Peters, 311 South Wacker Drive, Ste. 3000, Chicago Ill. 60606-6677, Attn: Frances Gecker, Esq., counsel for the Creditors' Committee, so that such objections are actually received by such persons no later than August 29, 2003 at 5:00 p.m. (EST).

Dated: Wilmington, Delaware

July 2003
August 5



The Honorable Joseph J. Farnan Jr.
United States District Court Judge

EXHIBIT II

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	)	Chapter 11
)	
FANSTEEL INC., <u>et al.</u> , ¹	)	Case No. 02-10109 (JJF)
	)	(Jointly Administered)
)	
Debtors.)	

MOTION FOR ORDERS UNDER 11 U.S.C. §§ 363, 365 AND 1146(c) AND FED. R. BANKR. P. 6004 AND 6006: (I) SCHEDULING HEARING ON APPROVAL OF BIDDING PROCEDURES, AND BREAK-UP FEE; (II) (A) APPROVING BIDDING PROCEDURES AND BREAK-UP FEE IN CONNECTION WITH THE PROPOSED SALE OF CERTAIN ASSETS, (B) SCHEDULING A HEARING DATE, AUCTION DATE AND BIDDING DEADLINE IN CONNECTION WITH THE SALE OF SUCH ASSETS AND ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND LEASES, AND (C) APPROVING FORM AND MANNER OF NOTICE THEREOF; AND (III) (A) APPROVING THE ASSET PURCHASE AGREEMENT AMONG FANSTEEL INC., PHOENIX AEROSPACE CORPORATION AND THE PROPOSED PURCHASER, (B) APPROVING THE SALE OF THE ASSETS; (C) DETERMINING THAT SUCH SALE IS EXEMPT FROM STAMP, TRANSFER, RECORDING OR SIMILAR TAXES; AND (D) APPROVING ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Fansteel Inc. ("Fansteel") and its affiliated debtors and debtors-in-possession (collectively, the "Debtors"), move (the "Motion") for: (I) an order scheduling a hearing date to approve the bidding procedures and break-up fee,² (II) an order under 11 U.S.C. §§ 105 and 363 and Fed. R. Bankr. P. 6004(f) (A) approving bidding procedures (the "Bidding Procedures Order")³ and a break-up fee in connection with the proposed sale by Fansteel and Phoenix Aerospace Corporation ("Phoenix") ("Fansteel and Phoenix collectively, the "Seller") to Stoutheart East Corporation ("Stoutheart"), WPC III Inc. ("WPC") and Richard Burkhart ("Burkhart") (Stoutheart, WPC and Burkhart collectively, the "Proposed Purchaser") of

¹ The Debtors are the following entities: Fansteel Inc., Fansteel Holdings, Inc., Custom Technologies Corp., Escast, Inc., Wellman Dynamics Corp., Washington Mfg. Co., Phoenix Aerospace Corp., and American Sintered Technologies, Inc.

² A copy of the proposed order scheduling a hearing on the bidding procedures, and break-up fee and expense reimbursement is attached as Exhibit A.

³ A copy of the proposed Bidding Procedures Order is attached hereto as Exhibit B.

("Burkhart") (Stoutheart, WPC and Burkhart collectively, the "Proposed Purchaser") of substantially all of the assets, property and businesses of Phoenix and the divisions of Fansteel known as California Drop Forge, Hydro Carbide-Gulfport and Hydro Carbide-Latrobe ("Fansteel Cal Drop and Hydro Carbide Divisions"), the accounts receivable and inventory of the Fansteel division known as VR/Wesson-Plantsville ("Plantsville Division"), and the equipment and inventory located at Fansteel's facility in Lexington, Kentucky (collectively, the "Purchased Assets"), (B) scheduling a hearing date, auction date, and bidding deadlines and procedures in connection with the sale of the Purchased Assets⁴, and (C) and approving the form and manner of notice thereof (collectively, "Part I of the Motion"); and (III) an order (the "Sale Order")⁵ under 11 U.S.C. §§ 105, 363, 365 and 1146(c) and Fed. R. Bankr. P. 2002(a)(2) and (c)(1), 6004 and 6006, (A) approving an Asset Purchase Agreement among Fansteel, Phoenix and the Proposed Purchaser substantially in the form of the Agreement annexed hereto as Exhibit "D" (the "Asset Purchase Agreement")⁶ or a modification thereof if another party is the Successful Bidder, (B) approving the sale of the Purchased Assets to the Proposed Purchaser or such other party making a higher and better offer therefore (the "Successful Bidder"), free and clear of liens, interests, claims, restrictions, encumbrances, encroachments and charges of every kind (except as otherwise provided in the Asset Purchase Agreement), (C) determining that such sale is exempt from any stamp, transfer, recording or similar taxes, and (D) approving the assumption by the Debtors and the assignment to the Successful Bidder of certain pre-petition executory contracts and unexpired leases (collectively, "Part II of the Motion"). In support of this Motion, the Debtors respectfully represent as follows:

⁴ Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Stock Purchase Agreement.

⁵ A copy of the proposed Sale Order is attached as Exhibit C.

⁶ A copy of the fully executed Asset Purchase Agreement, including all schedules and exhibits thereto, will be filed with the Court under separate cover prior to the hearing on Part I of the Motion.

JURISDICTION

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The statutory predicates for relief are 11 U.S.C. §§ 105, 363, 365 and 1146(c) and Fed. R. Bankr. P. 6004 and 6006.

BACKGROUND

A. The Bankruptcy Filing

2. On January 15, 2002 (the "Petition Date"), the Debtors filed voluntary petitions for relief under 11 U.S.C. §§ 101 et seq. (the "Bankruptcy Code"). The Court has entered an order pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), directing that the Debtors' separate chapter 11 cases (the "Cases") be procedurally consolidated and jointly administered by this Court.

3. The Debtors continue to manage their respective properties and operate their respective businesses as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

4. On January 29, 2002, the Office of the United States Trustee for the District of Delaware appointed an official committee of unsecured creditors (the "Committee") for the Cases. No trustee or examiner has been appointed in any of the Cases.

B. The Debtors' Business Operations

5. Fansteel and the other eight Debtors (each a direct or indirect wholly-owned subsidiary of Fansteel) have been engaged for over 70 years in the business of manufacturing and marketing specialty metal products, with today's operations being conducted at ten manufacturing facilities (five of which are owned by Fansteel) in nine states. Collectively, the Debtors have approximately 962 employees, substantially all on a full time basis, including

approximately 365 employees that are working under collective bargaining agreements with four different unions. Each Debtor is operated separately, with separate employees, separate operations and separately maintained books and records.

C. Events Leading to the Bankruptcy Filings

6. The operations of the Debtors' respective businesses have involved compliance with state and federal environmental laws, including the Atomic Energy Act. The Cases are an outgrowth of the discontinuation of one of Fansteel's operations that was conducted from the 1950s through 1989 at a site owned and operated by Fansteel in Muskogee, Oklahoma (the "Muskogee Site"). At the Muskogee Site, Fansteel, in accordance with a license obtained from the NRC in 1967, processed tantalum ore for further processing at Fansteel's plant in North Chicago. Tantalum naturally occurs with other metals, including uranium and thorium, each of which is radioactive, and the processing of tantalum results in, among other things, radioactive residues and soils.

7. In 1989, Fansteel discontinued its operations at the Muskogee Site. The NRC requires, after a licensee ceases principal operations, that the licensee obtain approval of a decommissioning plan ("DP") and a decommissioning funding plan ("DFP"). The DP is intended to set forth the method by which the licensee entity is to remediate its site and dispose of its radioactive material, and a DFP is intended to specify how the licensed entity is to fund the costs and expenses of decommissioning.

8. Fansteel's original proposed DP, among other things, contemplated construction of a processing plant to reprocess and remediate the radioactive residues over at least a ten year period and the construction of an on-site containment cell to remediate the remaining contaminated soils. The reprocessing plant operations were projected to at least recover the

cost of construction and cost for operations as a result of the anticipated revenue to be derived from the sale of the valuable metals to be recovered from the reprocessing of the residues.

9. Fansteel's proposed DP (the reprocessing plant) was approved as an amendment to Fansteel's NRC license in 1997. Thereafter, Fansteel, with the approval of the NRC, spent in excess of \$30 million to construct a facility on its Muskogee property designed to reprocess radioactive residues and to extract valuable materials so as to make the facility economically feasible and to facilitate decommissioning.

10. Unfortunately, the construction and start up of the DP's reprocessing plant was plagued with numerous technical and operational difficulties significantly reducing the estimated processing capacity of the facility. In addition to the difficulties experienced from 1999 through 2001 in start-up operations of the reprocessing facility in processing adequate quantities of material, the economic and pricing assumptions underlying the construction and approval of the reprocessing plant were dramatically and adversely affected during the second half of 2001 as part of the fall out from the significant downturn in the electronics and telecommunications industries (which would have been the end-users of the reprocessed materials). Generally accepted accounting principles required Fansteel not only to write-off the costs that Fansteel had expended in designing and building the reprocessing plant (approximately \$32 million), but also to take an immediate reserve for the reasonably anticipated costs of remediating (by off-site disposal) the radioactive residues and soils that remain on the Muskogee Site without regard to any reprocessing, an approximately \$57 million reserve.

11. The resulting \$80+ million write-off, together with the effects of the recessionary US economy, particularly in the manufacturing sectors serviced by the Debtors, caused defaults under then existing credit lines and eliminated most trade credit. Although the

Debtors expended much time and effort in seeking an out of court resolution to their financial difficulties, the inability to obtain financing for its businesses required the commencement of these Chapter 11 Cases.

D. Post-Petition Financing

12. The Debtors filed for relief under Chapter 11 on January 15, 2002; yet, the Debtors were unable to obtain DIP financing until May 2002. The Proposed DIP financiers were concerned that the rights of the NRC would prime their rights.⁷ Fansteel explored alleviating the concerns of the DIP financiers by obtaining the consent, satisfactory to lenders, of the NRC to the proposed DIP financing, but it appeared unlikely that such a consent could be obtained. Even if such consent were forthcoming, under the Hobbs Act, 28 U.S.C. §2342, third parties arguably would have a period of time within which to challenge the consent of the NRC. As a result, the lenders were unwilling to provide Fansteel with DIP financing until the NRC provided its consent and the challenge period under the Hobbs Act expired.

13. With no DIP facility in place and a cash liquidity crisis at hand, management's overwhelming concern was the preservation of adequate cash flow for the businesses to survive. Maintaining "adequate cash flow" replaced "attaining profits" as a corporate goal. This was clearly necessary because the Debtors' lack of cash left them in continual jeopardy of not meeting payroll or post-petition creditor obligations. Positive cash flow was maintained by cost-cutting, accelerating collection on receivables, improving certain operations, fostering relationships through their critical vendors program, re-establishing confidence with customers and vendors, and marketing assets in order to raise money for working capital. Simultaneously

⁷ For example, such concerns specifically were expressed by Foothill Capital Corporation and The CIT Group/Business Credit, Inc., which refused to lend without the affirmative consent of the NRC.

with these efforts, the Debtors' management expended considerable time and resources in an effort to obtain post-petition financing.

14. From November 19, 2001 through May 2002, the Debtors operated with no access to external financing, while contending with a severe recession in the industries served by many of its businesses and a catastrophic downturn in aerospace business following September 11, 2001. Accordingly, from the outset of these Chapter 11 Cases, the Debtors made every effort to maintain the continued cooperation and support of all key creditor constituents, including the Committee, the NRC, the Environmental Protection Agency ("EPA"), the Pension Benefit Guaranty Corporation ("PBGC"), the Department of the Navy, and the various state regulatory agencies in Illinois, Kentucky Iowa and Oklahoma, among others (collectively, the "Interested Parties").

15. Finally, in May 2002 – four months after the Petition Date – the Debtors were able to arrange for DIP financing from Congress Financial Corp. ("Congress"). In connection with the closing of that financing, the Debtors addressed certain concerns of the Committee regarding management of the companies. This Court's order approving the post-petition financing facility with Congress [Docket No. 226] provided, as a condition to approval of the financing arrangement, for the engagement of a financial advisor acceptable to both the Debtors and the Committee. The Debtors agreed, as a concession to the Committee, to retain outside financial planners to (i) review and refine the Debtors' business plan, (ii) prepare projections based upon the business plan and (iii) prepare valuations of the Debtors' business and assets. By order of this Court entered on August 19, 2002 [Docket No. 411], the Debtors, with the Committee's support, were authorized to retain Executive Sounding Board Associates Inc. (the "Advisor") for these purposes.

16. From approximately July 2002 to October 2002, the Advisor worked closely with the Debtors to develop revised business plans, projections and valuations of the Debtors' assets. The Debtors and the Interested Parties recognized that the development of this financial information and preparation of the requisite reports and projections by the Advisor were essential to the formulation and negotiation of a consensual plan of reorganization in the Chapter 11 Cases. By order of this Court, September 23, 2002 was fixed as the Bar Date for filing proofs of claim against the Debtors in the Chapter 11 Cases. Review and analysis of the claims filed against the Debtors was also essential to the plan formulation process. Accordingly, the Debtors together with their representatives spent considerable time and resources to analyze and reconcile the various proofs of claim filed against each of the respective Debtor entities and assess the impact of such claims in each of the respective estates.

17. In addition, during the post-petition period, the Debtors have addressed many critical operating and survival issues resulting from the severe economic downturn in many of the Debtors' end-user markets, including effectuating cost containment programs and proceeding with strategic decisions to close two non-performing operations, as well as the strategic sale of a profitable subsidiary. At the same time, Fansteel worked to develop a revised decommissioning plan for the Muskogee Site, another step critical to serious plan negotiations with the various Interested Parties - in particular, the NRC.

18. Recognizing that an amended decommissioning plan for the Muskogee Site was essential to the formulation of a feasible reorganization plan, the Debtors retained Earth Sciences Consultants, Inc. (the "Environmental Consultant") as environmental consultants to the Chapter 11 Debtors. In addition, the development of a business plan and projections by the Debtors with the assistance of the Advisor was necessarily dependent upon the terms of the revised decommissioning plan which was being formulated by the Environmental Consultant.

The continuing interplay between the resolution of environmental issues confronting the Debtors and their ongoing business plans required thoughtful and methodical management of the plan negotiation process to ensure the ultimate success of the Debtors' reorganization efforts.

19. In late November/early December 2002, the Environmental Consultant completed its preliminary report for an amended plan for decommissioning at the Muskogee Site, thereby setting the stage for serious plan negotiations. Following the execution of certain non-disclosure agreements, the Debtors proceeded to forward to the Interested Parties evaluation materials, including financial information developed by the Debtors and the Advisor, as well as an initial draft of a proposed plan term sheet for discussion. The terms of the plan formulated by the Debtors were based on the premise that the Debtors were separate entities and not subject to consolidation substantively. Accordingly the plan term sheet circulated by the Debtors treated the Debtors as separate entities, and focused on (a) the resolution of issues presented by environmental liabilities of the Debtors, and (b) the resolution of contingent, unliquidated claims asserted against the Debtors jointly and severally by the PBGC based upon estimated underfunded pension liabilities of approximately \$13 million.

20. Negotiations with the Interested Parties based on the Debtors' preliminary plan term sheet continued during the month of January 2003, and on January 14, 2003, the Debtors filed their final amended plan for decommissioning the Muskogee Site, thereby furthering the prospects for a consensual reorganization plan. In February 2003, the Debtors encountered a set back in the efforts to finalize their plan of reorganization. The Debtors learned that the gap in the underfunded pension obligations had increased by nearly 50% to \$19 million due the continued downturn in the markets. Since the Debtors' pension plan termination obligations had increased significantly, the Debtors were forced to reevaluate the plan treatment of the

PBGC's claims, as well as a request by the Committee that certain assets of the Debtors be marshaled for sale.

21. On March 14, 2003, the Debtors arranged to meet with the Interested Parties in Washington to address these new obstacles in the context of a final plan term sheet. As a consequence of that meeting, a determination was made that the most probable scenario for a successful resolution of the Chapter 11 Cases with the greatest realization for creditors involved a termination of the existing pension plan and the establishment of a new corporate entity to absorb certain aspects of the Debtors' environmental exposure and the PBGC obligations. Following the meeting, the Debtors immediately commenced settlement discussions with the PBGC, which were ultimately successfully concluded, bringing the Debtors another step closer to full resolution of the many issues on the negotiating table.

E. The Proposed Sale of Assets

22. Notwithstanding the Debtors' continued efforts to reach a consensual plan of reorganization with all interested parties, on or about May 7, 2003, the Committee forwarded a draft of a reorganization plan that it had prepared for the Debtors which contemplated, among other things, a sale of certain assets of the Debtors to Stoutheart and WPC and a distribution of the proceeds of the sale under the plan. The Debtors urged the Committee to reconsider the proposed plan term sheet that was being circulated among the parties at that time rather than filing a plan without the support of the Debtors or any of the other essential parties in interest. The Committee believed, however, that the filing of its proposed plan would, if nothing else, serve as a catalyst to accelerate the plan negotiation process while preserving the interests of the Committee's constituency.

23. On May 9, 2003, the Committee filed a motion seeking, among other things, authorization to file its proposed plan of reorganization in advance of filing a disclosure

statement and certain additional information from the Debtors necessary to further the Committee's evaluation of either plan proposal. On May 12, 2003, the Debtors, concerned that the Committee's proposed plan and the relief sought in the Committee's motion could severely jeopardize the efforts to finalize terms for a consensual and feasible plan of reorganization, filed a request for a continuance of the Committee's motion. Following an emergency hearing on May 16, 2003, the Court denied the Committee's motion in part, ordering that the Committee not take any action to file a plan until at least July 11, 2003.

24. Following the emergency hearing on May 16, 2003, the Debtors and the Committee revisited discussions regarding a consensual plan of reorganization and ultimately agreed that a sale of assets based on the offer made by, and negotiated by the Committee with, Stoutheart and WPC and a distribution of the sale proceeds, in large part, to the constituency represented by the Committee was a feasible and prudent element to be incorporated into the Debtors' reorganization plan.

25. Although the Committee's negotiations with the Proposed Purchaser contemplated that the sale of assets would occur only upon plan confirmation, the Debtors determined that it would be prudent to proceed with an immediate asset sale under section 363 of the Bankruptcy Code so that the proceeds of the sale would be available to fund distributions under the Debtors' plan by the time of confirmation. As a result, the Debtors entered into negotiations with the Proposed Purchaser on the terms and provisions of an asset purchase agreement substantially in the form of the Asset Purchase Agreement annexed hereto as Exhibit "D." That proposed Asset Purchase Agreement provides for the sale of all of Fansteel's right, title and interest in and to the properties, business and assets of the Fansteel Cal Drop and Hydro Carbide Divisions, the equipment and inventory of located at Fansteel's facility in Lexington, Kentucky (the "Lexington Facility"), and the accounts receivable and inventory of

the Plantsville Division, and the sale by Phoenix of its assets consisting of real property located at 1033 Alhambra Avenue, Los Angeles, California and a lease agreement with Fansteel with respect thereto (the "Phoenix Real Property Assets"), subject to higher and better offers.

F. Use of Sale Proceeds

26. The Joint Reorganization Plan of the Debtors now contemplates the pre-confirmation sale of the Purchased Assets and reflects the agreements reached with the Committee regarding the escrow of the net cash proceeds of the sale for distribution to general unsecured creditors. The Debtors and the Committee have agreed, and the Plan provides that, the net cash proceeds of the Sale, together with interest earned thereon will be held in an escrow account pending confirmation of the Plan. On the Plan's effective date, 100% of the first \$11,500,000 of net cash sales proceeds and 50% of the proceeds in excess of \$11,500,000⁸ will be deposited into an account established for the benefit of holders of general unsecured claims pending distribution in accordance with the provisions of the Plan.

RELIEF REQUESTED

27. By Part I of the Motion, Fansteel seeks entry of (i) an order, substantially in the form attached as Exhibit "A," scheduling a hearing on approval of the bidding procedures and break-up fee, and (ii) an order, substantially in the form attached as Exhibit "B," approving the bidding procedures and a break-up fee in connection with the proposed sale of the Purchased Assets (the "Sale"), scheduling a hearing on the Sale ("Sale Hearing") and approving the form and manner of notice thereof.

28. By Part II of the Motion, the Debtors seeks entry of an order substantially in the form attached as Exhibit "C" (i) approving the Asset Purchase Agreement with the Proposed

⁸ The remaining 50% of any net cash proceeds in excess of \$11,500,000 will be available as working capital to Reorganized Fansteel once the Plan becomes effective.

Purchaser, or a modification thereof if another party is the Successful Bidder at the Auction, (ii) approving the sale of the Purchased Assets to the Proposed Purchaser or such other party making a higher and better offer therefor, (iii) determining that such sale is exempt from any stamp, transfer, recording or similar tax, and (iv) approving the assumption by the Debtors and the assignment to the Successful Bidder of certain pre-petition executory contracts and unexpired leases (collectively, "Part II of the Motion").

The Proposed Asset Purchase Agreement

29. In connection with the plan negotiation process described above, the Debtors are now engaged in negotiations in respect of an Asset Purchase Agreement with the Proposed Purchaser that, among other things, provides for the sale of the Purchased Assets. Fansteel and Phoenix have determined, in the exercise of their sound business judgment, that entering into the Asset Purchase Agreement is in the best interests of the Debtors, their estates and their creditors.

30. The material terms of the Asset Purchase Agreement include:⁹

Purchase Price: In consideration for the Purchased Assets, as of the Closing Date, the Proposed Purchaser will pay to the Debtors an aggregate amount equal to the sum of (i) eighty percent (80%) of the book value of the Receivables (reduced by book reserves for bad debts and credits and discounts granted prior to the Closing in the ordinary course), plus (ii) eighty percent (80%) of the book value of the Inventory (reduced by book reserves for excess and obsolete stock and scrap), *plus* (iii) fifty percent (50%) of the book value of the Prepaid Items and Deposits, *plus* (iv) eighty percent (80%) of the book value of the Fixed Assets (reduced by book depreciation and retirement in the ordinary course), *plus* (v) the sum of \$850,000 (the "Purchase Price"). The Purchase Price will be paid in part by the assumption of debts and liabilities as provided in the Asset Purchase Agreement, by delivery of a

⁹ This summary is provided for convenience only and is qualified in its entirety by the Asset Purchase Agreement. The Asset Purchase Agreement should be reviewed in its entirety by an interested party and, to the extent that there is any discrepancy, the terms and conditions of the Asset Purchase Agreement shall control.

promissory note in the amount of \$850,000, and the balance in cash.

Assets:

On the terms and subject to the conditions precedent set forth in the Asset Purchase Agreement, at the Closing, Fansteel shall sell to the Proposed Purchaser all of its right, title and interest in and to the properties, business and assets of the Fansteel Cal Drop and Hydro Carbide Divisions, of every kind and description, whether real, personal or mixed, tangible or intangible, wherever located (other than the Excluded Assets), the accounts receivable and inventory of the Plantsville Division, and the equipment and inventory located at the Lexington Facility, and with respect to Phoenix, the Phoenix Real property Assets, free from all security interests or other rights or interests of third parties.

Excluded Assets:

Assets of the Seller which are excluded from the Purchased Assets shall include: the right to receive any refunds of Taxes paid by the Debtors prior to the Closing; prepaid pension assets, if any; all real property interests of Fansteel located in Waukegan, Illinois; Muskogee, Oklahoma; North Chicago, Illinois; Plantsville, Connecticut and Lexington, Kentucky; and all fixtures, equipment and appurtenances located within the bounds of such real property, other than equipment and inventory located in the Lexington Facility and the inventory located on the Plantsville, Connecticut real property; Equity Securities of the Seller; the corporate and trade name "Fansteel" and all variations thereof that include the "Fansteel" name; any intercompany or intracorporate receivables of the Seller; any Contract terminated or expired prior to the Closing; all bank accounts, cash (including, but not limited to, cash in bank accounts), cash equivalents and short term investments; and all claims and causes of action, including, but not limited to, preference or avoidance claims and actions of Seller arising under sections 544 through 553, inclusive, of the Bankruptcy Code.

Sale Free and Clear:

The Purchased Assets are to be transferred free and clear of all liens, claims, encumbrances and interests pursuant to section 363(f) of the Bankruptcy Code. By this Motion, the Debtors request that the Court authorize the sale and order that all valid and enforceable liens, claims, encumbrances and security interests existing on the Purchased Assets as of the Closing Date, if any, with the exception of Permitted Liens and Assumed Liabilities, shall be transferred and attach to the net proceeds that the Debtors receive from the sale.

Escrow Agreement:

Upon execution of the Asset Purchase Agreement, the Proposed Purchaser shall make a cash deposit of \$500,000 with the escrow agent as set forth in a Deposit Escrow Agreement.

**Bidding
Procedures and
Break-Up Fee:**

As a condition to the Proposed Purchaser's obligation to close under the Asset Purchase Agreement, the Proposed Purchaser has required that Fansteel apply for an order approving certain bidding procedures for the acceptance of competing bids, as set forth in the Asset Purchase Agreement, and requested that Fansteel be authorized to pay to the Proposed Purchaser a Break-Up Fee of \$350,000 in accordance with the Asset Purchase Agreement if the Proposed Purchaser is not the Successful Bidder at the Auction.

Timing:

The Sale must close on or before November 30, 2003.

BIDDING PROCEDURES

31. The Proposed Purchaser has expended, and likely will continue to expend, considerable time, money and energy pursuing the purchase of the Purchased Assets and has engaged in extended arm's-length and good faith negotiations. In recognition of this expenditure of time, energy and resources, and the benefits of securing a stalking horse or minimum bid, the Debtors have agreed to seek an order of this Court approving the Bidding Procedures defined below.

32. The Bidding Procedures are a material inducement for, and a condition of, the Proposed Purchaser's entry into the Asset Purchase Agreement. The Debtors believe that the Bidding Procedures are fair and reasonable in view of (a) the intensive analysis, due diligence investigation, and negotiation undertaken by the Proposed Purchaser in connection with the Sale, (b) the extensive resources and expenditure to be undertaken by the Proposed Purchaser in moving toward consummation of the Sale and (c) the fact that the Proposed Purchaser's efforts have served as a catalyst for other proposed bidders and have increased the chances that the Debtors will receive the highest and best offer for the Purchased Assets, to the benefit of the Debtors, their estates, their creditors and all other parties-in-interest.

33. The Proposed Purchaser is unwilling to commit to hold open its offer to purchase the Purchased Assets under the terms of an Asset Purchase Agreement unless the

Bidding Procedures Order authorizes payment of the Break-Up Fee. Absent entry of the Bidding Procedures Order and approval of the Bidding Procedures, the Debtors may lose the opportunity to obtain what they believe to be the highest and best available offer for the Purchased Assets. The Debtors thus request that the Court authorize payment of the Break-Up Fee pursuant to the terms and conditions set forth in the proposed Asset Purchase Agreement.

34. The Debtors believe that the Bidding Procedures are fair and reasonable, and combined with the Proposed Purchaser's offer to acquire the Purchased Assets, will work to maximize the value realized by the Debtors' estates.

35. Set forth below are the bidding procedures (the "Bidding Procedures") to be employed with respect to the Asset Purchase Agreement among the Proposed Purchaser, Fansteel and Phoenix (the "Seller") concerning the prospective sale (the "Sale") of the Purchased Assets. The Seller will seek entry of an order from the Court authorizing and approving the Sale to a Qualified Bidder (as defined below) which the Seller may determine to have made the highest or otherwise best offer (the "Successful Bidder"). The following overbid provisions and related bid protections are designed to reimburse the Proposed Purchaser for its efforts to date and to facilitate a full and fair process designed to maximize the value of the Purchased Assets for the benefit of the the Debtors' estates and creditors. These Bidding Procedures shall not be subject to material changes without approval of the Court.

Assets To Be Sold

36. The Seller is offering for sale all of Fansteel's right, title and interest in and to the properties, business and assets of the Fansteel Cal Drop and Hydro Carbide Divisions, or otherwise currently used primarily in connection with the business of manufacturing, distribution and sales of specialty metals presently conducted by the Fansteel Cal Drop and Hydro Carbide Divisions, of every kind and description, whether real, personal or mixed,

tangible or intangible, wherever located (other than the Excluded Assets) the accounts receivable and inventory of the Plantsville Division, and the equipment and inventory located at Lexington Facility, and with respect to Phoenix, assets consisting solely of real property located at 1033 Alhambra Avenue, Los Angeles, California and a lease agreement with Fansteel with respect thereto.

The Bidding Process

37. The Seller shall (i) determine whether any person is a Qualified Bidder (as defined below), (ii) coordinate the efforts of Qualified Bidders in conducting their due diligence investigations, (iii) receive offers from Qualified Bidders, and (iv) negotiate any offers made to purchase the Purchased assets (collectively, the "Bidding Process"). Any person who wishes to participate in the Bidding Process must be a Qualified Bidder. Neither the Seller nor its representatives shall be obligated to furnish any information of any kind whatsoever to any person who is not determined to be a Qualified Bidder. Qualified Bidders shall be given all relevant information pertaining to the Sale. The Seller shall have the right to adopt such other rules for the Bidding Process, which rules will better promote the goals of the Bidding Process and that are not inconsistent with any of the other provisions hereof or of any Court order.

Participation Requirements

38. Unless otherwise ordered by the Court for cause shown or as otherwise determined by the Seller, in order to participate in the Bidding Process each person (a "Proposed Bidder") must deliver (unless previously delivered) to the Seller:

- (i) An executed confidentiality agreement in form and substance satisfactory to the Seller; and
- (ii) Current audited financial statements of the Proposed Bidder, or, if the Proposed Bidder is an entity formed for the purpose of acquiring the Purchased assets, current audited financial statements of the equity holder(s) of the Proposed Bidder, or such other form of financial disclosure acceptable to the Seller and its advisors demonstrating such Proposed Bidder's ability to close a proposed transaction.

39. A "Qualified Bidder" is any Proposed Bidder or multiple Proposed Bidders participating in the Bidding process together that delivers the documents described in subparagraphs (i) and (ii), whose financial information demonstrates the financial capability of the Proposed Bidders, either jointly or separately, to consummate the Sale, and that the Seller determines is reasonably likely (based on availability of financing, experience and other considerations) to submit a bona fide offer and to be able to consummate the Sale if selected as the Successful Bidder.

40. Within two business days after a Proposed Bidder delivers all of the materials required by subparagraphs (i) and (ii) above, the Seller shall determine, and shall notify the Proposed Bidder, if such Proposed Bidder is a Qualified Bidder.

Due Diligence

41. The Seller may afford any Qualified Bidder the opportunity to conduct a due diligence review. The Seller will designate an employee or other representative to coordinate all reasonable requests for additional information and due diligence access from Qualified Bidders. The Seller shall not be obligated to furnish any due diligence information after the Bid Deadline (as hereinafter defined). Neither the Seller nor any of its representatives are obligated to furnish any information to any person. Bidders are advised to exercise their own discretion before relying on any information provided by anyone other than the Seller or its representatives.

Bid Deadline

42. A Qualified Bidder who desires to make a bid shall deliver a written copy of its bid to the Seller, c/o Schulte, Roth & Zabel LLP, 919 Third Avenue, New York, NY 10022, Attn: Jeffrey Sabin, Esq., not later than 11:00 a.m. (EST) on the date which is three business days prior to the date scheduled by the Court for the Sale Hearing (the "Bid Deadline"). The

Seller will immediately distribute by facsimile transmission, personal delivery or reliable overnight courier service in accordance with the Asset Purchase Agreement, a copy of each bid upon receipt to counsel for the Proposed Purchaser. The Seller may, in its discretion, extend the Bid Deadline once or successively, but is not obligated to do so. The Seller shall announce the terms of the highest and best Qualified Bids received by the Bid Deadline by 5:00 p.m. (EST) on that day.

Bid Requirements

43. For the purposes of determining the existence of a bid, a bid may be in the form of a joint bid from more than one Qualified Bidder, or may be in the form of separate bids from more than one Qualified Bidder, with each such separate bid being for a portion of the Purchased Assets, but all of such separate bids collectively aggregating a bid price having a value greater than or equal to the sum of (x) the value, as reasonably determined by the independent financial advisor of the Seller, of the Proposed Purchaser's offer plus (y) other than where the Proposed Purchaser makes a bid, the amount of the Break-Up Fee (as defined below) plus (z) (A) in the case of the initial Qualified Bid, \$150,000, and (B) in the case of any subsequent Qualified Bids, \$150,000 plus the amount by which the preceding Qualified Bid exceeds the sum of (x) plus (y) above. All bids must include the following documents (the "Required Bid Documents"):

- A letter stating that one or more Qualified Bidders offer to purchase all or a portion of the Purchased Assets and that such offer is irrevocable until two (2) business days after the Purchased Assets have been disposed of pursuant to these Bidding Procedures.
- A statement by each Qualified Bidder that it is prepared to enter into and consummate the Sale as soon as practicable but in no event more than thirty-one (31) days after entry by the Court of the Sale Order.
- An executed copy of the Asset Purchase Agreement, together with all Exhibits and Schedules thereto (the "Definitive Sale").

Documentation") marked and initialed to show those amendments and modifications to such agreement that the Qualified Bidder proposes, including, but not limited to, price and the time of closing.

- A good faith deposit (the "Good Faith Deposit") in the form of a certified check or other form acceptable to the Seller in its sole discretion payable to the order of the Seller (or such other party as the Seller may determine) in an amount equal to \$500,000. All Qualified Bidders shall enter into an escrow agreement as directed by the Seller.
- Written evidence of a commitment for financing or other evidence of ability to consummate the proposed transaction satisfactory to the Seller.

44. The Seller will consider a bid only if the bid is on terms that are not conditioned on obtaining financing or on the outcome of unperformed due diligence by the bidder. A bid received from a Qualified Bidder that includes all of the Required Bid Documents and meets all of the above requirements is a "Qualified Bid."

45. If the Seller does not receive any Qualified Bids, the Seller will report the same to the Court and will proceed with a sale and assignment of the Purchased Assets to the Proposed Purchaser pursuant on terms set forth in an Asset Purchase Agreement substantially in the form of the Agreement annexed hereto as Exhibit "D.". The Asset Purchase Agreement, once executed by the Proposed Purchaser, shall constitute a Qualified Bid for all purposes.

Bid Protection

46. Recognizing the Proposed Purchaser's expenditure of time, energy and resources, the Seller has agreed to provide certain bidding protections to the Proposed Purchaser. Specifically, the Seller has determined that the Asset Purchase Agreement will further the goals of the Bidding Procedures by setting a floor for which all other Proposed Bids must exceed and, therefore, is entitled to be selected as a "Stalking Horse Bid." As a result, the Seller has agreed to pay, in certain limited circumstances, to the Proposed Purchaser a break-up

fee equal to \$350,000 (the "Break-Up Fee"). The payment of the Break-Up Fee shall be governed solely by the provisions of the Asset Purchase Agreement.

Auction

47. If the Seller receives a Qualified Bid, the Seller will conduct an auction (the "Auction") at the offices of Schulte, Roth & Zabel LLP, 919 Third Avenue, New York, NY 10022, on the date that is one Business Day prior to the date scheduled by the Court for the Sale Hearing, beginning at 11:00 a.m. (EST) or such later time or other place as the Seller shall notify all Qualified Bidders who have submitted Qualified Bids. Only the Proposed Purchaser, the Seller, the Committee and any Qualified Bidders who have timely submitted Qualified Bids shall be entitled to attend the Auction, and only the Proposed Purchaser and Qualified Bidders will be entitled to make any subsequent Qualified Bids at the Auction. During the Auction, bidding shall begin initially with the highest Qualified Bid and continue in minimum increments of at least \$150,000 higher than the previous Qualified Bid. Bidding at the Auction will continue until such time as the highest and best Qualified Bid is determined. The Seller may announce at the Auction additional procedural rules that are reasonable under the circumstances (e.g., the amount of time allotted to make subsequent overbids) for conducting the Auction so long as such rules are not inconsistent with these Bidding Procedures.

48. Upon conclusion of the Auction, the Seller, in consultation with its financial and business advisors shall (i) review each Qualified Bid or bids on the basis of financial and contractual terms and the factors relevant to the sale process, including those factors affecting the speed and certainty of consummating the Sale, and (ii) identify the highest and otherwise best offer for the Purchased Assets (the "Successful Bid"), which highest and best offer will provide the largest amount of net value to the Seller after payment of, among other things, the Break-Up Fee, if necessary. The Seller may adopt rules for the bidding process at the Auction

that will better promote the goals of the bidding process and that are not inconsistent with any of the provisions of the Bankruptcy Code, any Court order or these Bidding Procedures.

Acceptance Of Qualified Bids

49. The Seller shall sell the Purchased Assets for the highest or otherwise best Qualified Bid received at the Auction upon the approval of such Qualified Bid by the Court after the hearing (the "Sale Hearing"). The Seller's presentation of a particular Qualified Bid to the Court for approval does not constitute the Seller's acceptance of the bid. The Seller will be deemed to have accepted a bid only when the bid has been approved by the Court at the Sale Hearing.

Sale Hearing

50. The Sellers request a hearing at the earliest convenience of the Court at the United States Bankruptcy Court for the District of Delaware, located in Wilmington, Delaware. Such hearing may be adjourned or rescheduled without further notice by an announcement of the adjourned date at the Sale Hearing.

51. Following the Sale Hearing approving the sale of the Purchased Assets to the Successful Bidder, if such Successful Bidder fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the next highest or otherwise best Qualified Bid, as disclosed at the Sale Hearing, shall be deemed to be the Successful Bid and the Seller shall be authorized, but not required, to consummate the sale with the Qualified Bidder submitting such bid without further order of the Court.

Return Of Good Faith Deposit

52. Good Faith Deposits of all Qualified Bidders (except for the Successful Bidder) shall be held in an interest-bearing escrow account until two (2) days following the Auction. If a Successful Bidder fails to consummate an approved sale because of a breach or failure to

perform on the part of such Successful Bidder, the Seller will not have any obligation to return the Good Faith Deposit deposited by such Successful Bidder.

Modifications

53. The Seller may (a) determine, which Qualified Bid, if any, is the highest or otherwise best offer; and (b) reject at any time before entry of an order of the Court approving a Qualified Bid, any bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code, the Bidding Procedures, or the terms and conditions of sale, or (iii) contrary to the best interests of the Seller, its estates and creditors. At or before the Sale Hearing, the Seller may impose such other terms and conditions as it may determine to be in the best interests of the Seller's estate, its creditors and other parties in interest.

Applicable Authority

A. The Sale of the Assets Is Within The Debtors' Sound Business Judgment

54. Bankruptcy Code section 363 provides that the debtor "after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363 (b)(1).

55. Courts have approved sales of debtors' assets outside the ordinary course of business. *See, e.g. In re Tempo Technology Corp.*, 202, B.R. 363 (Del. D. 1996) (debtor and purchaser consummated sale outside ordinary course of business in good faith; notice of auction was published in national addition of Wall Street Journal, purchaser was sole bidder, purchaser was not affiliated with debtor's management or board of directors, and sale price was reasonable).

56. The Debtors' sale or use of assets outside the ordinary course of business should be approved by the court if the Debtors can demonstrate a sound business justification for the proposed transaction. *See, e.g., Meyers v. Martin*, 91 F. 3d 389, 395 (3d Cir. 1996) (citing

Fulton State Bank v. Schipter (In re Schipter), 933 F.2d 513, 515 (7th Cir. 1991) ("under normal circumstances the Court would defer to the trustee's judgment so long as there is a legitimate business justification"); *In re Montgomery Ward Holding Corp.*, 242 B.R. 147 (Bankr. D. Del. 1999) (held, in determining whether to authorize the use, sale or lease of estate property other than in the ordinary course of business, bankruptcy courts require the debtor to show that a sound business purpose justify such actions); *In re Delaware & Hudson Ry. Co.*, 124 B.R. 169 (D. Del. 1991) (approved sale under business purpose rule). See *In re Indus. Valley Refrigeration and Air Conditioning Supplies, Inc.*, 77 B.R. 15, 20 (Bankr. E.D. Pa. 1987) (adopted the sound business purpose rule). Here, the "sound business justification" test is easily met.

57. Courts have applied four factors in determining whether a sound business justification exists: (i) whether a sound business reason exists for the proposed transaction; (ii) whether fair and reasonable consideration is provided; (iii) whether the transaction has been proposed and negotiated in good faith; and (iv) whether adequate and reasonable notice is provided. *In re Montgomery* 242 B.R. at 153 (citing *Committee of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*), 722 F.2d 1063, 1071 (2d Cir. 1983) (setting forth the "sound business purpose" test); see also *In re Abbott's Dairies of Pennsylvania, Inc.*, 788 F.2d 143 149-150 (3d Cir. 1986) (implicitly adopting the articulated business justification test of *Lionel*, and adding the "good faith" requirement); *In re Delaware & Hudson Ry. Co.*, 124 B.R. at 176 ("Once a court is satisfied that there is a sound business reason or an emergency justifying the pre-confirmation sale, the court must also determine that the trustee has provided the interested parties with adequate and reasonable notice, that the sale price is fair and reasonable and that the purchaser is proceeding in good faith."). The sale of the Purchased Assets pursuant to the Asset Purchase Agreement meets each of these requirements.

**The Sale Satisfies
The Sound Business Purpose Test**

58. The Debtors believe that the Sale must be completed as promptly as possible if the Debtors are to effectuate a consensual plan of reorganization. The Proposed Purchaser has offered the Debtors substantial value for the Purchased Assets and is willing to close the Sale as soon as possible. In fact, the Asset Purchase Agreement may be terminated if the Sale does not close on or before November 30, 2003. The Debtors thus fear that any delay of the Sale creates a significant risk to the Debtors' ability to effectuate its proposed plan of reorganization.

59. Accordingly, well-articulated business reasons exist for approving the Sale, such that the "business purpose" test under Bankruptcy Code section 363 is met. *See Lionel*, 722 F.2d at 1071 ("most important [] perhaps, [is] whether the asset is increasing or decreasing in value").

**The Consideration Offered By
Purchaser Is Fair And Reasonable**

60. The Debtors submit that the sale of the Purchased Assets will provide fair and reasonable consideration to the Debtors' estates. Specifically, as noted above, the Debtors only began negotiating a definitive asset purchase agreement with the Proposed Purchaser after the Committee had solicited offers from interested parties. Thus, the Purchased Assets had been shopped by the Committee and the Proposed Purchaser's offer was determined by the Committee, and subsequently, the Debtors, to be the highest and best offer submitted for the Purchased Assets. The Debtors respectfully submit that the consideration they will receive from the Proposed Purchaser in exchange for the Purchased Assets is both fair and reasonable. *See e.g. In re China Resource Prod. Ltd. v. Fayda Int'l Inc.*, 856 F. Supp. 856, 865 (Del. D. 1994) (*quoting* Del. Code Ann. tit. 6 § 1303, which states "Fair consideration is defined as: (1) When in exchange for such property, or obligation, as a fair equivalent therefore, and in

good faith, property is conveyed . . . or (2) When such property, or obligation is received in good faith . . . in amount not disproportionately small as compared with the value of the property . . ."); *Geyer v. Ingersoll Publications Co.*, 621 A.2d 784, 792 (Del. Ch. 1992) (held, fair consideration means "a fair equivalent to the property given up.") Accordingly, the consideration to be paid by the Proposed Purchaser or other Successful Bidder is both fair and reasonable, and the ultimate purchaser of the Purchased Assets is entitled to all of the protection of Bankruptcy Code section 363(m).

**The Asset Purchase Agreement
Was Negotiated In Good Faith**

61. The proposed Asset Purchase Agreement is the product of extensive arm's-length negotiations between the Proposed Purchaser first with the Committee and now with the Debtors. These negotiations have involved, and will continue to involve, the expenditure of substantial time and energy by the parties and their counsel, and the final agreement will without question reflect compromises by both sides.

62. Moreover, the Auction procedure ensures that the Proposed Purchaser will not exert any undue influence over the Debtors. Furthermore, the Proposed Purchaser is neither an "affiliate" nor an "insider" of the Debtors as defined under Bankruptcy Code section 101. Under the circumstances, this Court should therefore find that (i) the sale of the Purchased Assets is the result of good faith arm's-length negotiations and (ii) the Proposed Purchaser or the Successful Bidder is entitled to all of the protections of Bankruptcy Code section 363 (m).

63. In sum, the Debtors have articulated a sound business justification for the sale of the Purchased Assets, and the Sale satisfies the requirements of Bankruptcy Code section 363(b), (m) and (n).

**B. The Sale Satisfies the Requirements of
Bankruptcy Code Section 363(f) for a Sale Free and
Clear of Liens, Claims, Encumbrances, and Interests**

64. Under Bankruptcy Code Section 363(f), a debtor-in-possession may sell property free and clear of any lien, claim, encumbrance or interest in such property if, among other things:

- (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.
(emphasis added)

11 U.S.C. § 363(f). Because Bankruptcy Code Section 363(f) is drafted in the disjunctive, satisfaction of any one of its five requirements will suffice to approve the sale and assignment by Fansteel and Phoenix of the Purchased Assets free and clear of all security interests, conditional sale or other title retention agreements, pledges, liens, judgments, demands, encumbrances, rights of first refusal or charges of any kind or nature, if any, including, but not limited to, any restriction on the use, voting, transfer, receipt of income or other exercise of any attributes of ownership. See 11 U.S.C. § 363 (f); *Citicorp Homeowners Servs., Inc. v. Elliot (In re Elliot)*, 94 B.R. 343, 344 (E.D. Pa. 1988) (Bankruptcy Code section 363(f) written in disjunctive; court may approve sale "free and clear" provided at least one of the subsections is met). Accordingly, the Sale should be approved under Bankruptcy Code section 363(f).

C. The Sale is Exempt from Stamp, Transfer, Recording or Similar Taxes

65. Section 1146(c) of the Bankruptcy Code provides that "the making or delivery of an instrument of transfer under a plan confirmed under section 1129 of this title may not be

taxed under any law imposing a stamp or similar tax." 11 U.S.C. § 1146(c). Where, as here, a sale outside of a plan is "necessary to consummation of a plan," such sale is within the exemption from the imposition of a stamp, transfer, recording or similar taxes provided under section 1146(c). *City of New York v. Jacoby-Bender, Inc. (In re Jacoby-Bender, Inc.)*, 758 F.2d 840,842 (2d Cir. 1985).

66. Consummation of the sale is a significant step towards the emergence of the Debtors from chapter 11 and the Sale is both an important aspect, and in anticipation, of the Joint Plan of Reorganization in these cases. Accordingly, the Debtors submit that the section 1146(c) exemption is appropriate and should be granted here.

**D. The Bidding Procedures and
Break-up Fee Should Be Approved**

67. The Bidding Procedures, as described above, are fair, reasonable and the best means to ensure that the Debtors obtain the highest and best offer for the Purchased Assets.

68. To compensate the Proposed Purchaser for serving as a "stalking horse" whose bid will be subject to higher or better offers, the Debtors and the Proposed Purchaser seek approval of the Break-Up Fee in the event the Proposed Purchaser is not the Successful Bidder and/or the Purchased Assets are sold to a third party. The Debtors and the Proposed Purchaser believe that the Break-Up Fee is reasonable, given the benefits to the estates of having a definitive asset purchase agreement and the risk to the Proposed Purchaser that a third-party offer may ultimately be accepted. Accordingly, the Break-Up Fee is necessary to preserve and enhance the value of the Debtors' estates and to promote competitive bidding.

69. Bidding incentives encouraged the Proposed Purchaser to invest the requisite time, money and effort to negotiate with a debtor and perform the necessary due diligence attendant to the acquisition of a debtor's assets, despite the inherent risks and uncertainties of the chapter 11 process. Historically, bankruptcy courts have approved bidding incentives

similar to the Bidding Procedures under the "business judgment rule," which proscribes judicial second-guessing of the actions of a corporation's board of directors taken in good faith and in the exercise of honest judgment. *See, e.g., In re Integrated Resources, Inc.*, 147 B.R. 650, 659 (S.D.N.Y. 1992) ("Break-up fees are important tools to encourage bidding and to maximize the value of the debtor's assets. The usual rule is that if break-up fees encourage bidding, they are enforceable; if they stifle bidding they are not enforceable."), *appeal dismissed*, 3 F.3d 49 (2d Cir. 1993); *995 Fifth Ave. Associates. L.P.*, 96 B.R. 24, 28 (Bankr. S.D.N.Y. 1992) (bidding incentives may "be legitimately necessary to convince a white knight to enter the bidding by providing some form of compensation for the risks it is undertaking") (citation omitted).

70. *In Calpine Corp. v. O'Brien Environ Energy, Inc. (In re O'Brien Environ Energy, Inc.)*, 181 F.3d 527 (3d Cir. 1999), the Third Circuit held that the administrative expense provisions of Bankruptcy Code section 503(b) govern in the bankruptcy context and, accordingly, bidding incentives must provide some benefit to the debtor's estate. *See id.* at 533.

71. The *O'Brien* court identified at least two instances where bidding incentives may provide benefit to the estate. First, a benefit may be found if "assurance of a break-up fee promoted more competitive bidding, such as by inducing a bid that otherwise would not have been made and without which bidding would have been limited." *Id.* at 537. Second, where the availability of bidding incentives induces a bidder to research the value of the debtor and submit a bid that serves as a minimum or floor bid on which other bidders can rely, "the bidder may have provided a benefit to the estate by increasing the likelihood that the price at which the debtor is sold will reflect its true worth." *Id.*

72. Whether evaluated under the "business judgment rule" or the Third Circuit's "administrative expenses standard," the Break-Up Fee passes muster. The proposed Asset Purchase Agreement and the Break-Up Fee are the product of extended good faith, arm's-length

negotiations among the Committee, the Debtors and the Proposed Purchaser. The Break-up Fee fair and reasonable in amount, particularly in view of the Proposed Purchaser's efforts to date, and the risk to the Proposed Purchaser of being used as a "stalking horse."

73. Further, the Bidding Procedures already have encouraged competitive bidding, in that the Proposed Purchaser will not enter into the Asset Purchase Agreement without these provisions. The Bidding Procedures thus will have "induc[ed] a bid that otherwise would not have been made and without which bidding would [be] limited." *O'Brien*, 181 F.3d at 537. Similarly, the Proposed Purchaser's offer, which was formulated only after an all-inclusive due diligence review of the Fansteel Divisions and their value, provides a minimum bid on which other bidders can rely, thereby "increasing the likelihood that the price at which the [businesses of the Fansteel Divisions] will be sold will reflect its true worth." *Id.* at 537. Finally, the mere existence of the Bidding Procedures permits the Debtors to insist that competing bids for the Purchased Assets be materially higher or otherwise better than the offer of the Proposed Purchaser, a clear benefit to the Debtors' estates.

74. In sum, the Bidding Procedures enable the Debtors to ensure the sale of the Purchased Assets to a contractually-committed bidder at a price it believes to be fair while providing the opportunity for potential bids of even greater benefit to the estate. Thus, the Bidding Procedures should be approved.

E. The Court Should Approve the Debtors' Proposed Notice Procedures With Respect to the Proposed Sale Hearing and Auction

75. As soon as practicable after the Court's entry of the Bidding Procedures Order, the Debtors proposes to publish notice of the Auction and Sale Hearing, which form of notice shall be substantially in the form attached as an Exhibit 1 to the Bidding Procedures Order (the "Auction and Sale Notice"), once in *The Wall Street Journal* (national edition), pursuant to Bankruptcy Rule 2002(l). The Debtors propose to serve a copy of the Auction and Sale Notice

upon (1) all entities who have filed claims in the chapter 11 cases; (2) all entities reasonably known by the Debtors to have an interest in purchasing some or all of the Purchased Assets; (3) all parties to pre-petition executory contracts and unexpired leases which are to be assumed by the Debtors and assigned to the Successful Bidder in connection with the Sale; and (4) all other parties entitled to notice pursuant to Del. Bankr. L.R. 2002-1. The Debtors request that such notice be deemed proper adequate under the circumstances.

76. The Debtors submit that the foregoing notice is reasonably calculated to provide timely and adequate notice to the Debtors' creditor constituencies and those persons who have expressed an interest in the Purchased Assets.

F. The Assumption and Assignment of Executory Contracts and Unexpired Leases Should Be Approved

77. Section 365(a) of the Bankruptcy Code expressly authorizes – subject to court approval – the assumption of any executory contract or unexpired lease by a debtor. The purpose of the statute is to enable a debtor "to maximize the value of the debtor's estate by assuming executory contracts that benefit the estate." Cinicola v. Scharffenberger, 248 F.3d 110, 119 (3d Cir. 2001). "Section 365 enables the trustee [or debtor] to maximize value of the debtor's estates by assuming executory contracts and unexpired leases that benefit the estate and rejecting those that do not." In re Rickel Home Centers, Inc., 209 F.3d 291 (3d Cir. 2000).

78. In determining whether to approve a debtor's decision to assume an executory contract, courts have consistently applied a "business judgment" test in their review of such decisions. See, e.g., In re Market Square Inn, 978 F.2d 116 (3d Cir. 1992); Delightful Music Ltd. v. Taylor (In re Taylor), 913 F.2d 102 (3d Cir. 1990); Group of Institutional Investors v. Chicago, Milwaukee, St. Paul & Pacific Railroad Co., 318 U.S. 523, 550 (1943) (explaining that whether an executory contract or lease should be assumed or rejected is a question of business judgment).

79. A debtor satisfies the "business judgment" test when it determines, in good faith, that assumption of an executory contract will benefit the debtor's estate and its unsecured creditors. In re Sharon Steel Corp., 872 F.2d 36 (3d Cir. 1989) (a trustee or debtor in possession needs to establish that [assumption or] rejection will benefit the estate); In re Papercraft Corp., 129 B.R. 56 (W.D. Pa. 1991).

80. As part of the Sale to the Prospective Purchaser under the Asset Purchase Agreement, the Sellers are required to assume and assign the Assumed Contracts to the Successful Bidder contemporaneously with the transfer of the other assets. Given that the assignment of these executory contracts and unexpired leases is an integral part of the Sale, assumption of the Assumed Contracts by the Debtors with a view to assignment to the buyer falls squarely within the Debtors' sound business judgment and is in the best interest of the Debtors' estates.

81. Section 365(b) of the Bankruptcy Code provides that a debtor in possession may only assume an executory contract or an unexpired lease if the debtor cures any defaults existing thereunder. Pursuant to the Asset Purchase Agreement, the Debtors will be responsible for the payment of any cure amounts with respect to the Assumed Contracts designated by the Proposed Purchaser at the time of execution of the Asset Purchase Agreement, while the Successful Bidder shall be responsible for the payment of any cure amounts with respect to additional Assumed Contracts designated for assumption and assignment subsequent to execution of the Asset Purchase Agreement (collectively, the "Cure Amounts").

82. In connection with this Motion and any subsequent motions made pursuant to Code section 365 in the event that additional Assumed Contracts are hereafter designated by the Proposed Purchaser or a Successful Bidder, a schedule of the Cure Amounts (the "Cure Amount Schedule") will be filed with the Court and served on counter-parties to the Assumed

Contracts¹⁰ no later than ten days prior to the objection deadline for Sale Hearing or the hearing date scheduled for any subsequent section 365 motion (the "Section 365 Hearing"). The Cure Amounts Schedule will set forth the amounts necessary, in the Debtors' good faith estimation, to cure any defaults under the Assumed Contracts. Any non-debtor party to any of the Assumed Agreements shall have the right to object in writing to the Cure Amount set forth on a Cure Amounts Schedule, provided that such objection is received on or before three (3) business days prior to the commencement of the Sale Hearing or a subsequent Section 365 Hearing. If no objection is timely received, or if a timely objection is received but is not in compliance with the foregoing requirements, the Cure Amount set forth in the Cure Amounts Schedule shall be controlling, notwithstanding anything to the contrary in any Assumed Contract, proof of claim (whether formal or informal) or any other document or instrument. Any objection to the assumption and assignment of any Assumed Agreement or any Cure Amount shall be heard either at the Sale Hearing or at a subsequent Section 365 Hearing.

83. A Cure Amount Schedule setting forth the preliminary list of executory contracts and unexpired leases selected by the Proposed Purchaser for assumption and assignment by Fansteel and the Cure Amount for each Assumed Contract listed shall be filed with this Court prior to the hearing for approval of the Bidding Procedures.

84. Furthermore, section 365(f) of the Bankruptcy Code provides that, once the Sellers have assumed the Assumed Contracts, they can be assigned, provided the assignee can provide adequate assurance of its future performance to the counter-parties to the Assumed Contracts. Accordingly, the Proposed Purchaser or Successful Bidder, as the case may be, will

¹⁰ Although the lease agreement between Phoenix and Fansteel for the California Drop Forge premises is an Assumed Contract, any inter-company payable will be released and will not constitute a Cure Amount.

be required to comply with the requirements of Code section 365(f)(2)(B) at the time of the Sale Hearing or subsequent Section 365 Hearing.

G. Committee Support

85. The Committee has reviewed the Motion, the Bidding Procedures Order, the Sale Order and the Asset Purchase Agreement and fully supports the Sale as contemplated by the Debtors. Moreover, as discussed in paragraph 26 of this Motion, the Debtors and the Committee have also agreed to the use of the proceeds from the Sale.

WHEREFORE, the Debtors respectfully request that the Court (i) enter an order, substantially in the form attached as Exhibit "A," scheduling a hearing on approval of the bidding procedures and the Break-up Fee, (ii) enter an order, substantially in the form attached as Exhibit "B," approving the Bidding Procedures and Break-Up Fee in connection with the sale of the Purchased Assets, and approving the form and manner of notice of the Motion and the Sale, and (iii) enter an order substantially in the form attached as Exhibit "C," (i) approving an Asset Purchase Agreement substantially in the form of the proposed agreement annexed hereto as Exhibit "D," or a modification thereof if another party is the Successful Bidder at the Auction, (ii) approving the sale of the Purchased Assets to the Proposed Purchaser or such other party making a higher and better offer therefor, (iii) determining that such sale is exempt from any stamp, transfer, recording or similar tax, and (iv) approving the assumption by the Debtors


and the assignment to the Successful Bidder of certain pre-petition executory contracts and unexpired leases, and (v) granting the Debtors such other relief as may be appropriate.

Dated: New York, New York
July 24, 2003

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the Debtors-in-Possession

EXHIBIT A

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	)	Chapter 11
)	
FANSTEEL INC., et al., ¹	)	Case No. 02-10109 (JJF)
	)	(Jointly Administered)
)	
Debtors.)	

**ORDER SCHEDULING HEARING ON DEBTORS' MOTION
TO APPROVE BIDDING PROCEDURES AND BREAK-UP FEE IN
CONNECTION WITH THE PROPOSED SALE OF ASSETS**

Upon the motion (the "Motion") of Fansteel Inc. ("Fansteel") and its affiliated debtors and debtors-in-possession (the "Debtors") for entry of (I) an order scheduling a hearing date to approve the bidding procedures and a break-up fee, (II) an order under 11 U.S.C. §§ 105 and 363 and Fed. R. Bankr. P. 6004(f) (A) approving bidding procedures (the "Bidding Procedures Order") and a break-up fee in connection with the proposed sale by Fansteel and Phoenix Aerospace Corporation ("Phoenix") to Stoutheart East Corporation ("Stoutheart"), WPC III Inc. ("WPC") and Richard Burkhart ("Burkhart") (Stoutheart, WPC and Burkhart collectively, the "Proposed Purchaser") of substantially all of the assets, property and businesses of Phoenix and the divisions of Fansteel known as California Drop Forge, Hydro Carbide-Gulfport and Hydro Carbide-Latrobe ("Fansteel Cal Drop and Hydro Carbide Divisions"), the accounts receivable and inventory of the Fansteel division known as VR/Wesson-Plantsville ("Plantsville Division"), and the equipment and inventory located at Fansteel's facility in Lexington, Kentucky (collectively, the "Purchased Assets"), (B) scheduling a hearing date, auction date, and bidding deadlines and procedures in connection with the sale of the Purchased Assets, and (C) and

¹ The Debtors are the following entities: Fansteel Inc., Fansteel Holdings, Inc., Custom Technologies Corp., Escast, Inc., Wellman Dynamics Corp., Washington Mfg. Co., Phoenix Aerospace Corp., and American Sintered Technologies, Inc.

approving the form and manner of notice thereof (collectively, "Part I of the Motion"); and (III) an order (the "Sale Order") under 11 U.S.C. §§ 105, 363, 365 and 1146(c) and Fed. R. Bankr. P. 2002(a)(2) and (c)(1), 6004 and 6006, (A) approving the Asset Purchase Agreement among Fansteel, Phoenix and the Proposed Purchaser substantially in the form of the Agreement attached to the Motion as Exhibit "D" (the "Asset Purchase Agreement"), or a modification thereof if another party is the Successful Bidder, (B) approving the sale of the Purchased Assets to the Proposed Purchaser or such other party making a higher and better offer therefore (the "Successful Bidder"), free and clear of liens, interests, claims, restrictions, encumbrances, encroachments and charges of every kind (except as otherwise provided in the Asset Purchase Agreement), (C) determining that such sale is exempt from any stamp, transfer, recording or similar taxes, and (D) approving the assumption by the Debtors and the assignment to the Buyer of certain pre-petition executory contracts and unexpired leases (collectively, "Part II of the Motion"); and it appearing that no other or further notice need be given; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that a hearing to consider that part of the Motion seeking approval of the Bidding Procedures and Break-up Fee shall be held before the Honorable Joseph J. Farnan on August __, 2003 at [] a.m. (EST) at the United States Bankruptcy Court for the District of Delaware, located in Wilmington, Delaware or as soon thereafter as counsel may be heard; and it is further

ORDERED that a copy of this order, together with the Motion shall be served by regular mail upon (i) Benesch, Friedlander, Coplan & Aronoff LLP, 2300 BP Tower, 200 Public Square, Cleveland, OH 44114, Attn: Peter K. Shelton, Esq., attorney for the Proposed Purchaser; (ii) the Office of the United States Trustee; (iii) counsel to the Creditors' Committee; (iv) all

appropriate federal, state and local taxing authorities, (v) all parties who have made written expressions of interests in acquiring the Purchased Assets; and (vi) all parties having filed a notice of appearance in the Debtors' chapter 11 cases, which service shall constitute good and sufficient notice of this order and the hearing on the Bidding Procedures and Break-up Fee; and it is further

ORDERED that all objections to the Bidding Procedures and Break-up Fee as described in the Motion must be in writing, must state the name of the objecting party, must state the particularity of the reasons and basis for the objection, and be filed with the Court (with a copy delivered to Chambers) and served upon (i) Schulte Roth & Zabel LLP, 919 Third Avenue, New York, New York 10022, Attn: Jeffrey S. Sabin, Esq., attorney for the Debtors, (ii) Benesch, Friedlander, Coplan & Aronoff LLP, 2300 BP Tower, 200 Public Square, Cleveland, OH 44114, Attn: Peter K. Shelton, Esq., attorneys for the Proposed Purchaser; (iii) the Office of the United States Trustee, 844 King Street, Ste. 2313, Wilmington, DE 19801, Attn: David Buchbinder; and (iv) Freeborn & Peters, 311 South Wacker Drive, Ste. 3000, Chicago Ill. 60606-6677, Attn: Frances Gecker, Esq., counsel for the Creditors' Committee, so that such objections are actually received by such persons no later than August __, 2003 at 5:00 p.m. (EST).

Dated: Wilmington, Delaware
July __, 2003

The Honorable Joseph J. Farnan Jr.
United States District Court Judge

EXHIBIT B

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	)	Chapter 11
)	
FANSTEEL INC., <u>et al.</u> , ¹	)	Case No. 02-10109 (JJF)
	)	(Jointly Administered)
)	
Debtors.)	

**ORDER UNDER 11 U.S.C. §§ 105, 363 AND 365 AND FED. R. BANKR. P. 6004
(I) APPROVING BIDDING PROCEDURES AND BREAK-UP FEE IN CONNECTION
WITH THE PROPOSED SALE OF ASSETS, (II) SCHEDULING A HEARING DATE,
AUCTION DATE AND BIDDING DEADLINE IN CONNECTION WITH SUCH SALE
AND THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND
LEASES AND (III) APPROVING FORM AND MANNER OF NOTICE THEREOF**

Upon the motion (the "Motion") of Fansteel Inc. ("Fansteel") and its affiliated debtors and debtors-in-possession (the "Debtors") for entry of (I) an order scheduling a hearing date to approve the bidding procedures and a break-up fee, (II) an order under 11 U.S.C. §§ 105 and 363 and Fed. R. Bankr. P. 6004(f) (A) approving bidding procedures (the "Bidding Procedures Order") and a break-up fee in connection with the proposed sale by Fansteel and Phoenix Aerospace Corporation ("Phoenix") (Fansteel and Phoenix collectively, the "Seller") to Stoutheart East Corporation ("Stoutheart"), WPC III Inc. ("WPC") and Richard Burkhart ("Burkhart") (Stoutheart, WPC and Burkhart collectively, the "Proposed Purchaser") of substantially all of the assets, property and businesses of Phoenix and the divisions of Fansteel known as California Drop Forge, Hydro Carbide-Gulfport and Hydro Carbide-Latrobe ("Fansteel Cal Drop and Hydro Carbide Divisions"), the accounts receivable and inventory of the Fansteel

¹ The Debtors are the following entities: Fansteel Inc., Fansteel Holdings, Inc., Custom Technologies Corp., Escast, Inc., Wellman Dynamics Corp., Washington Mfg. Co., Phoenix Aerospace Corp., and American Sintered Technologies, Inc.

division known as VR/Wesson-Plantville ("Plantville Division"), and the equipment and inventory located at Fansteel's facility in Lexington, Kentucky (collectively, the "Purchased Assets"), (B) scheduling a hearing date, auction date, and bidding deadlines and procedures in connection with the sale of the Purchased Assets, and (C) and approving the form and manner of notice thereof (collectively, "Part I of the Motion"); and (III) an order (the "Sale Order") under 11 U.S.C. §§ 105, 363, 365 and 1146(c) and Fed. R. Bankr. P. 2002(a)(2) and (c)(1), 6004 and 6006, (A) approving an Asset Purchase Agreement among Fansteel, Phoenix and the Proposed Purchaser substantially in the form of the Agreement annexed to the Motion as Exhibit "D" (the "Asset Purchase Agreement"), or a modification thereof if another party is the Successful Bidder, (B) approving the sale of the Purchased Assets to the Proposed Purchaser or such other party making a higher and better offer therefore (the "Successful Bidder"), free and clear of liens, interests, claims, restrictions, encumbrances, encroachments and charges of every kind (except as otherwise provided in the Asset Purchase Agreement), (C) determining that such sale is exempt from any stamp, transfer, recording or similar taxes, and (D) approving the assumption by the Debtors and the assignment to the Successful Bidder of certain pre-petition executory contracts and unexpired leases (collectively, "Part II of the Motion"); and sufficient notice of the Motion having been given; and upon the order, dated July ____, 2003, Scheduling Hearing on Debtors' Motion to Approve Bidding Procedures and Break-Up Fee in connection with the Proposed Sale of Debtors' Assets (the "Scheduling Order"); and the Scheduling Order having been served on all parties required to be served in accordance with the provisions of the Scheduling Order; and after due deliberation and good cause having been shown, the Court finds as follows:

A. Fansteel and Phoenix have negotiated an Asset Purchase Agreement, substantially in the form attached as Exhibit "D" to the Motion, wherein Fansteel and Phoenix have agreed to sell the Purchased Assets to the Proposed Purchaser for an aggregate amount equal to the sum of (i) eighty percent (80%) of the book value of the Receivables (reduced by book reserves for bad debts and credits and discounts granted prior to the Closing in the ordinary course), plus (ii) eighty percent (80%) of the book value of the Inventory (reduced by book reserves for excess and obsolete stock and scrap), *plus* (iii) fifty percent (50%) of the book value of the Prepaid Items and Deposits, *plus* (iv) eighty percent (80%) of the book value of the Fixed Assets (reduced by book depreciation and retirement in the ordinary course), *plus* (v) the sum of \$850,000 (the "Purchase Price").

B. Proposed Purchaser is prepared to purchase the Purchased Assets as described in the Asset Purchase Agreement. The Proposed Purchaser has committed substantial time and money to the transaction contemplated in the Asset Purchase Agreement.

C. The Asset Purchase Agreement contains a conditional requirement to pay a Break-Up Fee if a Qualified Bid prevails and is approved. The Break-Up Fee is the product of extensive negotiations between the Proposed Purchaser and the Debtors. The Break-Up Fee is a condition precedent to the effectiveness of the Asset Purchase Agreement. In the absence of such fee, the Proposed Purchaser, as an initial offeror, would be discouraged from making an offer, due to the fear that its initial offer would be "shopped around" and outbid by an entity that would rely upon the due diligence, time, and effort expended by the Proposed Purchaser. The payment of the Break-Up Fee, if payable under the Asset Purchase Agreement, will not have an adverse impact upon Fansteel, Phoenix, their estates or their creditors. The Break-Up Fee is

necessary to convince the Proposed Purchaser to proceed with the transactions contemplated by the Asset Purchase Agreement and thus, commence the bidding process for the sale of the Purchased Assets. The Break-Up Fee is reasonable in relation to the Proposed Purchaser's costs, efforts and risks, and the magnitude of the transactions contemplated in the Asset Purchase Agreement.

D. Good and sufficient notice of the relief sought in Part I of the Motion has been given in accordance with the Scheduling Order and no other or further notice is required.

E. The Debtors' proposed notice of the sale of the Purchased Assets and bidding procedures announcing the Sale and the approval of the bidding procedures is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the sale of the Purchased Assets and the overbid procedures to be employed in connection therewith.

F. The Debtors have demonstrated a sound business justification for authorizing the payment of the Break-Up Fee to the Proposed Purchaser under the circumstances, timing and procedures set forth in the Motion.

G. The Break-up Fee is fair and reasonable, and was negotiated by the parties in good faith.

H. The payment to the Proposed Purchaser of the Break-up Fee, in the event the Proposed Purchaser is not the Successful Bidder, is (i) an actual and necessary cost of preserving the Debtors' estates, within the meaning of 11 U.S. § 503(b), (ii) of substantial benefit to the Debtors' estates, (iii) reasonable and appropriate, in light of the size and nature of the Sale and the efforts that have been and will be expended by the Proposed Purchaser notwithstanding

that the proposed Sale is subject to higher or better offers, and (iv) necessary to ensure that the Proposed Purchaser will continue to pursue its proposed acquisition of the Purchased Assets.

I. The entry of this Order ("Bidding Procedures Order") is in the best interests of Fansteel, Phoenix, their estates or their creditors. Accordingly, it is

ORDERED and ADJUDGED as follows:

1. The Motion is GRANTED to the extent provided herein.
2. The Debtors shall provide notice by publication of the Sale Hearing date established by this Bidding Procedures Order, substantially in the form of notice which is annexed as Exhibit "1" (the "Notice"). The Debtors shall place the Notice in *The Wall Street Journal* following the date of this Bidding Procedures Order. The Notice shall also be served by regular U.S. mail on all parties entitled to notice under Local Bankruptcy Rule 2002-1.
3. Cure amounts for executory contracts and unexpired leases preliminarily designated for assumption and assignment in accordance with the terms and provisions of the Asset Purchase Agreement shall be listed by the Debtors in a schedule (the "Cure Amounts Schedule") to be filed and served, together with a copy of this Order, by overnight or express mail on counter-parties to the Assumed Agreements no later than ten days prior to the objection deadline for the Sale Hearing. Any non-debtor party to a listed Assumed Contract shall have the right to object in writing to the Cure Amount set forth by the Debtors on the Cure Amounts Schedule in accordance with the procedures set forth in this Order with respect to such Assumed Contract and indicate in its objection the cure amount it believes is required. Any objection to the Cure Amount must be accompanied by appropriate supporting documentation demonstrating the calculation of the cure amount claimed.

4. If no objection to the Cure Amount is timely received, or if a timely objection is received but is not in compliance with the foregoing requirements, the Cure Amount set forth in the Cure Amounts Schedule shall be controlling, notwithstanding anything to the contrary in any Assumed Agreement, proof of claim (whether formal or informal) or any other document or instrument. If no objection to the Cure Amount is filed in accordance with the foregoing procedures, the non-debtor party to the Assumed Contract shall be barred and permanently enjoined from asserting any amounts in excess of the Cure Amount as a condition to the assumption of such Assumed Contract by the Debtors and its assignment to the Proposed Purchaser or any prevailing Qualified Bidder.

5. At the Sale Hearing, the Court will consider the Motion to sell the Purchased Assets to the Proposed Purchaser (or any prevailing Qualified Bidder(s)), pursuant to the Asset Purchase Agreement, and any timely objections thereto, in accordance with the procedures approved herein below ("Bidding Procedures"), such that no Qualified Bid(s) will be considered for approval unless it satisfies, at a minimum, each of the following conditions.

The Bidding Process

6. The Seller shall (i) determine whether any person is a Qualified Bidder (as defined below), (ii) coordinate the efforts of Qualified Bidders in conducting their due diligence investigations, (iii) receive offers from Qualified Bidders and (iv) negotiate any offers made to purchase the Purchased Assets (collectively, the "Bidding Process"). Any person who wishes to participate in the Bidding Process must be a Qualified Bidder. Neither the Seller nor its representatives shall be obligated to furnish any information of any kind whatsoever to any person who is not determined to be a Qualified Bidder. Qualified Bidders shall be given all relevant information pertaining to the Sale. The Seller shall have the right to adopt such other

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PROCEDURES ORDER. DOC9472110.2

rules for the Bidding Process, which rules will better promote the goals of the Bidding Process and that are not inconsistent with any of the other provisions hereof or of any Court order.

Participation Requirements

7. Unless otherwise ordered by the Court for cause shown or as otherwise determined by the Seller, in order to participate in the Bidding Process each person (a "Proposed Bidder") must deliver (unless previously delivered) to the Seller:

- (i) An executed confidentiality agreement in form and substance satisfactory to the Seller; and
- (ii) Current audited financial statements of the Proposed Bidder, or, if the Proposed Bidder is an entity formed for the purpose of acquiring the Purchased Assets, current audited financial statements of the equity holder(s) of the Proposed Bidder, or such other form of financial disclosure acceptable to the Seller and its advisors demonstrating such Proposed Bidder's ability to close a proposed transaction.

8. A "Qualified Bidder" is any Proposed Bidder or multiple Proposed Bidders participating in the Bidding process together that delivers the documents described in subparagraphs (i) and (ii) above, whose financial information demonstrates the financial capability of the Proposed Bidders, either jointly or separately, to consummate the Sale, and that the Seller determines are reasonably likely (based on availability of financing, experience and other considerations) to submit a bona fide offer and to be able to consummate the Sale if selected as the Successful Bidder.

9. Within two business days after a Proposed Bidder delivers all of the materials required by subparagraphs (i) and (ii) above, the Seller shall determine, and shall notify the Proposed Bidder, if such Proposed Bidder is a Qualified Bidder.

Due Diligence

10. The Seller may afford any Qualified Bidder the opportunity to conduct a due diligence review. The Seller will designate an employee or other representative to coordinate all reasonable requests for additional information and due diligence access from Qualified Bidders. The Seller shall not be obligated to furnish any due diligence information after the Bid Deadline (as hereinafter defined). Neither the Seller nor any of its representatives are obligated to furnish any information to any person. Bidders are advised to exercise their own discretion before relying on any information provided by anyone other than the Seller or its representatives.

Bid Deadline

11. A Qualified Bidder who desires to make a bid shall deliver a written copy of its bid to the Seller, c/o Schulte, Roth & Zabel LLP, 919 Third Avenue, New York, NY 10022, Attn.: Jeffrey Sabin, Esq., not later than 11:00 a.m. (EST) on the date which is three Business Days prior to the date scheduled by the Court for the Sale Hearing (the "Bid Deadline"). The Seller will immediately distribute by facsimile transmission, personal delivery or reliable overnight courier service in accordance with the Asset Purchase Agreement, a copy of each bid upon receipt to counsel for the Proposed Purchaser. The Seller may, in its discretion, extend the Bid Deadline once or successively, but is not obligated to do so. The Seller shall announce the terms of the highest and best Qualified Bids received by the Bid Deadline by 5:00 p.m. (prevailing eastern time) on that date.

Bid Requirements

12. For the purposes of determining the existence of a bid, a bid may be in the form of a joint bid from more than one Qualified Bidder, or may be in the form of separate bids

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from more than one Qualified Bidder, with each such separate bid being for a portion of the Purchased Assets, but all of such separate bids collectively aggregating a bid price having a value greater than or equal to the sum of (x) the value, as reasonably determined by the independent financial advisor of the Seller, of the Proposed Purchaser's offer plus (y) other than where the Proposed Purchaser makes a bid, the amount of the Break-Up Fee (as defined below) plus (z) (A) in the case of the initial Qualified Bid, \$150,000, and (B) in the case of any subsequent Qualified Bids, \$150,000 plus the amount by which the preceding Qualified Bid exceeds the sum of (x) plus (y) above. All bids must include the following documents (the "Required Bid Documents"):

- a letter stating that one or more Qualified Bidders offer to purchase all or a portion of the Purchased Assets and that such offer is irrevocable until two (2) business days after the Purchased Assets have been disposed of pursuant to these Bidding Procedures;
- a statement by each Qualified Bidder that it is prepared to enter into and consummate the Sale as soon as practicable but in no event more than thirty-one (31) days after entry by the Court of the Sale Order;
- an executed copy of the Asset Purchase Agreement, together with all Exhibits and Schedules thereto (the "Definitive Sale Documentation") marked and initialed to show those amendments and modifications to such agreement that the Qualified Bidder proposes, including, but not limited to, price and the time of closing;
- a good faith deposit (the "Good Faith Deposit") in the form of a certified check or other form acceptable to the Seller in its sole discretion payable to the order of the Seller (or such other party as the Seller may determine) in an amount equal to \$500,000. All Qualified Bidders shall enter into an escrow agreement as directed by the Seller; and
- written evidence of a commitment for financing or other evidence of ability to consummate the proposed transaction satisfactory to the Seller.

13. The Seller will consider a bid only if the bid is on terms that are not conditioned on obtaining financing or on the outcome of unperformed due diligence by the bidder. A bid received from a Qualified Bidder that includes all of the Required Bid Documents and meets all of the above requirements is a "Qualified Bid."

14. If the Seller does not receive any Qualified Bids, the Seller will report the same to the Court and will proceed with a sale and assignment of the Purchased Assets to the Proposed Purchaser pursuant to the terms of the Asset Purchase Agreement. The Asset Purchase Agreement executed by the Proposed Purchaser shall constitute a Qualified Bid for all purposes.

Bid Protection

15. The payment of the Break-Up Fee is hereby approved.

Auction

16. If the Seller receives a Qualified Bid, the Seller will conduct an auction (the "Auction") at the offices of Schulte, Roth & Zabel LLP, 919 Third Avenue, New York, NY 10022, on the date that is one Business Day prior to the date scheduled by the Court for the Sale Hearing, beginning at 11:00 a.m. (EST) or such later time or other place as the Seller shall notify all Qualified Bidders who have submitted Qualified Bids. Only the Proposed Purchaser, the Seller, the Committee and any Qualified Bidders who have timely submitted Qualified Bids shall be entitled to attend the Auction, and only the Proposed Purchaser and Qualified Bidders will be entitled to make any subsequent Qualified Bids at the Auction. During the Auction, bidding shall begin initially with the highest Qualified Bid and continue in minimum increments of at least \$150,000 higher than the previous Qualified Bid. Bidding at the Auction will continue until such time as the highest and best Qualified Bid is determined. The Seller may announce at the Auction additional procedural rules that are reasonable under the circumstances (e.g., the amount

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of time allotted to make subsequent overbids) for conducting the Auction so long as such rules are not inconsistent with these Bidding Procedures.

17. Upon conclusion of the Auction, the Seller, in consultation with its financial and business advisors shall (i) review each Qualified Bid or bids on the basis of financial and contractual terms and the factors relevant to the sale process, including those factors affecting the speed and certainty of consummating the Sale, and (ii) identify the highest and otherwise best offer for the Purchased Assets (the "Successful Bid"), which highest and best offer will provide the largest amount of net value to the Seller after payment of, among other things, the Break-Up Fee, if necessary. The Seller may adopt rules for the bidding process at the Auction that will better promote the goals of the bidding process and that are not inconsistent with any of the provisions of the Bankruptcy Code, any Court order, or these Bidding Procedures.

Acceptance Of Qualified Bids

18. The Seller shall sell the Purchased Assets for the highest or otherwise best Qualified Bid received at the Auction upon the approval of such Qualified Bid by the Court after the hearing (the "Sale Hearing"). The Seller's presentation of a particular Qualified Bid to the Court for approval does not constitute the Sellers' acceptance of the bid. The Seller will be deemed to have accepted a bid only when the bid has been approved by the Court at the Sale Hearing.

Sale Hearing

19. A hearing to consider that part of the Motion seeking an order (a) approving the Asset Purchase Agreement among Fansteel, Phoenix and the Proposed Purchaser (the "Asset Purchase Agreement") or a modification thereof if another party is the Successful

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Bidder, (b) approving the sale of the Purchased Assets to the Proposed Purchaser or such other party making a higher and better offer therefore, free and clear of liens, interests, claims, restrictions, encumbrances, encroachments and charges of every kind (except as otherwise provided in the Asset Purchase Agreement), (c) determining that such sale is exempt from any stamp, transfer, recording or similar taxes, and (d) approving the assumption by the Debtors and the assignment to the Successful Bidder of certain pre-petition executory contracts and unexpired leases, shall be held before the Honorable Joseph J. Farnan on September __, 2003 at [] a.m. (EST) at the United States Bankruptcy Court for the District of Delaware, located in Wilmington, Delaware or as soon thereafter as counsel may be heard. Such hearing may be adjourned or rescheduled without further notice by an announcement of the adjourned date at the Sale Hearing.

20. Following the Sale Hearing approving the sale of the Purchased Assets to the Successful Bidder, if such Successful Bidder fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the next highest or otherwise best Qualified Bid, as disclosed at the Sale Hearing, shall be deemed to be the Successful Bid and the Seller shall be authorized, but not required, to consummate the sale with the Qualified Bidder submitting such bid without further order of the Court.

Return Of Good Faith Deposit

21. Good Faith Deposits of all Qualified Bidders (except for the Successful Bidder) shall be held in an interest-bearing escrow account until two (2) days following the Auction. If a Successful Bidder fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Seller will not have any obligation to return the Good Faith Deposit deposited by such Successful Bidder.

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Modifications

22. The Seller may (a) determine, which Qualified Bid, if any, is the highest or otherwise best offer; and (b) reject at any time before entry of an order of the Court approving a Qualified Bid, any bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code, the Bidding Procedures, or the terms and conditions of sale, or (iii) contrary to the best interests of the Seller, its estates and creditors. At or before the Sale Hearing, the Seller may impose such other terms and conditions as it may determine to be in the best interests of the Seller's estate, its creditors and other parties-in-interest.

Objections

23. All objections to the Sale Motion must be in writing, must state the name of the objecting party, must state the particularity of the reasons and basis for the objection, and must be filed with the Court (with a copy hand delivered to Chambers) and served upon (i) Schulte Roth & Zabel LLP, 919 Third Avenue, New York, New York 10022, Attn.: Jeffrey S. Sabin, Esq., attorney for the Debtors, (ii) Benesch, Friedlander, Coplan & Aronoff LLP, 2300 BP Tower, 200 Public Square, Cleveland, OH 44114, Attn: Peter K. Shelton, Esq., attorney for the Proposed Purchaser, (iii) the Office of the United States Trustee, 844 King Street, Ste. 2313, Wilmington, DE 19801, Attn.: David Buchbinder, and (iv) Freeborn & Peters, 311 South Wacker Drive, Ste. 3000, Chicago, IL 60606-6677, Attn.: Frances Gecker, Esq., counsel for the Creditors' Committee, so that objections are actually received by such persons no later than September __, 2003 at 5:00 p.m. (EST).

24. The Bankruptcy Court shall retain jurisdiction over any matters related to or arising from the implementation of this Bidding Procedures Order, including, but not limited to, the right to amend this Bidding Procedures Order.

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**Dated: Wilmington, Delaware
August __, 2003**

**The Honorable Joseph J. Farnan Jr.
United States District Court Judge**

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:) Chapter 11
)
FANSTEEL INC., et al.,¹) Case No. 02-10109 (JJF)
) (Jointly Administered)
)
Debtors.)

**NOTICE OF: (I) SALE OF CERTAIN ASSETS OF FANSTEEL, INC. AND PHOENIX
AEROSPACE CORPORATION, (II) BIDDING AND SALE PROCEDURES AND FINAL
SALE HEARING AND (III) APPROVED BREAK-UP FEE**

NOTICE IS HEREBY GIVEN pursuant to Fed. R. Bankr. P. 2002(a)(2) and (c)(1), 6004(a) and 6006(c), that on July , 2002, the Debtors have filed a Motion for Orders under 11 U.S.C. § 105, 363, 365 and 1146(c) and Fed. R. Bankr. P. 6004 and 6006: (I) Scheduling Hearing on Approval of Bidding Procedures and Break-up Fee, (II) (A) Approving Bidding Procedures and Break-up Fee in Connection with the Proposed Sale of Certain Assets, (B) Scheduling a Hearing Date, Auction Date and Bidding Deadline in Connection with the Sale of such Assets, and (C) Approving Form and Manner of Notice Thereof; and (III) (A) Approving the Asset Purchase Agreement Among Fansteel Inc., Phoenix Aerospace Corporation and the Proposed Purchaser, (B) Approving the Sale of the Assets, (C) Determining That Such Sale is Exempt from Stamp, Transfer, Recording or Similar Taxes, and (D) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases (the "Motion").

PLEASE TAKE FURTHER NOTICE that the Debtors seek the following relief, among other things, in the Motion:

(a) authority to, among other things, sell substantially all of the assets, property and businesses of Phoenix Aerospace Corporation ("Phoenix") and the divisions of Fansteel Inc. known as California Drop Forge, Hydrocarbide-Gulfport and Hydrocarbide-Latrobe, and the accounts receivable and inventory of the division of Fansteel known as VR/Wesson-Plantville, and the equipment and inventory of the division of Fansteel known as V/R/Wesson-Lexington (collectively, the "Purchased Assets") to Stoutheart East Corporation ("Stoutheart"), WPC III Inc. ("WPC") and Richard Burkhart ("Burkhart") (Stoutheart, WPC and Burkhart collectively, the "Proposed Purchaser") for an aggregate amount (the "Purchase Price")

¹ The Debtors are the following entities: Fansteel Inc., Fansteel Holdings, Inc., Custom Technologies Corp., Escast, Inc., Wellman Dynamics Corp., Washington Mfg. Co., Phoenix Aerospace Corp., American Sintered Technologies, Inc. and Fansteel Schulz Products, Inc.

equal to the sum of (i) eighty percent (80%) of the book value of the Receivables (reduced by book reserves for bad debts and credits and discounts granted prior to the Closing in the ordinary course), plus (ii) eighty percent (80%) of the book value of the Inventory (reduced by book reserves for excess and obsolete stock and scrap), *plus* (iii) fifty percent (50%) of the book value of the Prepaid Items and Deposits, *plus* (iv) eighty percent (80%) of the book value of the Fixed Assets (reduced by book depreciation and retirement in the ordinary course), *plus* (v) the sum of \$850,000, subject to higher and better offers;

(b) authority, pursuant to 11 U.S.C. §§ 363(b) and (f), to sell the Purchased Assets free and clear of any claims, liens and encumbrances; and

(c) a finding of the Bankruptcy Court that Proposed Purchaser (or such other purchaser of the Purchased Assets pursuant to the Motion) is a good-faith purchaser entitled to the protections of 11 U.S.C. § 363(m).

PLEASE TAKE FURTHER NOTICE that:

(a) By order dated August , 2003 (the "Bidding Procedures Order"), the Bankruptcy Court has approved bidding procedures governing the sale of the Purchased Assets, and has scheduled a hearing to consider approval of the Sale (the "Sale Hearing") to be held on September , 2003 at [] a.m. (EST) before the Honorable Joseph J. Farnan, United States District Judge, in the United States Bankruptcy Court for the District of Delaware. Any objection to the proposed sale shall be filed with the Court and served on counsel identified below;

(b) all objections to the Motion must be in writing, must state the name of the objecting party, must state the particularity of the reasons and basis for the objection, and must be filed with the Court (with a copy hand delivered to Chambers) and served upon (i) Schulte Roth & Zabel LLP, 919 Third Avenue, New York, New York 10022, Attn.: Jeffrey S. Sabin, Esq., attorney for the Debtors, (ii) Benesch, Friedlander, Coplan & Aronoff LLP, 2300 BP Tower, 200 Public Square, Cleveland, OH 44114, Attn: Peter K. Shelton, Esq., attorneys for the Proposed Purchaser, (iii) the Office of the United States Trustee, 844 King Street, Ste. 2313, Wilmington, DE 19801, Attn.: David Buchbinder, Esq. and (iv) Freeborn & Peters, 311 South Wacker Drive, Ste. 3000, Chicago, IL 60606-6677, Attn.: Frances Gecker, Esq., counsel for the Creditors' Committee, so that objections are actually received by such person no later than September __, 2003 at 5:00 p.m.;

(c) the Bankruptcy Court approved a Break-Up Fee in favor of Proposed Purchaser in the amount of \$350,000 as set forth in the Asset Purchase Agreement, that will be payable at the Closing from the sale proceeds of any higher Qualified Bids as a pre-condition to the sale closing and before any application of the sale proceeds; and

(d) the Debtors will either seek to approve the proposed sale of the Purchased Assets to the Proposed Purchaser pursuant to an Asset Purchase Agreement, or will entertain any Qualified Bids for the purchase of the Purchased Assets. Pursuant to the Bidding Procedures

Order, to be a Qualified Bid, the Bid must equal the sum of (x) the value, as reasonably determined by the independent financial advisor of the Seller, of the Proposed Purchaser's offer plus (y) the amount of the Break-Up Fee plus (z) (A) in the case of the initial Qualified Bid, \$150,000, and (B) in the case of any subsequent Qualified Bids, \$150,000 plus the amount by which the preceding Qualified Bid exceeds the sum of (x) plus (y) above and meet certain other conditions. Any Qualified Bid must be submitted in writing to (i) Schulte Roth & Zabel LLP, 919 Third Avenue, New York, New York 10022, Attn.: Jeffrey S. Sabin, Esq., attorney for the Debtors, (ii) Benesch, Friedlander, Coplan & Aronoff LLP, 2300 BP Tower, 200 Public Square, Cleveland, OH 44114, Attn: Peter K. Shelton, Esq., attorneys for the Proposed Purchaser, (iii) the Office of the United States Trustee, 844 King Street, Ste. 2313, Wilmington, DE 19801, Attn.: David Buchbinder, and (iv) Freeborn & Peters, 311 South Wacker Drive, Ste. 3000, Chicago, IL 60606-6677, Attn.: Frances Gecker, Esq., counsel for the Creditors' Committee, not later than 11:00 a.m. (EST) on August __, 2003, along with evidence of financial responsibility (as provided in the Bidding Procedures Order), and must satisfy all conditions set forth in the Bidding Procedures Order. No Qualified Bid will be considered unless it satisfies, at a minimum, the terms and conditions set forth in the Bidding Procedures Order. Prospective Qualified Bidders also may conduct due diligence as provided in the Bidding Procedures Order.

Copies of the Bidding Procedures Order, the Motion and Sale Order, and other related items may be obtained from: Schulte Roth & Zabel LLP, 919 Third Avenue, New York, New York 10022, Attn.: Jeffrey S. Sabin, Esq., attorney for Debtors.

Dated: Wilmington, Delaware
August __, 2003

BY ORDER OF THE COURT

EXHIBIT C

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	)	Chapter 11
)	
FANSTEEL INC., <u>et al.</u> , ¹	)	Case No. 02-10109 (JJF)
	)	(Jointly Administered)
)	
Debtors.)	

**ORDER UNDER 11 U.S.C. §§ 105, 363, 365 AND 1146(c) AND
FED. R. BANKR. P. 2002(a)(2) AND (c)(1), 6004 AND 6006: (A) APPROVING THE
ASSET PURCHASE AGREEMENT AMONG FANSTEEL INC., PHOENIX
AEROSPACE CORPORATION AND THE PROPOSED PURCHASER,
(B) APPROVING THE SALE OF THE ASSETS, (C) DETERMINING THAT
SUCH SALE IS EXEMPT FROM ANY STAMP, TRANSFER, RECORDING OR
SIMILAR TAXES, AND (D) APPROVING ASSUMPTION AND ASSIGNMENT OF
CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

Upon the motion (the "Motion") of Fansteel Inc. ("Fansteel") and its affiliated debtors and debtors-in-possession (the "Debtors") for entry of (I) an order scheduling a hearing date to approve the bidding procedures and a break-up fee, (II) an order under 11 U.S.C. §§ 105 and 363 and Fed. R. Bankr. P. 6004(f) (A) approving bidding procedures (the "Bidding Procedures Order") and a break-up fee in connection with the proposed sale by Fansteel and Phoenix Aerospace Corporation ("Phoenix") (Fansteel and Phoenix collectively, the "Seller") to Stoutheart East Corporation ("Stoutheart"), WPC III Inc. ("WPC") and Richard Burkhart ("Burkhart") (Stoutheart, WPC and Burkhart collectively, the "Proposed Purchaser") of substantially all of the assets, property and businesses of Phoenix and the divisions of Fansteel known as California Drop Forge, Hydro Carbide-Gulfport and Hydro Carbide-Latrobe ("Fansteel Cal Drop and Hydro Carbide Divisions"), the accounts receivable and inventory of the Fansteel division known as VR/Wesson-Plantsville ("Plantsville Division"), and the equipment and

¹ The Debtors are the following entities: Fansteel Inc., Fansteel Holdings, Inc., Custom Technologies Corp., Escast, Inc., Wellman Dynamics Corp., Washington Mfg. Co., Phoenix Aerospace Corp., and American Sintered Technologies, Inc.

inventory located at Fansteel's facility in Lexington, Kentucky (collectively, the "Purchased Assets"), (B) scheduling a hearing date, auction date, and bidding deadlines and procedures in connection with the sale of the Purchased Assets, and (C) and approving the form and manner of notice thereof (collectively, "Part I of the Motion"); and (III) an order (the "Sale Order") under 11 U.S.C. §§ 105, 363, 365 and 1146(c) and Fed. R. Bankr. P. 2002(a)(2) and (c)(1), 6004 and 6006, (A) approving an Asset Purchase Agreement among Fansteel, Phoenix and the Proposed Purchaser substantially in the form of the Agreement annexed to the Motion as Exhibit "D" (the "Asset Purchase Agreement"), or a modification thereof if another party is the Successful Bidder, (B) approving the sale of the Purchased Assets to the Proposed Purchaser or such other party making a higher and better offer therefore (the "Successful Bidder"), free and clear of liens, interests, claims, restrictions, encumbrances, encroachments and charges of every kind (except as otherwise provided in the Asset Purchase Agreement), (C) determining that such sale is exempt from any stamp, transfer, recording or similar taxes, and (D) approving the assumption by the Debtors and the assignment to the Successful Bidder of certain pre-petition executory contracts and unexpired leases (collectively, "Part II of the Motion"); and sufficient notice of the Motion having been given; and it appearing that no other or further notice need be given; and after due deliberation and sufficient cause appearing therefor

IT IS HEREBY FOUND AND DETERMINED THAT:²

A. Fansteel received no offers for the Purchased Assets other than the offer of the Proposed Purchaser, and Proposed Purchaser is declared the highest and best bidder for the Purchased Assets.

² Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate. See Bankruptcy Rule 7052.

B. The Purchase Price for the Purchased Assets under the Asset Purchase Agreement is an aggregate amount equal to the sum of (i) eighty percent (80%) of the book value of the Receivables (reduced by book reserves for bad debts and credits and discounts granted prior to the Closing in the ordinary course), plus (ii) eighty percent (80%) of the book value of the Inventory (reduced by book reserves for excess and obsolete stock and scrap), *plus* (iii) fifty percent (50%) of the book value of the Prepaid Items and Deposits, *plus* (iv) eighty percent (80%) of the book value of the Fixed Assets (reduced by book depreciation and retirement in the ordinary course), *plus* (v) the sum of \$850,000, subject to higher and better offers.

C. The Purchase Price for the Purchased Assets is fair and reasonable, and constitutes reasonable consideration and reasonably equivalent value under the Bankruptcy Code and applicable state law. Approval of the Asset Purchase Agreement and the sale of the Purchased Assets in accordance therewith at this time are in the best interests of the Debtors and their respective creditors and estates.

D. A valid and sound business purpose exists for approval of the transactions contemplated by Part II of the Motion pursuant to section 363(b) of the Bankruptcy Code. The terms of the Asset Purchase Agreement were negotiated at arms length and are fair and reasonable.

E. Proper, timely, adequate and sufficient notice of the Motion, the proposed sale, the hearings, and sale of the Purchased Assets has been provided in accordance with sections 102(1), 363(b) and 365 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006, 9007 and 9008, and no other or further notice of the Motion, the hearings, or the entry of this Sale Order is required.

F. A reasonable opportunity to object or to be heard regarding the relief requested in the Motion has been afforded to all interested persons and entities.

G. The Debtors have demonstrated good, sufficient and sound business purposes for the sale of the Purchased Assets pursuant to section 363(b) of the Bankruptcy Code outside of a plan of reorganization in that, among other things: (i) an expeditious sale of the Purchased Assets will provide funding necessary to the confirmation of the Debtors' Joint Plan of Reorganization; (ii) absent a prompt sale, it is likely that the value of the Purchased Assets would precipitously decline; and (iii) the Purchase Price is the highest and best offer that the Debtors have received for the Purchased Assets.

H. The sale of the Purchased Assets outside of a plan of reorganization pursuant to the Asset Purchase Agreement does not impermissibly restructure the rights of creditors of Fansteel and Phoenix.

I. The Debtors may sell and transfer the Purchased Assets free and clear of all liens, claims, interests, and encumbrances because, as required by section 363(f) of the Bankruptcy Code, all parties holding a lien on the Purchased Assets could be compelled to accept a money satisfaction of such liens in a legal or equitable proceeding pertaining thereto and such liens will attach to the proceeds of the sale of the Purchased Assets consistent with the requirements of section 363(e) of the Bankruptcy Code.

J. The Asset Purchase Agreement was negotiated, proposed and entered into by the parties in good faith, at arms' length bargaining positions and without collusion. The Proposed Purchaser is not an "insider" or "affiliate" of the Debtors (as each such term is defined in the Bankruptcy Code). Neither the Debtors nor the Proposed Purchaser has engaged in any conduct that would prevent the application of section 363(m) of the Bankruptcy Code or cause the

application of section 363(n) of the Bankruptcy Code to the proposed sale and the transactions contemplated by the Agreement. The Proposed Purchaser is a good faith buyer under section 363(m) of the Bankruptcy Code and, as such, is entitled to the protections afforded thereby.

K. The Debtors have extensively marketed the sale of the Purchased Assets and conducted the auction process in compliance with the Bidding Procedures Order and the requirements of applicable law.

L. Effective as of the Closing (as defined in the Asset Purchase Agreement), the transfer of the Purchased Assets (i) is a legal, valid and effective transfer of property of the estates herein to the Proposed Purchaser, as more particularly set forth in the Asset Purchase Agreement and (ii) vests the Proposed Purchaser with all right, title, and interest of Fansteel and Phoenix in and to the Purchased Assets free and clear of all liens, claims and encumbrances under sections 363(f) and 105 of the Bankruptcy Code.

M. The Debtors may assume the Assumed Contracts and assign each of them to the Proposed Purchaser pursuant to section 365 of the Bankruptcy Code. The assumption and assignment of the Assumed Contracts pursuant to the terms of this Order is integral to the Asset Purchase Agreement and is in the best interests of the Debtors and the Debtors' estates, creditors and other parties in interest, and represents the exercise of sound and prudent business judgment by the Debtors.

N. The amounts in the column entitled "Cure Amount" on the Cure Amount Schedule filed with the Court are the sole amounts necessary under sections 365(b)(1)(A) and (B) and 365(f)(2)(A) of the Bankruptcy Code to cure all monetary defaults and pay all actual pecuniary losses under such Assumed Agreements. Upon the payment of the applicable Cure Amount, (a) each Assumed Contract shall constitute a valid and existing interest in the property

subject to such Assumed Contract, (b) none of the Debtors' rights will have been released or waived under any such Assumed Contract, (c) the Assumed Contracts shall remain in full force and effect, and (d) no default shall exist under the Assumed Contracts, nor shall there exist any event or condition which, with the passage of time or the giving of notice, or both, would constitute such a default.

O. The Proposed Purchaser has provided adequate assurance of its future performance under the Assumed Contracts within the meaning of sections 365(b)(1)(C), 365(b)(3) (to the extent applicable) and 365(f)(2)(B) of the Bankruptcy Code.

P. The sale and transfer of the Purchased Assets, are in anticipation, and are an important component, of any plan of reorganization of the Debtors and, accordingly, constitute transfers pursuant to 11 U.S.C. § 1146(c), which shall not be taxed under any law imposing a stamp tax or similar tax.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Part II of the Motion is granted.
2. All objections to the Motion or the relief requested therein that have not been withdrawn, waived, or settled, including all reservations of rights included therein that are not otherwise provided for by this Sale Order are overruled on the merits.
3. The terms and conditions of the Asset Purchase Agreement are hereby approved.
4. The sale of the Purchased Assets to the Proposed Purchaser pursuant to the Asset Purchase Agreement is hereby authorized under section 363(b) of the Bankruptcy Code and the entry of Fansteel and Phoenix into the Asset Purchase Agreement is hereby approved.
5. The Debtors are authorized and directed to execute and deliver, and empowered to fully perform under, consummate and implement, the Asset Purchase Agreement, together

with all additional instruments and documents that may be reasonably necessary or desirable to implement such agreements, and to take all further actions as may be reasonably requested by the Proposed Purchaser for the purpose of assigning, transferring, granting, conveying and conferring to the Proposed Purchaser, or reducing to possession, any or all of the Purchased Assets, or as may be necessary or appropriate to the performance of the obligations of the Debtors under the Asset Purchase Agreement.

6. Pursuant to sections 105(a), 363(b) and 363(f) of the Bankruptcy Code, the Purchased Assets shall be transferred to the Proposed Purchaser, in accordance with the Asset Purchase Agreement, free and clear of all liens, claims, interests and encumbrances, except as otherwise expressly set forth in the Asset Purchase Agreement, with all such liens, claims, interests and encumbrances released, terminated and discharged as to the Purchased Assets and with all such liens, claims, interests and encumbrances attaching to the proceeds of the sale of the Purchased Assets, in the order of their priority, with the same validity, force and effect which they now have as against the Purchased Assets. If the proposed sale fails to close for any reason, then such liens, claims, obligations, demands, guaranties, options, rights, contractual commitments, restrictions, interests, encumbrances and matters of any kind and nature shall continue against the Purchased Assets unaffected by this order.

7. The Asset Purchase Agreement and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto in accordance with the terms thereof without further order of the Court, provided that any such modification, amendment or supplement is not material.

8. The transfer of the Purchased Assets to the Proposed Purchaser, and the making, execution, delivery or recordation of any deed, termination or modification of any lease or other

instrument of transfer, or assignment executed in connection with any of the transactions contemplated in connection with the Asset Purchase Agreement or to its schedules is not subject to taxation under any law imposing a stamp tax or similar tax in accordance with section 1146(c) of the Bankruptcy Code.

9. Fansteel, Phoenix, the Proposed Purchaser and/or any agent or representative of any of them, are each hereby authorized and empowered to serve upon all filing and recording officers a notice when filing or recording any instruments of transfer (including, without limitation, deeds, leases, and assignments, modifications and terminations of leases) in accordance with this order and the Asset Purchase Agreement to evidence and implement this paragraph of the order. All filing and recording officers are hereby directed to accept, file and record all instruments of transfer including, without limitation, deeds, leases, and assignments, modifications and terminations of leases (if any) to be filed and recorded pursuant to and in accordance with this order or the Asset Purchase Agreement and the various documents related thereto, without the payment of any such taxes.

10. Fansteel is hereby authorized and directed, in accordance with section 365 of the Bankruptcy Code, at the Closing, to assume each of the Assumed Contracts to which it is a party, and to assign all such Assumed Contracts to the Proposed Purchaser free and clear of all claims, liens and encumbrances. The Proposed Purchaser is hereby directed, as of the Closing date, to perform under the Assumed Contracts in accordance with their respective terms, except to the extent the Proposed Purchaser and the relevant counter-party agree to vary such terms.

11. On or before the Closing, the Debtors or the Proposed Purchaser, as the case may be, shall pay all Cure Amounts due, if any, on the Assumed Contracts or, in those instances where a timely objection to the Cure Amount has been filed but the final cure amount has not

been determined by the Court, establish a reserve ("Cure Reserve") sufficient to pay the full amount claimed by an objecting counter-party to an Assumed Contract. Other than the Cure Amount or Cure Reserve relating to each Assumed Contract, there are no other amounts due on any of the Assumed Contracts required to be paid and no other action needs to be taken with respect to any of the Assumed Contracts in order to assume and assign the Assumed Contracts under sections 365(b) and 365(f)(2) of the Bankruptcy Code.

12. This Court retains exclusive jurisdiction (i) to enforce and implement the terms and provisions of the Asset Purchase Agreement, all amendments thereto, and any waivers and consents thereunder, and of each of the agreements executed in connection therewith, (ii) to compel delivery of the Purchased Assets to the Proposed Purchaser, (iii) to resolve any disputes arising under or related to the Asset Purchase Agreement and related agreements, except as otherwise provided therein, and (iv) to interpret, implement and enforce the provisions of this Order.

Dated: Wilmington, Delaware
September __, 2003

The Honorable Joseph J. Farnan Jr.
United States District Court Judge

EXHIBIT D

ASSET PURCHASE AGREEMENT

by and among

FANSTEEL INC.,

PHOENIX AEROSPACE CORPORATION,

as Seller,

and

STOUTHEART EAST CORPORATION,

WPC III INC.,

as Purchaser,

and

RICHARD BURKHART

as Guarantor

Dated as of July 24, 2003

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT ("Agreement") is made and entered into this 24th day of July 2003 by and among Fansteel Inc., a Delaware corporation ("FSI"), Phoenix Aerospace Corporation, a Delaware corporation ("PAC", collectively with FSI, the "Seller"), Stoutheart East Corporation, a Texas corporation ("Stoutheart East"), WPC III Inc., a Texas corporation ("WPC III" and, collectively with Stoutheart East, the "Purchaser"), and Richard Burkhart ("Burkhart").

RECITALS

A. WHEREAS, on January 15, 2002 (the "Filing Date"), FSI and certain of its domestic wholly-owned subsidiaries (collectively, the "Debtors") including PAC, each filed a voluntary petition for relief under chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware under case number 01-10109, which chapter 11 case was transferred to the United States District Court for the District Court of Delaware (the "Bankruptcy Court") on January 22, 2002 and assigned Civil Action No.: 02-44, and the Debtors continue to manage their properties as debtors and debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code;

B. WHEREAS, FSI, among other things, operates certain divisions known as, California Drop Forge ("Cal Drop"), Hydro Carbide-Gulfport ("HG") and Hydro Carbide-Latrobe ("HL" and, together with Cal Drop and HG, the "Divisions").

C. WHEREAS, the Divisions are engaged primarily in the business of manufacturing, distribution and sales of specialty metals.

D. WHEREAS, the assets of PAC consist solely of real property located at 1033 Alhambra Avenue, Los Angeles, California and a lease agreement with FSI with respect thereto (collectively, the "PAC Assets").

E. WHEREAS, the Seller desires to sell, transfer and assign to the Purchaser and the Purchaser desires to purchase from the Seller, pursuant to and in accordance with the Bankruptcy Code, the Purchased Assets (as defined below) for consideration comprised of cash, the Indemnity Note (as defined below) and the assumption of the Assumed Liabilities (as defined below), all as herein provided and on the terms and conditions hereinafter set forth.

F. WHEREAS, the foregoing sale would be effected pursuant to the terms of this Agreement and an order of the Bankruptcy Court under sections 363 and 365 of the Bankruptcy Code (the "Sale Order");

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants, and agreements set forth herein, the parties hereto agree as follows:

ARTICLE I

DEFINED TERMS

1.1 **Defined Terms.** For the purposes of this Agreement, defined terms shall have meanings set forth or referenced in Appendix I.

1.2 **Other Definitional and Interpretive Matters.** Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation shall apply:

1.2.1 **Gender and Number.** Any reference in this Agreement to gender shall include all genders, and words imparting the singular number only shall include the plural and vice versa.

1.2.2 **Headings.** The provisions of the Table of Contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in construing or interpreting this Agreement. All references in this Agreement to any "Section" are to the corresponding Section of this Agreement unless otherwise specified.

1.2.3 **Herein.** The words such as "herein," "hereinafter," "hereof," and "hereunder" refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires.

1.2.4 **Including.** The word "including" or any variation thereof means "including, without limitation" and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

1.2.5 **Knowledge.** The phrase "Knowledge of Seller" (or words of similar import) shall mean the actual knowledge, without independent investigation, of the Chief Executive Officer and Chief Financial Officer of FSI and up to 5 individuals identified on Schedule 1.2.5 hereto.

1.2.6 **Schedules and Exhibits.** The Schedules and Exhibits attached to this Agreement shall be construed with and as an integral part of this Agreement to the same extent as if the same had been set forth verbatim herein. While Seller has attempted in good faith to cross reference between Schedules and Exhibits as applicable, the parties hereto agree that any item disclosed in any particular Schedule or Exhibit shall be deemed disclosed for purposes of any other Schedule or Exhibit with respect to which it is reasonably apparent from a reading of such information on such first Schedule or Exhibit that such information is applicable to such other Schedule or Exhibit.

ARTICLE II

PURCHASE AND SALE OF THE ASSETS

2.1 Purchased Assets. At the Closing, the Seller shall sell, convey, transfer, assign and deliver to the Purchaser and the Purchaser shall purchase from the Seller, free and clear of all Liens, other than the Assumed Liabilities and the Permitted Liens, on the terms and subject to the conditions set forth in this Agreement, all of its right, title and interest in and to (i) the properties, business and assets of the Divisions, or otherwise currently used primarily in connection with the Business, of every kind and description, whether real, personal or mixed, tangible or intangible, wherever located (other than the Excluded Assets), (ii) all equipment and Inventory located at the Lexington Facility, (iii) all Receivables of the Seller arising out of the operations conducted at the Plantsville Facility, (iv) all Inventory located at the Plantsville Facility and (v) the PAC Assets, all as shall exist on the Closing Date, whether or not appearing on the Last Balance Sheet (collectively, the "Purchased Assets"). Without limiting the generality of the foregoing, the Purchased Assets shall include the following, other than the Excluded Assets and except that, by delivery of a notice from the Seller to the Purchaser at any time prior to the issuance of the Sale Order, the Seller may exclude any of the Inventory or Receivables relating to the Plantsville Facility from the Purchased Assets:

(a) all of the Seller's right, title and interest in and to Fixed Assets used primarily in the Business and the equipment located at the Lexington Facility;

(b) all Inventory of the Seller used primarily in the Business or located at the Lexington Facility or Plantsville Facility;

(c) all Receivables of the Seller arising out of the operation of the Business or the operations conducted at the Plantsville Facility;

(d) all of the interest of and the rights and benefits accruing to the Seller as lessee or licensee under (i) the leases of real property currently used primarily in the Business, including all improvements to and buildings thereon (the "Purchased Leasehold Premises"); and (ii) all leases or rental agreements where the Seller is lessee covering machinery, equipment, tools, supplies, furniture and fixtures and other fixed assets of the Business, all of which leases of real property and other leases or rental agreements are set forth on Schedule 2.1(d) (the leasehold rights described in clauses (i) and (ii) are collectively referred to as the "Leasehold Rights");

(e) all of the Seller's right, title and interest in and to the Transferred Real Property;

(f) all of the rights and benefits accruing to the Seller under all purchase orders and purchase commitments made by the Seller in the ordinary course of business of the Business;

(g) all Pre-Petition Contracts to be assumed pursuant to Section 4.10(c) and 4.10(d) and all other choses in action, causes of action and other rights of every kind of the Seller relating to the Pre-Petition Contracts, except those rights included in or related to the Excluded Assets and/or the Excluded Liabilities;

(h) all Records of the Seller relating primarily to the Business; provided, however, that the Seller shall have the right to retain copies of all such Records or shall have reasonable access during reasonable business hours to such Records;

(i) all Intellectual Property of the Seller relating primarily to the Business; and

(j) all Prepaid Items and deposits of the Seller relating primarily to the operations of the Business.

2.2 Excluded Assets. Anything to the contrary in Section 2.1 notwithstanding, the Purchased Assets shall exclude the following assets of the Seller (the "Excluded Assets"):

(a) the proceeds of the Purchase Price (as hereinafter defined) and the Seller's other rights under this Agreement and all documents and instruments executed in connection with this Agreement;

(b) the right to receive any refunds of Taxes paid by the Seller prior to the Closing;

(c) prepaid pension assets, if any;

(d) all real property interests of the Seller located in Waukegan, Illinois; Muskogee, Oklahoma; North Chicago, Illinois; Lexington, Kentucky; and Plantsville, Connecticut; and all Fixtures and appurtenances located within the bounds of such real property, other than equipment and Inventory located at the Lexington Facility and Inventory located at the Plantsville Facility;

(e) Equity Securities of the Seller;

(f) the corporate and trade name "Fansteel" and "VR/Wesson" and all variations thereof that include the "Fansteel" or "VR/Wesson" name;

(g) any intercompany or intracorporate receivables of the Seller;

(h) any Contract or Lease terminated, expired or rejected prior to the Closing;

(i) all bank accounts, cash (including, but not limited to, cash in bank accounts), cash equivalents and short term investments;

(j) all Claims, including Avoidance Actions; and

(k) any item expressly excluded pursuant to the provisions of Section 2.1 above.

2.3 Purchaser Cooperation. Pursuant to and in accordance with section 365 of the Bankruptcy Code, Purchaser shall cooperate with Seller as necessary to transfer the Purchased Assets to Purchaser, including the provision of such information of Purchaser as may be reasonably required.

2.4 Division of Purchased Assets. All of the Purchased Assets specifically attributable solely to Cal Drop and PAC will be purchased by WPC III, and all other Purchased Assets will be purchased by Stoutheart East; provided, however, that the Seller shall have no liability for any transfer of the Purchased Assets to the incorrect recipient.

ARTICLE III

PURCHASE PRICE

3.1 Purchase Price. In consideration for the Purchased Assets, the Purchaser shall pay an aggregate amount (the "Purchase Price") equal to the sum of (a) \$850,000 *plus* (b) (i) eighty percent (80%) of the book value of the Receivables (reduced by book reserves for bad debts and credits and discounts granted prior to the Closing in the ordinary course), *plus* (ii) eighty percent (80%) of the book value of the Inventory (reduced by book reserves for excess and obsolete stock and scrap and by LIFO reserves), *plus* (iii) fifty percent (50%) of the book value of the Prepaid Items and deposits, *plus* (iv) eighty percent (80%) of the book value of the Fixed Assets (reduced by book depreciation and retirement in the ordinary course). Attached as Schedule 3.1 is an illustrative computation of the Purchase Price using the Seller's June 30, 2003 financial data. The Purchase Price shall be paid, in part, by the assumption of debts and payments as follows:

3.1.1 Assumption/Payment of Accounts Payable, Taxes Payable and Accrued Liabilities. At the Closing, the Purchaser will assume all Post-Petition Accounts Payable and all Sales Tax obligations of the Business incurred in the ordinary course and accrued on Seller's books as of the Closing Date, and the Accrued Post-Petition Liabilities and will pay such Liabilities in the ordinary course of business.

3.1.2 Secured and Priority Liabilities. The Purchaser will repay one hundred percent (100%) of the Secured and Priority Liabilities (as defined in Section 3.3) identified on Schedule 3.3 in cash (a) as they become due in the ordinary course or (b) to the extent such Liabilities are past due, on the Closing Date.

3.1.3 Industrial Revenue Bonds. At the Closing, the Purchaser will assume the Liabilities under the Industrial Revenue Bonds.

3.1.4 Pre-Petition Contracts. The Purchaser will pay or, at the Closing, reimburse the Seller for any Cure Costs with respect to any Additional Assumed Contracts.

3.1.5 Cash Portion. (a) The Purchaser will pay cash in an amount (the "Cash Portion") equal to the (i) Purchase Price less (ii) the sum of the amounts assumed and/or paid at Closing pursuant to Sections 3.1.1 through 3.1.3 inclusive (together, the "Deductions") less (iii) \$850,000, it being agreed that the Deposit shall be credited against any such payment as set forth in Section 3.4.2.

(b) The Cash Portion shall be paid in the following manner (the "Priority Payment Schedule"): (i) first, if so directed by Seller, to an account designated by ANB, an amount payable by Seller equal to all amounts due and payable under the ANB Letter of Credit; (ii) second, if so directed by Seller, to an account designated by the Seller for payment to any broker or finder engaged by Seller of any amounts due and payable in respect of the transactions contemplated by this Agreement, and (iii) third, the balance shall be paid into the Purchase Price Escrow.

3.1.6 Indemnity Note. At the Closing, the Purchaser shall issue to Seller and deliver to the Purchase Price Escrow Agent a promissory note in the principal amount of \$850,000 (the "Indemnity Note"), in the form attached hereto as Exhibit D which shall be supported by a guaranty from Burkhardt.

3.1.7 Estimated Purchase Price. Not more than five (5) days nor less than two (2) days prior to the Closing, the Seller shall deliver to the Purchaser in writing a good faith estimate of the Purchase Price determined in accordance with Section 3.1 and using the most recent financial information available (the "Estimated Purchase Price"), including the details for such estimate, as identified in the detailed subledgers of the Seller's trial balance sheet on such date, with such details to include an estimate of the Receivables, Inventory, Prepaid Items and deposits, Fixed Assets, Post-Petition Accounts Payable, Property and Sales Taxes, Accrued Post-Petition Liabilities, Secured and Priority Liabilities, and the Cash Portion. The Estimated Purchase Price, and the reserves specified in Section 3.1, shall be prepared in accordance with the Seller's practices and procedures consistently applied from period to period and consistent with past practice. Purchaser shall have two (2) Business Days to object in good faith to the Seller's calculation of the Estimated Purchase Price by delivery of written notice setting forth in reasonable detail the basis for any such objection ("Initial Objection Notice"); provided that the only basis for the Initial Objection Notice shall be (i) non-compliance with the standards set forth above for the preparation of the Estimated Purchase Price and (ii) computational errors. The Seller and the Purchaser shall in good faith work to resolve such objection. Except as otherwise specified in Section 4.2 below, at the Closing, the Purchaser will pay, by wire transfer of immediately available funds, in accordance with the Priority Payment Schedule, the amount estimated to be paid pursuant to Section 3.1.5 ("Estimated Cash Portion"). In no event shall the Purchase Price Escrow Agent distribute any funds from the Purchase Price Escrow prior to the final determination of the Cash Portion in accordance with Section 3.1.8 and the transfer, if applicable, of all amounts owing to the Purchaser pursuant to Section 3.1.8.

3.1.8 Post-Closing Adjustment.

(a) **Closing Statement.** The Purchaser shall prepare and deliver to the Seller, not later than forty-five (45) days after the Closing, a statement and calculation

("Closing Statement") of the Purchase Price, including the details for such calculation, with such details to include the Receivables, Inventory, Prepaid Items and deposits, Fixed Assets, Post-Petition Accounts Payable, Property and Sales Taxes, Accrued Post-Petition Liabilities, Secured and Priority Liabilities, the Cash Portion. The Closing Statement, including the reserves specified in Section 3.1, shall be prepared in accordance with the Seller's practices and procedures consistently applied from period to period. The Seller shall cooperate (at its expense), and shall cause its accountants and representatives to cooperate (at Seller's reasonable expense), with the Purchaser and its accountants, representatives and employees in the preparation of the Closing Statement.

(b) Objections. Within thirty (30) days following the Seller's receipt of the Closing Statement, the Seller shall notify the Purchaser in writing of any objections that the Seller may have to the Closing Statement, stating in reasonable detail the basis for any such objection (an "Objection Notice"); provided that the only basis for objection shall be (i) non-compliance with the standards set forth in this Section 3.1.9 for the preparation of the Closing Statement and (ii) computational errors. If the Seller fails to deliver an Objection Notice to the Purchaser within such thirty (30) day period, the Seller will be deemed to have concurred with the Closing Statement. During such thirty (30) day period, and thereafter until all matters in all Objection Notices are resolved, the Purchaser shall afford to the Seller and its representatives reasonable access to all of the Purchaser's management and books, documents and records that relate to the Business and are necessary or desirable for purposes of the Seller's review of the Closing Statement.

(c) Dispute Resolution. If the Seller timely delivers an Objection Notice to the Purchaser in accordance with Section 3.1.9(b), the Seller and the Purchaser shall promptly consult with each other in good faith and exercise reasonable efforts to attempt to resolve differences in their respective analyses of the Closing Statement within twenty (20) days after the Seller delivers the Objection Notice (or such longer period as the parties shall mutually agree). Any matter not specifically referenced in the Objection Notice shall be conclusively deemed to have been agreed upon by the parties. If the parties are unable to resolve their differences within such twenty (20) day period (or such longer period as the parties shall mutually agree), the matter shall be promptly referred to an Independent Accounting Firm, which shall make its own determination of the matters in dispute within thirty (30) days after the matter is referred to it, based solely on the information submitted by the Seller and the Purchaser and based on the standards set forth above in Section 3.1.8(a) and Section 3.1.8(b). The determination of the Independent Accounting Firm will be final, binding and conclusive on the parties.

(d) Fees and Expenses. Each party shall bear its own fees and expenses incurred in performing services pursuant to this Section 3.1.8. If the Independent Accounting Firm is used to resolve differences between the Seller and the Purchaser in accordance with Section 3.1.8(c), all fees and expenses, including any retainers, of the Independent Accounting Firm will be allocated 50% to the Purchaser and 50% the Purchase Price Escrow.

(e) **Payment of Adjustment.** Within five (5) Business Days after the final determination of the Purchase Price pursuant to Section 3.1.8(c):

(i) if the Cash Portion is greater than the Estimated Cash Portion, then Purchaser shall deliver to the Purchase Price Escrow, by wire transfer of immediately available funds to the account or accounts specified by the Purchase Price Escrow Agent in writing, an amount equal to such excess; and

(ii) if the Cash Portion is less than the Estimated Cash Portion, then the Purchase Price Escrow Agent shall deliver to Purchaser, by wire transfer of immediately available funds to the account or accounts specified by Purchaser in writing, an amount equal to such shortfall.

3.2 Deposit. Upon the execution and delivery by the parties hereto of the Deposit Escrow Agreement, the Purchaser shall deposit \$500,000 in immediately available funds (the "Deposit") with the Deposit Escrow Agent pursuant to the Deposit Escrow Agreement. Except as otherwise specified in Section 4.2(b) below, the Deposit will be paid to Seller as set forth in the Deposit Escrow Agreement. The Deposit will be refundable on such date as this Agreement is terminated, only if (i) the Agreement is terminated pursuant to Section 8.1 (other than a termination by the Seller under Section 8.1(c) or a termination under Section 8.1(e) occasioned by a breach by the Purchaser) or (ii) the Bankruptcy Court approves a Successful Bid (as defined in the Sales Procedures Order) that is submitted by a party other than the Purchaser, in either which case the Deposit shall be immediately refunded to Purchaser, provided that, if the Deposit is so refunded pursuant to clause (ii), the Purchase shall, unless this Agreement has been terminated under Section 8.1 by that time, return the Deposit to the Deposit Escrow Agent immediately upon the sale contemplated by clause (ii) being abandoned by the Seller. The return of the Deposit to Purchaser shall be in addition to the payment of the Termination Payment, if applicable.

3.3 Assumed Liabilities. The Purchaser will assume only the following Liabilities of the Business (the "Assumed Liabilities"):

(a) the post-petition Accounts Payable of the Business owed to Third Parties (the "Post-Petition Accounts Payable");

(b) all Property and Sales Tax obligations attributable to the Purchased Assets (to the extent reserved on the Seller's financials);

(c) all secured Liabilities related to the Business (the "Secured and Priority Liabilities");

(d) all accrued post-petition Liabilities of the Business, including, without limitation, all capital lease obligations, all post-petition administrative expense obligations related to the Business, or which are of the type set forth on the Last Balance Sheet and incurred by the Business in the ordinary course of business through the

Closing, to the extent reserved on the Seller's financials and other than Excluded Liabilities (the "Accrued Post-Petition Liabilities"),

- (e) all Liabilities related to the Industrial Revenue Bonds;
- (f) any retiree death benefits associated with the Purchased Assets;
- (g) COBRA liabilities as set forth in Section 7.1(b) hereof;
- (h) any compensation and benefits due with respect to employees for whom offers are required under Section 7.1(g) hereof (to the extent reserved on the Seller's financials);
- (i) the Fansteel Hydro Carbide Hourly Employees' Pension Plan;
- (j) the HL CBA; and
- (k) In addition, the Purchaser will assume all capital leases of the Business, to the extent set forth on the Last Balance Sheet or which are of the type set forth on the Last Balance Sheet and incurred by the Business in the ordinary course of business through the Closing, and all Assumed Contracts (as defined below).

3.3.2 The Assumed Liabilities that are monetary obligations are specified in detail, by type, on Schedule 3.3, using estimates where final numbers are not available. Assumed Liabilities which are primarily attributable to or incurred primarily by or on behalf of Cal Drop and PAC will be assumed by WPC III, and all other Assumed Liabilities will be assumed by Stoutheart East.

3.4 **Excluded Liabilities.** Except as specifically set forth in Section 3.3, the Purchaser will not assume any Liabilities of the Seller (the "Excluded Liabilities") including:

3.4.1 any Liability that arises out of the transactions contemplated by this Agreement or results from any breach or default by the Seller under this Agreement or any agreement, certificate or other document or instrument that may be executed or delivered in connection with this Agreement or the transactions contemplated hereby, or any Liability where the existence, imposition, nature or extent of such Liability gives rise to or constitutes a breach or default by the Seller under this Agreement or any other agreement, certificate or other document or instrument that may be executed or delivered in connection with this Agreement or the transactions contemplated hereby;

3.4.2 any Liability directly relating to the Excluded Assets;

3.4.3 any Liability relating to any violation of any Law by the Seller or any employee or agent of the Seller that arises out of or results from the Closing or any act, omission, occurrence or state of facts prior to the Closing, but not including known or unknown Environmental Liabilities associated with the Purchased Assets;

3.4.4 any Liability or intercompany or intracorporate payable owed to the Seller or any Affiliate of the Seller;

3.4.5 any Liability relating to any employee or group of employees of the Business related to claims under worker's compensation laws;

3.4.6 any commission, fee or claim of any person, firm or corporation employed or retained or claiming to be employed or retained by the Seller to bring about, or to represent it in, the transactions contemplated hereby;

3.4.7 other than pension obligations subject to the collective bargaining agreement for the Seller's employees at HL arising from and after the Closing Date, any Liabilities relating to Pension Plan obligations of the Seller, including without limitation any obligation or liability to the Pension Benefit Guaranty Corporation; and

3.4.8 any obligations or liabilities arising under any Pre-Petition Contracts that are not, or do not become, Assumed Contracts.

3.5 **No Expansion of Third-Party Rights.** The (i) assumption by the Purchaser of the Assumed Liabilities, (ii) transfer thereof by the Seller and (iii) limitations in the description of Excluded Liabilities in Section 3.4, shall in no way expand the rights or remedies of any Third Party against the Purchaser or the Seller as compared to the rights and remedies which such Third Party would have had against the Seller had the Purchaser not assumed such liabilities. Without limiting the generality of the preceding sentence, the assumption by the Purchaser of the Assumed Liabilities shall not create any third-party beneficiary rights.

3.6 **Allocation of the Purchase Price among the Purchased Assets.** The Purchase Price shall be allocated among each item or class of the Purchased Assets as specifically agreed to by the parties and set forth on Schedule 3.6 (which schedule will be attached hereto on or prior to the Closing Date). The Seller and the Purchaser agree that this allocation will be used on Form 8594 and any other notice or filing required pursuant to Section 1060 of the Code.

3.7 **Taxes.** (a) The Purchaser agrees that it shall pay all sales, transfer and other taxes, if any, required to be paid by reason of the sale of the Purchased Assets to the Purchaser hereunder, based upon the allocation provided for in Section 3.6. If Purchaser fails to pay such sales, transfer or other similar taxes referred to in this section, Purchaser shall indemnify Seller for all expenses, losses, costs, deficiencies, liabilities and damages (including reasonable legal fees and expenses) incurred or suffered by Seller on a pre-tax basis.

(b) The parties hereto intend that the transaction contemplated hereunder is exempt from any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax, or other similar tax or governmental assessment pursuant to section 1146(c) of the Bankruptcy Code.

ARTICLE IV

CLOSING; CLOSING CONDITIONS; PRE-CLOSING COVENANTS

4.1 Time and Place of the Closing. The closing of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of Freeborn & Peters, 311 South Wacker Drive, Suite 3000, Chicago, Illinois, or such other place as agreed upon by the parties (the "Closing Date"). The Closing shall be held on such date as agreed upon by the Purchaser and Seller, but in no event later than the first Business Day after the Sale Order entered by the Bankruptcy Court has become a Final Order.

4.2 Closing Transactions. Subject to the conditions set forth in this Agreement, the parties shall consummate the following transactions (the "Closing Transactions") on the Closing Date:

(a) the Seller shall deliver to the Purchaser a bill of sale for the Purchased Assets to be sold by Seller hereunder reasonably satisfactory to Purchaser;

(b) (i) if the Estimated Cash Portion exceeds the Deposit, the Purchaser shall deliver the difference in accordance with the Priority Payment Schedule;

(ii) if the Estimated Cash Portion is less than the Deposit, the Deposit Escrow Agent shall deliver the difference to the Purchaser; and

(iii) any amounts to be delivered pursuant to this Section 4.2(b) shall be delivered by wire transfer of immediately available funds.

(c) the Purchaser shall deliver the Indemnity Note to the Purchase Price Escrow Agent;

(d) the Seller shall deliver a flow of funds memorandum setting forth in reasonable detail, all sources and uses of the Purchase Price;

(e) the Seller and the Purchaser, as applicable, shall deliver the opinions, certificates and other documents and instruments required to be delivered by or on behalf of such Party under Article IV.

4.3 The Seller's Closing Deliveries. Subject to and conditioned upon the Closing, on or prior to the Closing Date, the Seller shall have delivered to Purchaser all of the following:

(a) for FSI and PAC, a certificate of the Secretary of State of such entity's state of incorporation (and each other state in which the Seller is qualified to conduct the Business) providing that each of FSI and PAC is in good standing;

(b) copies of all third-party (including landlords) and governmental consents, approvals, filings, releases and terminations that are required by the terms of this Agreement;

(c) an opinion, dated the Closing Date, of counsel to the Seller, substantially in the form attached hereto as Exhibit A;

(d) a certificate of the Seller certifying that the conditions to Closing set forth in Sections 4.5(a) and 4.5(b) have been satisfied; and

(e) bills of sale, warranty deeds (conveying good and marketable fee simple title to all of the Transferred Real Property) and such other documents or instruments as the Purchaser may reasonably request (in form and substance reasonably acceptable to Purchaser) to effect the transactions contemplated hereby (including without limitation a certified copy of the Sale Order).

4.4 The Purchaser's Closing Deliveries. Subject to and conditioned upon the Closing, on or prior to the Closing Date, the Purchaser shall have delivered to the Seller or the Purchase Price Escrow Agent, as the case may be, all of the following:

(a) an amount equal to the Estimated Cash Portion less the amount of the Deposit and any interest accrued thereon, by wire transfer of immediately available same day funds in an account or accounts designated by Seller;

(b) the Indemnity Note;

(c) assumption agreements to effect the assumption by Purchaser or its designated Affiliates of the Assumed Liabilities in form and substance reasonably satisfactory to Seller;

(d) all consents, waivers and approvals obtained by Purchaser or its Affiliates that are required by the terms of this Agreement;

(e) a certificate of the Secretary of State of the State of Texas providing that the Purchaser is in good standing;

(f) certified copies of the resolutions of the Purchaser's board of directors approving the transactions contemplated by this Agreement;

(g) a certificate of the Purchaser certifying that the conditions to Closing set forth in Sections 4.6(a) and 4.6(b) have been satisfied; and

(h) such other documents or instruments as the Seller may reasonably request to effect the transactions contemplated hereby.

4.5 Conditions to the Purchaser's Obligations. The obligation of the Purchaser to consummate the transactions contemplated by this Agreement is subject to the satisfaction of the following conditions as of the Closing Date:

(a) The representations and warranties set forth in Article V hereof shall be true and correct at and as of the Closing Date as though then made and as though

the Closing Date were substituted for the date of this Agreement throughout such representations and warranties except where the failure of such representations and warranties to be so true and correct does not have, individually or in the aggregate, a Material Adverse Effect.

(b) The Seller shall have performed and complied in all material respects with all of the covenants and agreements required to be performed by it under this Agreement on or prior to the Closing.

(c) The purchase of Purchased Assets by the parties hereunder shall not be prohibited by any applicable Law or Governmental Body.

(d) No preliminary or permanent injunction issued by any court of competent jurisdiction restraining or prohibiting the transactions hereby shall be in effect.

(e) The Bankruptcy Court shall have entered a Sale Order which shall have become a Final Order, in form and substance reasonably satisfactory to the Purchaser.

(f) Taking into account Seller's bankruptcy filing, from the date of this Agreement to the Closing Date, there shall have been no condition or event which has occurred which has resulted in or could reasonably be expected to result in a Material Adverse Effect.

(g) The Seller shall have delivered evidence, reasonably satisfactory to Purchaser, showing that the Liens related to the Post-Petition Funded Indebtedness have been released with respect to the Purchased Assets.

(h) The Purchaser shall have received at Purchaser's cost, title insurance (in customary form, substance and amounts and at a customary cost) on all Purchased Leasehold Premises and all Transferred Real Property.

Any condition specified in this Section 4.5 may be waived by the Purchaser; provided that no such waiver shall be effective against the Purchaser unless it is set forth in a writing executed by the Purchaser.

4.6 Conditions to the Seller's Obligation. The obligation of the Seller to consummate the transactions contemplated by this Agreement is subject to the satisfaction of the following conditions as of the Closing Date:

(a) The representations and warranties set forth in Article VI shall be true and correct in all material respects at and as of the Closing Date as though then made and as though the Closing Date were substituted for the date of this Agreement throughout such representations and warranties except where the failure of such representations and warranties to be so true and correct does not have, individually or in the aggregate, a Material Adverse Effect.

(b) The Purchaser shall have performed and complied in all material respects with all of the covenants and agreements required to be performed by it under this Agreement on or prior to the Closing.

(c) The sale of the Purchased Assets by the parties hereunder shall not be prohibited by any applicable Law or Governmental Body.

(d) No action, suit, or proceeding shall be pending before any court or quasi-judicial or administrative agency of any federal, state, local, or foreign jurisdiction or before any arbitrator wherein an unfavorable judgment, decree, injunction, order or ruling would prevent the performance of this Agreement or any of the transactions contemplated hereby, declare unlawful the transactions contemplated by this Agreement, cause such transactions to be rescinded or materially and adversely affect the right of the Seller to retain the Cash Portion, and no judgment, decree, injunction, order or ruling shall have been entered which has any of the foregoing effects.

Any condition specified in this Section 4.6 may be waived by the Seller; provided that no such waiver shall be effective against the Seller unless it is set forth in a writing executed by the Seller.

4.7 Affirmative Covenants of the Seller. Prior to the Closing, unless the Purchaser otherwise agrees in writing and except as expressly contemplated by this Agreement, the Seller shall:

(a) conduct business and operations of the Business only in the ordinary course of business, consistent with past practice;

(b) maintain the books, accounts and records of the Business in accordance with past custom and practice as used in the preparation of the Financial Statements;

(c) promptly (once it obtains knowledge thereof) inform the Purchaser in writing of any material variances from the representations and warranties contained in Article V hereof or any breach of any covenant hereunder by the Seller;

(d) cooperate with the Purchaser and use commercially reasonable best efforts to cause the conditions to the Purchaser's obligation to close to be satisfied;

(e) promptly make all filings and submissions set forth on Schedule 4.7(e) to consummate the transactions contemplated by this Agreement, and promptly provide the Purchaser with copies of all correspondence, filings, or communications between Seller or its representatives and any governmental agency or authority or members of their staffs with respect to such filings and submissions; and

(f) as promptly as practicable, but in no event more than five Business Days prior to the Bid Procedures Hearing Date, deliver the Schedules under this

Agreement to the Purchaser other than the Schedules that the Purchaser is required to deliver under Section 4.9.

4.8 Negative Covenants of the Seller. Prior to the Closing, unless the Purchaser otherwise agrees in writing and except as expressly contemplated by this Agreement, the Seller shall not:

(a) make any loans, enter into any transaction with any key employee or Affiliate of the Seller or make or grant any increase in any employee's compensation (other than in the ordinary course of business consistent with past practice) or make or grant any increase in any employee benefit plan, incentive arrangement or other benefit covering any of the employees of the Business;

(b) establish or, except in the ordinary course of business consistent with past practice, contribute to any pension, retirement, profit sharing or stock bonus plan or multiemployer plan covering the employees of the Business;

(c) enter into any contract, agreement or transaction, other than in the ordinary course of business consistent with past practice with Third Parties; or

(d) declare, pay, make or otherwise effectuate any distributions from Seller to its shareholders or to cause its subsidiaries to declare, pay, make or otherwise effectuate any distributions to Seller or any other shareholder of the subsidiaries.

4.9 Covenants of the Purchaser. Prior to the Closing, the Purchaser shall:

(a) promptly (once it obtains knowledge thereof) inform the Seller in writing of any variances from the representations and warranties contained in Article VI or any breach of any covenant hereunder by the Purchaser;

(b) as promptly as practicable, but in no event more than five Business Days prior to the Bid Procedures Hearing Date, deliver Schedule 1.2.5 under this Agreement to the Seller;

(c) cooperate with Seller and use its reasonable best efforts to cause the conditions to the Seller's obligation to close to be satisfied, including, without limitation, the execution and delivery of all agreements contemplated hereunder to be so executed and delivered (including, without limitation, the making and obtaining of all Third Party and governmental filings, authorizations, approvals, consents, releases and terminations); and

(d) promptly make all filings and submissions as necessary and advisable to consummate the transactions contemplated by this Agreement, and promptly provide the Seller with copies of all correspondence, filings, or communications between Purchaser or its representatives and any governmental agency or authority or members of their staffs with respect to such filings and submissions.

4.10 Bankruptcy Actions.

(a) Submission For Bankruptcy Court Approval. As promptly as practicable, but in no event later than five Business Days after the date hereof, the Seller shall file with the Bankruptcy Court, and seek a hearing on, a motion (i) seeking the approval of the Bidding Procedures (as defined below) and (ii) authorizing the observance and performance of such terms by the Seller and the Purchaser.

(b) Competitive Bidding. The Seller acknowledges that this Agreement is the culmination of an extensive process to identify and negotiate a transaction with a bidder who is prepared to pay the highest and best purchase price for the Purchased Assets. Set forth on Exhibit B hereto are the bidding procedures (the "Bidding Procedures") to be employed with respect to this Agreement concerning the sale of the Purchased Assets to the Purchaser; provided, that the Purchaser reserves the right to further comment on the form of the order of the Court approving the Bidding Procedures (the "Bidding Procedures Order"). The Sale is subject to competitive bidding only as set forth herein and approval by the Court at a hearing under section 363 of the Bankruptcy Code (the "Sale Hearing").

(c) Assumption and Assignment of Assumed Contracts. Within 20 Business Days prior to the Sale Hearing, the Seller shall move to assume and assign to the Purchaser the Assumed Contracts (as defined below) and shall provide notice thereof in accordance with all applicable Bankruptcy Rules (the "Section 365 Motion"). On or before August 8, 2003, the Seller will deliver to the Purchaser a true, correct, and complete list of the Estimated Cure Costs of the Pre-Petition Contracts. Within 5 Business Days of such delivery, the Purchaser shall notify the Seller of the Pre-Petition Contracts that the Purchaser has selected for the Seller to assume and assign to Purchaser at the Closing (the "Initial Assumed Contracts"). The Seller shall promptly file with the Bankruptcy Court a schedule (the "Cure Amount Schedule") of each of such selected Pre-Petition Contracts. As soon as practicable thereafter, and in any event, no later than two Business Days after the Cure Amount Schedule is filed with the Court, the Seller shall provide notice to the other parties to such contracts (A) of the Seller's intention to assume, assign, and transfer such designated contracts to the Purchaser; (B) of the Cure Cost, if any, required to be paid under each such contract; and (C) containing such other matters as requested by the Purchaser.

(d) In addition, at any time that is at least fifteen (15) Business Days prior to the Closing, Purchaser may notify the Seller of its intention to assume any additional Pre-Petition Contract(s) of the Business that (i) has not otherwise been rejected, assumed, or assigned by the Seller and (ii) is not the subject, as of the date of such notice, of a pending Court motion of the Seller to reject, assume, or assign (the "Additional Assumed Contracts" and together with the Initial Assumed Contracts, the "Assumed Contracts"). As soon as practicable after the date of receipt of such notice from the Purchaser with respect to the Additional Assumed Contracts, the Seller shall, pursuant to a motion in form and substance acceptable to the Purchaser, move to assume and assign the Additional Assumed Contracts to the Purchaser, and shall provide notice

thereof in accordance with all applicable Bankruptcy Rules. The Purchaser shall not be obligated to provide the Seller with any additional consideration in connection with any such assumption and assignment of the Additional Assumed Contracts. The Seller shall not reject any Contract of the Business prior to the Closing Date without the consent of the Purchaser. In connection with any such assumption and assignment of the Assumed Contracts, the Purchaser shall be responsible for any Cure Costs payable pursuant to the Additional Assumed Contracts in order to cure any defaults or otherwise effectuate, pursuant to section 365 of the Bankruptcy Code, the assumption by the Seller and assignment to the Purchaser of the Assumed Contracts.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF THE SELLER

To induce the Purchaser to enter into this Agreement and to consummate the transactions contemplated hereunder, FSI and PAC, jointly and severally, make the following representations and warranties.

5.1 Organization, Power and Authority; Subsidiaries. Each of FSI and PAC is validly existing and in good standing in its respective jurisdiction of incorporation. Each of FSI and PAC is legally qualified to transact business in each of the jurisdictions in which their businesses or properties are located such as to require that they be thus qualified other than if such failure to be so qualified would not have a Material Adverse Effect, and they are in good standing in each of the jurisdictions in which they are so qualified.

5.2 Capitalization; Ownership of Purchased Assets. FSI is the sole stockholder (directly or through one or more subsidiaries) of PAC. At the Closing, the applicable Seller will own the applicable Purchased Assets free and clear of all Liens. Subject to the Sale Order, Seller on the Closing Date will have, the completed and unrestricted power to sell, transfer, convey and deliver to Purchaser the Purchased Assets, free and clear of any Liens. The Purchased Assets and the Excluded Assets are all the assets and properties used solely in connection with the conduct of the Business.

5.3 Financial Statements. Attached hereto as Schedule 5.3 are the following financial statements, including the notes pertaining thereto (the "Financial Statements"), of FSI on a consolidated basis:

- (a) balance sheets at December 31, 2002 and December 31, 2001;
- (b) balance sheet at June 30, 2003 (the "Last Balance Sheet");
- (c) statements of income for the years ended December 31, 2002 and December 31, 2001; and
- (d) statement of income for the six-month period ended June 30, 2003.

The Financial Statements present fairly and are true, correct and complete statements of the financial position of the Business, in all material respects, at each of the said balance sheet dates and of the results of its operations for each of the said periods covered, and they have been prepared in accordance with the Seller's existing accounting practices and procedures consistently applied from period to period except as set forth in Schedule 5.3.

5.4 Liabilities. The Business has no liabilities or obligations, either accrued, absolute, contingent or otherwise, except: (i) liabilities set forth on the Last Balance Sheet and not heretofore paid or discharged; (ii) to the extent specifically set forth in any of the schedules hereto; (iii) normal liabilities incurred in the ordinary course of business since the date of the Last Balance Sheet and (iv) obligations and liabilities that are not required by existing practices, consistently applied, from period to period to be set forth in a balance sheet prepared in accordance with existing practices, consistently applied, from period to period.

5.5 Real Estate.

5.5.1 Schedule 5.5.1 sets forth the street address of all real estate owned by the Business (the "Owned Real Estate"). The Seller has good, valid, marketable and indefeasible fee simple title to, and is in actual, exclusive possession of, the Ow

5.5.2 Schedule 5.5.2 contains an accurate list of each lease agreement with respect to the Business' leasehold premises (the "Leases"). The properties leased pursuant to the Leases, together with the Ow

5.5.3 The Seller has valid leasehold interests in the Leases, free and clear of any Liens, except for (i) Liens for real estate taxes not yet due and payable; and (ii) such imperfections of title and encumbrances, if any, as are not material in character, amount or extent and do not materially detract from the value, or interfere with the present use, of such properties.

5.6 Good Title to and Condition of Assets. On the Closing Date, the applicable Seller will have possession of and good and marketable title to all of its assets, free and clear of any Liens, except as set forth in Schedule 5.6.

5.7 Intellectual Property Rights. Schedule 5.7 contains an accurate and complete list of all of the material Intellectual Property relating primarily to the products or business of the Business, except for off-the-shelf software and licenses implied in the sale of such software. To Knowledge of Seller, (i) the Seller is the sole and exclusive owners of such proprietary rights and (ii) there are no claims, demands or proceedings pending or threatened to the Seller that challenge the Seller's rights with regard thereto.

5.8 Power, Authority, Execution and Delivery. The Seller has all requisite corporate power and authority to enter into this Agreement and all other agreements contemplated hereby and to perform its obligations hereunder and thereunder, subject to the

approval of the Bankruptcy Court. The Seller has duly executed and delivered this Agreement. This Agreement is valid and binding upon the Seller, enforceable against it in accordance with its terms, subject to the approval of the Bankruptcy Court.

5.9 Absence of Litigation. Other than as set forth on Schedule 5.9, there is no action, suit or proceeding pending or, to the Knowledge of Seller, threatened against or affecting the Seller or the Seller's property before any court, arbitrator or governmental body, agency or official which would have a Material Adverse Effect.

5.10 Governmental Authorization; Consents. Except for consents, approvals, authorizations, or declarations of, or filings with, the Bankruptcy Court (all of which will be obtained prior to Closing), the execution, delivery and performance by the Seller of this Agreement require no action by or in respect of, or filing with, any Governmental Body other than as set forth on Schedule 5.10. No consent, approval, waiver or other action by any private party under any contract, agreement, indenture, lease, instrument or other document to which the Seller or the Business is a party or by which the Seller or the Business is bound is required for the execution, delivery and performance of this Agreement by the Seller or the consummation of the transactions contemplated hereby.

5.11 Due Authorization; Binding Obligation; No Conflicts. The execution, delivery and performance of this Agreement and all other agreements contemplated hereby and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action of the Seller. This Agreement has been duly executed and delivered by the Purchaser and, subject to the approval of the Bankruptcy Court, is a valid and binding obligation of the Seller, enforceable in accordance with its terms. Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will, in any material respect: (i) contravene any provision of the certificate of incorporation or by-laws of the Purchaser; (ii) violate or conflict with any federal, state or local law, statute, ordinance, rule, regulation or any decree, writ, injunction, judgment or order of any court or administrative or other governmental body or of any arbitration award which is either applicable to, binding upon or enforceable against the Seller; or (iii) conflict with, result in any breach of or default (or an event which would, with the passage of time or the giving of notice or both, constitute a default) under any material mortgage, contract, agreement, lease, license, indenture, will, trust or other instrument that is either binding upon or enforceable against the Seller.

5.12 Compliance with Laws. Each of Seller and the Business are in compliance in all material respects with all material Laws applicable to it. The Seller has not, and, to its Knowledge, none of its Affiliates has been cited, fined or otherwise notified in writing of any asserted failure to comply with any Laws, the violation of which could reasonably be expected to have a Material Adverse Effect, and no proceeding with respect to any such violation is now pending or, to the Knowledge of Seller, has been threatened.

5.13 Purchased Assets and Related Matters. There are no contractual rights of first refusal with respect to the sale of the Purchased Assets hereunder.

5.14 Insurance. To Seller's Knowledge, all insurance policies currently held or insurance coverage relating to the Business or the Purchased Assets are set forth on Schedule 5.14.

5.15 Environmental. Except as disclosed on Schedule 5.15, (i) the Owner Real Estate and Purchased Leasehold Premises are in compliance with Environmental Laws; (ii) there is no Release of any Hazardous Materials at the Owned Real Estate that requires or may require Remedial Action or that may form the basis of any Environmental Liabilities, and (iii) there is no Release of Hazardous Materials at the Purchased Leasehold Premises that is attributable to the Business or the Purchased Assets.

5.16 Disclaimer of Other Representations and Warranties.

(a) Seller does not make, and has not made, any representations or warranties relating to the Seller, the Purchased Assets or the Business, or the operations of Seller or the Business or otherwise in connection with the transactions contemplated hereby other than those expressly set forth herein. Except for those representations and warranties expressly stated herein, no Person has been authorized by any Seller or the Business to make any representation or warranty relating to any Seller or the Business or otherwise in connection with the transactions contemplated hereby and, if made, such representation or warranty must not be relied upon as having been authorized by the Seller.

(b) Notwithstanding anything to the contrary contained in this Agreement or in any of the Schedules attached hereto, any information disclosed in one Schedule shall be deemed to be disclosed in all Schedules but only when it is reasonably likely that such multiple disclosures are deemed to be disclosed in such other Schedules. Certain information set forth in the Schedules is included solely for informational purposes and may not be required to be disclosed pursuant to this Agreement. The disclosure of any information shall not be deemed to constitute an acknowledgment that such information is required to be disclosed in connection with the representations and warranties made by Seller in this Agreement or that it is material, nor shall such information be deemed to establish a standard of materiality.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

To induce the Seller to enter into this Agreement and to consummate the transactions contemplated hereunder, the Purchaser makes the following representations and warranties.

6.1 Organization, Power and Authority. Each Purchaser is a corporation validly existing and in good standing under the laws of the State of Texas, and has all requisite corporate power and authority to enter into this Agreement and all other agreements contemplated hereby and to perform its obligations hereunder and thereunder. Each Purchaser has delivered true and correct copies of its Articles of Incorporation and Code of Regulations to the Seller. Such

Articles of Incorporation and Regulations will be in full force and effect as of the Closing without amendment.

6.2 Due Authorization; Binding Obligation; No Conflicts. The execution, delivery and performance of this Agreement and all other agreements contemplated hereby and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action of the Purchaser. This Agreement has been duly executed and delivered by the Purchaser and is a valid and binding obligation of the Purchaser, enforceable in accordance with its terms. Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will, in any material respect: (i) contravene any provision of the certificate of incorporation or by-laws of the Purchaser; (ii) violate or conflict with any federal, state or local law, statute, ordinance, rule, regulation or any decree, writ, injunction, judgment or order of any court or administrative or other governmental body or of any arbitration award which is either applicable to, binding upon or enforceable against the Purchaser; or (iii) conflict with, result in any breach of or default (or an event which would, with the passage of time or the giving of notice or both, constitute a default) under any material mortgage, contract, agreement, lease, license, indenture, will, trust or other instrument which is either binding upon or enforceable against the Purchaser.

6.3 Litigation. There are no actions, suits, claims, governmental investigations or arbitration proceedings pending or, to the best of the Purchaser's knowledge, threatened against or affecting the Purchaser, or which question the validity or enforceability of this Agreement or any action contemplated herein, and there is no basis for any of the foregoing. There are no outstanding orders, decrees or stipulations issued by any federal, state, local or foreign judicial or administrative authority in any proceeding to which the Purchaser is or was a party.

6.4 Compliance with Laws. The Purchaser is in compliance in all material respects with all laws, regulations and orders applicable to it. The Purchaser has not, and, to its knowledge, none of its affiliates has been cited, fined or otherwise notified in writing of any asserted failure to comply with any laws, including those relating to the issuance and the sale of securities, the violation of which could reasonably be expected to have a Material Adverse Effect on the current and prospective operations and business of the Purchaser and no proceeding with respect to any such violation is now pending or, to the Purchaser's knowledge, has been threatened.

6.5 Financial Performance. Purchaser has sufficient financial resources to perform in a timely manner all of its obligations under this Agreement.

ARTICLE VII

CERTAIN ACTIONS AFTER THE CLOSING

7.1 Employees of the Business. (a) The Purchaser shall offer to employ any personnel currently employed by the Business (whether salaried or hourly, union or non-union and full time or part time, including employees on vacations, maternity and family leave, sick or short-term disability leave and leave under the Family Medical Leave Act but excluding

employees on long-term disability) on the same terms and for the same compensation and other benefits (including prior service credit for eligibility, vesting and accrual of benefits) to which they are entitled to on the date hereof. The Purchaser shall offer such employees health and other welfare benefits which in the aggregate are not materially less advantageous than current comparable benefits offered by the Seller. Such employees and their dependents shall receive credit under health and welfare plans for deductibles paid by them for the plan year and the health and welfare plans of the Purchaser shall not contain any "pre-existing conditions" exclusions or limitations or "actively at work" requirement. Seller agrees not to discourage any employees of the Business who are not otherwise involved in the businesses of the Seller from accepting employment with the Purchaser. Notwithstanding any provision contained to the contrary, employees covered by the HL CBA shall be subject to the terms and conditions of employment contained in the HL CBA which will be assumed by Purchaser.

(b) Purchaser shall provide continuation coverage pursuant to Section 4980B of the Code and Part 6 of Title I of ERISA enacted as part of the COBRA under a health and welfare benefit plan of the Purchaser or a member of the Purchaser's "buying group" (as defined in Treas. Reg. Section 4980B-9, Q&A-3(b)) to all employees who are offered employment by the Purchaser pursuant to Section 7.1(a). Seller shall provide continuation coverage pursuant to Section 4980B of the Code and COBRA to employees associated with the Purchased Assets whose "qualifying event" under COBRA occurred prior to the offer made to employees pursuant to Section 7.1(a).

(c) In the event that the termination of employees by the Purchaser results in an event that is subject to WARN, Purchaser shall be responsible for providing the required notices under WARN to the appropriate parties and shall be responsible for any payments or benefits to affected employees and any penalties or fines resulting from failure to comply with WARN. Purchaser shall fully indemnify and hold the Seller harmless with respect to any liability under WARN.

7.2 Books and Records. Unless otherwise consented to in writing by the Seller, the Purchaser will not, for a period of seven years following the date hereof, destroy, alter or otherwise dispose of any of the Records without first using commercially reasonable efforts to offer to surrender to the Seller such Records or any portion thereof of which the Purchaser may intend to destroy, alter or dispose. The Purchaser will allow the Seller and its representatives, attorneys and accountants reasonable access to such Records, upon reasonable request for access during such party's normal business hours, for the purpose of examining and copying the same in connection with any matter whether or not related to or arising out of this Agreement or the transactions contemplated hereby.

7.3 Use of Name. From and after the Closing, Purchaser shall own all of the corporate names, trade names and trademarks used solely by the Business, except for the name "Fansteel" and all variations thereof that include the "Fansteel" name. Purchaser shall use its best efforts to avoid the use of the "Fansteel" name in its business after the Closing. Seller shall, promptly following the Closing Date, change their names to delete any reference to the corporate names, trade names or trademarks used by the Business and transferred to the Purchaser

hereunder (and file with the appropriate governmental authorities any certificates or instruments required to effect such name changes).

7.4 Postal Addresses. Seller and Purchaser will cooperate to transfer postal addresses to the nominee of the Purchaser, in all cases in which such postal addresses are used by the Business.

7.5 Termination of Lease Agreement. Immediately upon the Closing, FSI and PAC shall terminate that certain lease agreement between PAC and FSI with respect to the PAC Assets.

ARTICLE VIII

TERMINATION

8.1 Termination. This Agreement may be terminated, at any time prior to the Closing, except as set forth in clause (a) below:

(a) by the Purchaser, at any time prior to the date that is initially scheduled by the Bankruptcy Court for the hearing to consider approval of the Bidding Procedures Order (the "Bidding Procedures Hearing Date"), by delivery of a notice to the Seller on or before such date that the Purchaser has through its due diligence or the delivery of the Schedules hereto discovered information that has in Purchaser's reasonable judgment a material adverse impact on its determination to complete the transactions contemplated hereby or on the Purchaser's ability to complete such transactions, which notice shall specify such information;

(b) by mutual written consent of the Seller and the Purchaser;

(c) by the Seller or the Purchaser if there has been a material misrepresentation or breach on the part of the other Party of the representations, warranties or covenants set forth in this Agreement and a failure to cure within ten Business Days after reasonable notice thereof is provided or if events have occurred which have made it impossible to satisfy a condition precedent to the terminating Party's obligations to consummate the transactions contemplated hereby unless such terminating Party's willful or knowing breach of this Agreement has caused the condition to be unsatisfied;

(d) by the Seller or the Purchaser if the Bankruptcy Court approves a Successful Bid (as defined in the Sales Procedures Order) that is submitted by a party other than the Purchaser and such sale is consummated;

(e) automatically if the Closing has not occurred on or prior to November 30, 2003, unless a party's willful or knowing breach of this Agreement has prevented the consummation of the transactions contemplated hereby at or prior to such

time, in which case the nonbreaching party may elect to extend or terminate this Agreement; and

(f) by the Purchaser if the Bankruptcy Court has not entered the Sales Procedures Order by September 30, 2003;

8.2 Effect of Termination.

(a) In the event (i) this Agreement is terminated pursuant to Section 8.1(d) and (ii) the sale of all or substantially all of the Purchased Assets is consummated within 6 months after the date of the Sale Hearing, then Seller shall be obligated to pay the Purchaser an amount equal to \$350,000 (the "Termination Payment"). Any Termination Payment payable upon termination of this Agreement shall be immediately earned and payable by the Seller to the Purchaser upon such termination.

(b) In the event of termination of this Agreement as provided in Section 8.1, this Agreement shall forthwith become void and there shall be no Liability on the part of any Party to any other Party under this Agreement, other than (i) the return of the Deposit to the Purchaser to the extent required under Section 3.2 above, and (ii) the payment of the Termination Payment (if applicable), and except that nothing herein shall relieve any Party (including Burkhardt under Section 11.15) from Liability for any knowing and willful breach of this Agreement prior to such termination.

ARTICLE IX

INDEMNIFICATION

9.1 **Agreements to Indemnify.** As used in this Agreement, "Indemnifiable Damages" means, without duplication, the aggregate of all expenses, losses, costs, deficiencies, liabilities and damages (including reasonable counsel and paralegal fees and expenses) incurred or suffered by a Party (or any other Person covered by this Section 9.1), on a pre-tax basis, to the extent resulting from (i) any breach by the other Party of any representation or warranty made by such other Party in this Agreement (a "Breach of Warranty Claim"); (ii) any violation by the other Party of any covenant or agreement made by such other Party in this Agreement (unless waived in writing by the Party making the claim); or (iii) in the case of indemnification claims of the Purchaser Parties (as defined below), any of the following items (in each case regardless of any disclosure made by the Seller on the disclosure schedules attached hereto): (I) any income, sales or other taxes payable by the Business prior to or as of the Closing Date, including, in each case, any interest or penalties related thereto; (II) any Environmental Liability arising out of Releases of Hazardous Substances at or from the Transferred Real Property or the Purchased Leasehold Premises attributable to acts or omissions of the Business or the Seller that occurred prior to the Closing; (III) any liability of the Business under any 401(k) or other employee benefit plan, including related taxes, contributions and all other liabilities and expenses related thereto, except to the extent specifically assumed by the Purchaser pursuant to this Agreement; (IV) any liability under any indebtedness for borrowed money of the Business existing immediately prior to the Closing (except to the extent specifically assumed by the Purchaser

pursuant to this Agreement); and (V) any liability for any violation of any law, statute, rule or regulation by the Business or any of its directors, officers, employees or agents prior to the Closing.

9.1.1 Subject to the limitations provided for herein, the Seller agrees that it will indemnify and hold the Purchaser and its officers, directors, employees, shareholders, agents, successors and assigns (the "Purchaser Parties") harmless in respect of all Indemnifiable Damages suffered by the Purchaser Parties.

9.1.2 The Purchaser shall indemnify the Seller and its officers, directors, employees, shareholders, agents, heirs, successors and assigns (collectively, the "Seller Parties") and hold each of them harmless in respect of all Indemnifiable Damages suffered by the Seller Parties.

9.1.3 Each of the representations and warranties made by the Parties in this Agreement shall survive until June 30, 2004 (the "Indemnity Termination Date"), notwithstanding any investigation at any time made by or on behalf of any party, and after the expiration of the Indemnification Period such representations and warranties shall expire. The Purchaser acknowledges and consents that after Closing its sole and exclusive remedy for Indemnifiable Damages shall be to proceed directly against the Indemnity Note. Furthermore, the Purchaser acknowledges that it shall have no recourse for Indemnifiable Damages after the Indemnity Note has been fully set off against or distributed. The Seller will not be liable for any Indemnifiable Damages unless and until the aggregate amount of Indemnifiable Damages exceeds two percent (2%) of the Cash Portion, after which time the Seller will only be liable for the Indemnifiable Damages which exceed two percent (2%) of the Cash Portion. The aggregate amount of all payments made by the Seller (by set-off against the Indemnity Note) in satisfaction of Indemnifiable Damages shall not exceed the amount due under the Indemnity Note.

9.1.4 The Purchaser acknowledges and agrees that any disclosure made by the Seller on any schedule to this Agreement shall be deemed to have been made to each of the other schedules to this Agreement as to which such disclosure is relevant.

9.2 Settlement of Claims.

9.2.1 The Party or Parties seeking indemnification under Section 9.1 (the "Indemnified Party") shall give written notice (a "Claim Notice") to the other Party or Parties, as the case may be (the "Indemnifying Party") after receiving written notice of any action, lawsuit, proceeding, investigation or other claim against it (if by a third party) or discovering the liability, obligation or facts giving rise to such claim for indemnification and in any event within the period specified in subsection 9.1.3, describing the claim, the amount thereof (if known and quantifiable), and the basis thereof; provided that the failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of its or his obligations hereunder except to the extent such failure shall have materially prejudiced the Indemnifying Party. If any action, lawsuit, proceeding, investigation or other claim shall be brought or asserted by any third party which, if adversely determined, would entitle the Indemnified Party to indemnity pursuant to Section 9.1, the Indemnified Party shall promptly notify the Indemnifying Party of the same in writing,

specifying in detail the basis of such claim and the facts pertaining thereto and the Indemnifying Party shall:

(i) be entitled to participate in the defense of such action, lawsuit, proceeding, investigation or other claim giving rise to the Indemnified Party's claim for indemnification at its expense, and

(ii) at its option (subject to the limitations set forth below), if, but only if, the Indemnifying Party gives notice of such election to the Indemnified Party within 10 days after receiving notice of such action, lawsuit, proceeding, investigation or other claim, shall be entitled to appoint lead counsel of such defense with reputable counsel reasonably acceptable to the Indemnified Party and assume control of such defense; provided that in the event the Indemnifying Party elects to assume control of such defense, it shall:

(a) be fully responsible for all Indemnifiable Damages relating to such claims and that it will provide full indemnification to the Indemnified Party for all such Indemnifiable Damages relating to such claim, and

(b) unconditionally guarantee the payment and performance of any liability or obligation which may arise with respect to such claim or the facts giving rise to such claim for indemnification, and

(c) furnish the Indemnified Party with reasonable evidence that the Indemnifying Party is and will be able to satisfy any such liability;

and provided further that the Indemnifying Party shall not have the right to assume control of such defense, and shall pay the fees and expenses of counsel retained by the Indemnified Party, if the claim which the Indemnifying Party seeks to assume control (i) seeks non-monetary relief, (ii) involves criminal or quasi-criminal allegations solely against the Indemnified Party, (iii) involves a claim as to which the Indemnified Party reasonably believes an adverse determination would materially injure the Indemnified Party's reputation or future business prospects, or (iv) involves a claim which, upon petition by the Indemnified Party, the Indemnifying Party failed or is failing to vigorously prosecute or defend.

9.2.2 If the Indemnifying Party is permitted to assume and control the defense and elects to do so, the Indemnified Party shall have the right to employ counsel separate from counsel employed by the Indemnifying Party in any such action and to participate in the defense thereof, but the fees and expenses of such counsel employed by the Indemnified Party shall be at the expense of the Indemnified Party unless (i) the employment thereof has been specifically authorized by the Indemnifying Party in writing, or (ii) the Indemnifying Party has been advised by counsel that a reasonable likelihood exists of a conflict of interest between the Indemnifying Party and the Indemnified Party.

9.2.3 If the Indemnifying Party shall control the defense of any such claim, the Indemnifying Party shall obtain the prior written consent of the Indemnified Party before entering into any settlement of a claim or ceasing to defend such claim, if pursuant to or as a

result of such settlement or cessation, an injunction or other equitable relief will be imposed against the Indemnified Party or if such settlement does not expressly, unconditionally and irrevocably release the Indemnified Party from all liabilities and obligations with respect to such claim, with prejudice.

9.2.4 The Indemnifying Party shall pay the Indemnified Party in immediately available funds (in U.S. Dollars) promptly after the Indemnified Party provides the Indemnifying Party with written notice of a claim hereunder and the Parties reasonably agree that there is a reasonable basis for such claim.

9.2.5 Amounts paid to or on behalf of any party under Section 9.1 as indemnification shall be treated as adjustments to the Purchase Price.

9.3 Satisfaction of Indemnification Claims by the Purchaser Parties.

9.3.1 The Purchaser may set off against the Indemnity Note any Indemnifiable Damages for which the Seller is responsible under Section 9.1, subject, however, to the terms and conditions of this Section 9.3.

9.3.2 The amount of Indemnifiable Damages to be set off against the Indemnity Note (the "Set Off Amount") shall be (x) the full amount of the claim made in such Claim Notice if the Seller either agreed to such amount or failed to respond to such Claim Notice in writing within ten (10) business days after the date of delivery of such Claim Notice (the "Contest Period") or (y) if such claim is contested by the Seller prior to the end of the Contest Period, the amount of the claim that is either agreed to by the parties or the amount of any final, non-appealable judgment on such claim.

9.3.3 On the first Business Day following the Indemnity Termination Date, the Purchaser shall pay any remaining portion of the Indemnity Note to the Purchase Price Escrow; provided that if any claim made in a Claim Notice delivered on or prior to the Indemnity Termination Date has been properly contested by the Seller and has not either been resolved by the parties or is not subject to a final, nonappealable judgment (each, an "Unresolved Claim"), then the Purchaser shall be entitled to continue to withhold payment of all or such portion of the Indemnity Note equal to the amount of such Unresolved Claim until such claim is agreed to by the parties or any final, non-appealable judgment is rendered with respect to such claim, at which time the Purchaser shall set off the amount of such Unresolved Claim against the Indemnity Note being held in respect of such Unresolved Claim and pay any remaining portion of the Indemnity Note to the Purchase Price Escrow. Burkhardt shall be jointly and severally liable with the Purchaser for the payment of any amounts owing by the Purchaser to the Seller or the Purchase Price Escrow pursuant to this Section.

ARTICLE X

ACCESS TO INFORMATION

10.1 Seller will cooperate with Purchaser in providing any information reasonably requested by Purchaser for its evaluation of the Business and the Purchased Assets. Seller will permit Purchaser and its agents access during business hours to Seller's books, records, environmental reports and analyses, premises, personnel records, accounting records, corporate records and such other information reasonably requested by Purchaser that relate to the Business or the Purchased Assets.

10.2 Seller shall permit Purchaser and its representatives after the date of execution of this Agreement to have reasonable access, during regular business hours and upon reasonable advance notice, to the properties, officers and employees of Seller (and Seller shall use their commercially reasonable efforts to cause Seller's outside independent accountants to be available to Purchaser on the same basis), and shall furnish, or use their commercially reasonable efforts to cause to be furnished, to Purchaser any financial and operating data, tax information, books and records, contracts and documents and other information that is available with respect to Seller and the Purchased Assets as Purchaser shall from time to time reasonably request, provided that such access does not materially interfere with the normal business operations of the Seller; provided however, that Purchaser agrees not to collect any soil or ground water samples as part of its environmental due diligence on any of the Seller's properties.

10.3 All information provided or obtained pursuant to Sections 10.1 and 10.2 shall be held by Purchaser in accordance with and subject to the terms of the Confidentiality Agreement, all of the terms of which shall remain in full force and effect notwithstanding the execution and delivery of this Agreement or the termination hereof, and Purchaser agrees to be bound by the terms of the Confidentiality Agreement to the same extent as if it were party thereto.

ARTICLE XI

MISCELLANEOUS

11.1 **Survival of Representations and Warranties.** The representations, warranties, covenants and agreements of all parties contained in this Agreement or in any instrument delivered pursuant to this Agreement, including any rights arising out of any breach of such representations, warranties, covenants and agreements, shall terminate as of June 30, 2004, and shall thereafter have no force or effect, except for those covenants and agreements contained herein and therein that by their terms are required to be performed after such date.

11.2 **Transaction Expenses.** The Purchaser will indemnify and hold harmless the Seller from the commission, fee or claim of any person, firm or corporation employed or retained or claiming to be employed or retained by the Purchaser to bring about, or to represent it in, the transactions contemplated hereby. The Seller will indemnify and hold harmless the Purchaser from the commission, fee or claim of any person, firm or corporation employed or retained or claiming to be employed or retained by the Seller to bring about, or to represent any of them in,

the transactions contemplated hereby. In addition, each party shall pay its own expenses (including legal and accounting fees) incident to the negotiation and preparation of this Agreement and any other documents prepared in connection therewith, and the consummation of the transactions contemplated herein.

11.3 Amendment and Modification. The parties hereto may amend, modify and supplement this Agreement in such manner as may be agreed upon by all of them in writing.

11.4 Entire Agreement. This Agreement, including the exhibits, schedules, certificates and other documents and agreements delivered on the date hereof in connection herewith, contains the entire agreement of the parties hereto with respect to the purchase of the Purchased Assets and the other transactions contemplated herein, and supersedes all prior understandings and agreements (oral or written) of the parties with respect to the subject matter hereof. The parties expressly represent and warrant that in entering into this Agreement they are not relying on any prior representations made by any other party concerning the terms, conditions or effects of this Agreement which terms, conditions or effects are not expressly set forth herein. Any reference herein to this Agreement shall be deemed to include the schedules and exhibits.

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

11.6 Notices. Any notice, consent, approval, request, acknowledgment, other communications or information to be given or made hereunder to any of the parties by any other party shall be in writing and delivered personally or sent by certified mail, postage prepaid, as follows, or by facsimile to the fax number listed below (provided that, for a facsimile, a copy is also sent promptly by U.S. mail, certified mail or overnight delivery service):

If to the Seller addressed to the Seller at:

Prior to the Closing:

Fansteel Inc.
One Tantalum Place
North Chicago, IL 60064
Attn: Chief Executive Officer
Fax: (847) 689-0307

with copies to:

Schulte Roth & Zabel LLP
919 Third Avenue
New York, NY 10022
Attn: André Weiss and Jeffrey S. Sabin

Fax: (212) 593-5955

If to the Purchaser or Burkhart, addressed to:

Stoutheart East Corporation
Post Office Box 39217
Solon, Ohio 44139
Attn: Richard Burkhart
Fax: (440) 914-9777

Personal and Overnight Deliveries to:

Stoutheart East Corporation
6130 Cochran Road
Solon, Ohio 44139

with a copy to:

Benesch, Friedlander, Coplan & Aronoff LLP
2300 BP Tower, 200 Public Square
Cleveland, Ohio 44114
Attn: James M. Hill
Fax: (216) 363-4588

Any party may change the address to which notices hereunder are to be sent to it by giving written notice of such change of address in the manner herein provided for giving notice. Any notice delivered personally or by facsimile shall be deemed to have been given on the date it is so delivered, and any notice delivered by registered or certified mail shall be deemed to have been given on the date it is received.

11.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to conflicts of laws principles that would cause any state's laws, other than the laws of the State of Delaware, to apply.

11.8 Confidentiality; Publicity. Except as may be required by Law or as otherwise permitted or expressly contemplated herein, without the prior consent of the Purchaser, neither the Seller nor its Affiliates, agents or representatives shall (i) disclose to any Third Party the subject matter or terms of this Agreement or (ii) issue any press release or other public announcement related to this Agreement or the transactions contemplated hereby.

11.9 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to any party. Upon such determination that any term or other provision is

invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the greatest extent possible.

11.10 Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto without the prior consent of the other parties, except that after the Closing, the Purchaser may assign its rights (but if so must also delegate its duties) to any person who acquires all or substantially all of the assets of the Purchaser or to an Affiliate of Purchaser.

11.11 Binding Effect; No Third-Party Beneficiaries. This Agreement shall inure to the benefit of, be binding upon and be enforceable by and against the Seller and the Purchaser and their respective successors and permitted assigns, and nothing herein expressed or implied shall be construed to give any other person any legal or equitable rights hereunder.

11.12 Negotiation Representations. Each party hereto expressly represents and warrants to all other parties hereto that (a) before executing this Agreement, said party has fully informed itself or himself of the terms, contents, conditions and effects of this Agreement; (b) said party has relied solely and completely upon its or his own judgment in executing this Agreement; (c) said party has had the opportunity to seek and has obtained the advice of counsel before executing this Agreement; (d) said party has acted voluntarily and of its or his own free will in executing this Agreement; (e) said party is not acting under duress, whether economic or physical, in executing this Agreement; and (f) this Agreement is the result of arm's-length negotiations conducted by and among the parties and their counsel.

11.13 Cumulative Remedies. All rights and remedies of either party hereto are cumulative of each other and of every other right or remedy such party may otherwise have at law or in equity, and the exercise of one or more rights or remedies shall not prejudice or impair the concurrent or subsequent exercise of other rights or remedies.

11.14 Bulk Transfer. The Purchaser and the Seller hereby waive compliance with any state's Uniform Commercial Code - Bulk Transfer provisions that may be applicable to the transactions contemplated hereby.

11.15 Guaranty. Burkhardt hereby unconditionally, absolutely and irrevocably guarantees the punctual payment and performance when due, whether at stated maturity, by required prepayment, by acceleration or otherwise, of all amounts and pre-Closing obligations now or hereafter owing or due by the Purchaser to the Seller under this Agreement and agrees to pay any and all expenses (including reasonable counsel fees and expenses) reasonably incurred by the Seller in enforcing any rights under this Section 11.15. Without limiting the generality of the foregoing, Burkhardt's liability shall extend to the obligations of the Purchaser and would be due from the Purchaser to the Seller but for the fact that they are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving the Purchaser.

[SIGNATURE PAGE FOLLOWS]

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

FANSTEEL INC.

By: _____
Its: _____

PHOENIX AEROSPACE CORPORATION

By: _____
Its: _____

STOUTHEART EAST CORPORATION

By: _____
Its: _____

WPC III INC.

By: _____
Its: _____

RICHARD BURKHART

1. For the purposes of this Agreement, the following terms shall have the following meanings:

"Affiliate" of any Person shall mean any Person that controls, is controlled by, or is under common control with such Person. As used herein, the term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or to cause the direction of the management and policies of a Person, whether through ownership of voting securities or other interests, by contract or otherwise.

"ANB" shall mean American National Bank and Trust Company of Chicago

"ANB Letter of Credit" shall mean the irrevocable direct pay letter of credit issued by ANB on behalf of FSI in the stated amount of \$1,169,114.17 as credit support for FSI's repayment obligations under the Industrial Revenue Bonds.

"Avoidance Actions" means the Debtors' causes of action for any avoidance or recovery action under sections 502, 506, 510, 541, 542, 543, 544, 545, 547, 548, 549, 550, 551, 553 and 724(a) of the Bankruptcy Code, or under related state or federal statutes and common law, including fraudulent transfers, whether or not litigation has been commenced with respect to such causes of action as of the Effective Date (as defined in the Plan of Reorganization).

"Business Day" shall mean a day, other than a Saturday or Sunday, on which banks are open for business in New York City, New York.

"Business" shall mean the business of manufacturing, distribution and sales of specialty metals which is currently conducted by the Divisions.

"Claims" shall mean any and all rights, claims, credits, allowances, rebates, causes of action, known or unknown, pending or threatened (including all Avoidance Actions) or rights of set-off.

"COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Contracts" shall mean any contract, lease, sublease, capitalized lease, agreement, license, Benefit Plan, collective bargaining agreement, or binding understanding, arrangement or commitment, including all amendments thereof and supplements thereto.

"Cure Costs" shall mean the amounts necessary to cure or remedy all defaults of Seller under each Pre-Petition Contract (without giving effect to any acceleration clauses relating to bankruptcy or insolvency) that must be cured pursuant to Section 365 of the Bankruptcy Code in connection with the assumption of the Pre-Petition Contracts.

"Deposit Escrow Agent" shall mean Schulte Roth & Zabel LLP.

"Deposit Escrow Agreement" shall mean an escrow agreement by and among the Seller, the Purchaser and the Deposit Escrow Agent substantially in the form attached hereto as Exhibit C hereto.

"DIP Credit Agreement" shall mean the Loan and Security Agreement, dated as of May 2, 2002, by and among Seller, the debtors named therein and Congress Financial Corporation (Central), as amended, supplemented, modified or any substitutions therefor.

"Environmental Claims" refers to any complaint, summons, citation, notice, directive, order, claim, litigation, investigation, notice of violation, judicial or administrative proceeding, judgment, letter or other communication from any governmental agency, department, bureau, office or other authority, or any Third Party involving violations of Environmental Laws or Releases of Hazardous Materials from any assets, properties or businesses of Seller, or any of the Subsidiaries from or onto any facilities which received Hazardous Materials generated by Seller or any of the Subsidiaries.

"Environmental Laws" includes the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq., as amended; the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., as amended; the Clean Air Act, 42 U.S.C. 7401 et seq., as amended; the Clean Water Act, 33 U.S.C. 1251 et seq., as amended; the Occupational Safety and Health Act, 29 U.S.C. 655 et seq., the Connecticut Transfer Act, C.G.S. § 22a-134 through 134e, and any other international, European, federal, state, local or municipal laws, treaties, statutes, regulations, rules, codes of practice, guidance notes, circulars or ordinances of any jurisdiction (whether foreign or domestic) imposing liability or establishing standards of conduct for protection of the environment.

"Environmental Liabilities" shall mean any monetary obligations, losses, liabilities (including strict liability), damages, punitive damages, consequential damages, treble damages, costs and expenses (including all reasonable out-of-pocket fees, disbursements and expenses of counsel, out-of-pocket expert and consulting fees and out-of-pocket costs for environmental site assessments, remedial investigation and feasibility studies), fines, penalties, sanctions and interest incurred as a result of any Environmental Claim filed by any Governmental Body or any Third Party which relate to any violations of Environmental Laws, Remedial Actions, Releases or threatened Releases of Hazardous Materials from or onto (i) any property presently by Seller or any Acquired Subsidiary, or (ii) any facility which received Hazardous Materials generated by Seller or any Acquired Subsidiary.

"Equity Securities" shall mean, with respect to any Person, (i) capital stock of, partnership interests, membership interests or other equity interests in, such Person, (ii) securities convertible into or exchangeable for shares of capital stock, voting securities or other equity interests in such Person or (iii) options, warrants or other rights to acquire the securities described in clauses (i) and (ii), whether fixed or contingent, matured or unmatured, contractual, legal, equitable or otherwise.

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

"Estimated Cure Costs" shall mean Seller's estimate of Cure Costs as of the Closing Date.

"Final Order" means an order, ruling, or judgment of the Bankruptcy Court or any other court of competent jurisdiction as to which the time to appeal, petition for certiorari, or move for reargument or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for reargument or rehearing shall then be pending or, in the event that an appeal, writ of certiorari, or reargument or rehearing thereof has been sought, such order of the Bankruptcy Court or other court of competent jurisdiction shall have been determined by the highest court to which such order was appealed, or certiorari, reargument or rehearing shall have been denied and the time to take any further appeal, petition for certiorari, or move for reargument or rehearing shall have expired; *provided, however*, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous Bankruptcy Rule or applicable state court rules of civil procedure, may be filed with respect to such order shall not cause such order not to be a Final Order.

"Fixed Assets" means all furniture, furnishings, computers and other tangible personal property, whether affixed or moveable, owned or leased (pursuant to an executory contract or lease as defined under section 365 of the Bankruptcy Code) by Seller and located on any Purchased Leasehold Premise or Transferred Real Property.

"Governmental Body" shall mean (i) any legislative, executive, judicial or administrative unit of any governmental entity (foreign, federal, state or local) or any department, commission, board, agency, bureau, official or other regulatory, administrative or judicial authority thereof, (ii) any self-regulatory organization, agency or commission or (iii) any court or arbitral tribunal.

"Hazardous Materials" shall include, without regard to amount and/or concentration (a) any element, compound, or chemical that is defined, listed or otherwise classified as a contaminant, pollutant, toxic pollutant, toxic or hazardous substances, extremely hazardous substance or chemical, hazardous waste, medical waste, biohazardous or infectious waste, special waste, or solid waste under Environmental Laws; (b) petroleum, petroleum-based or petroleum-derived products; (c) polychlorinated biphenyls; (d) any substance exhibiting a hazardous waste characteristic including but not limited to corrosivity, ignitibility, toxicity or reactivity as well as any radioactive or explosive materials; and (e) any raw materials, building components, including but not limited to asbestos-containing materials and manufactured products containing Hazardous Materials.

"HL CBA" shall mean the Working Agreement between Fansteel Hydro Carbide and the United Auto Workers Local Union No. 204, effective May 27, 2002.

"Independent Accounting Firm" shall mean any independent nationally recognized accounting firm reasonably acceptable to the Seller and the Purchaser.

"Industrial Revenue Bonds" shall mean the obligations, liabilities and indebtedness pursuant to the Mississippi Small Enterprise Development Finance Act Loan

Agreement among Mississippi Business Finance Corporation (acting for the State of Mississippi), Bank of Mississippi, as Servicing Trustee and Fansteel, Inc. dated May 1, 1996, and related agreements, instruments, and other documents in connection with the foregoing.

"Intellectual Property" shall mean (i) inventions and discoveries, whether patentable or not, all patents, patent applications, together with all patent disclosures, reissuances, continuations, continuations-in-part, divisions, revisions, extensions and reexaminations thereof, trademarks, tradenames, service marks, trade dress, logos, domain names and designs, and other indicia of origin, and all goodwill associated therewith, and all applications, registrations, extensions, modifications and renewals in connection therewith, all published and unpublished works of authorship, whether copyrightable or not, copyrights and copyright applications and all registrations and renewals and all extensions, restorations and reversions thereof, in connection therewith; (ii) all know-how, trade secrets and confidential business information, customer and supplier lists; (iii) all electronic data processing, information, record keeping, communications, telecommunications, account management, inventory management and other computer systems (including all computer programs, software, databases, firmware, hardware and related documentation) and Internet websites and related content; (iv) all other intangible proprietary rights; and (v) all Contracts related to any of the foregoing.

"Inventory" means inventories, supplies, goods, raw materials, and works in process.

"Law" shall mean any national, foreign, federal, state, provincial or local law, statute, ordinance, rule, regulation, code, order, judgment, injunction or decree of any jurisdiction (whether foreign or domestic).

"Lexington Facility" means the real property located at 203 Lisle Industrial Road, P.O. Box 11399, Lexington, Kentucky.

"Liabilities" shall mean any and all debts, liabilities, commitments and obligations, whether or not fixed, contingent or absolute, matured or unmatured, liquidated or unliquidated, accrued or unaccrued, known or unknown, whether or not required by GAAP to be reflected in financial statements or disclosed in the notes thereto.

"Liens" shall mean Taxes, liens, mortgages, pledges, security interests, Claims, assessments, restrictions, encumbrances, encroachments and charges of every kind.

"Material Adverse Effect" shall mean any change, effect, event, occurrence, development, circumstance or state of facts materially adverse to the Business taken as a whole or which materially impair the ability of Sellers to perform their obligations under this Agreement or have a material adverse effect on or prevent or materially delay the consummation of the transactions contemplated hereby; provided, however, that the following shall be excluded from any determination as to whether a "Material Adverse Effect" has occurred: (i) any change, effect, event, occurrence, development, circumstance or state of facts in general economic or political conditions, conditions in the United States or worldwide capital markets and any act of terrorism or any outbreak of hostilities or war, (ii) any adverse event or circumstances that affect

generally the industry in which the Seller is engaged, and (iii) any failure to meet any financial projections or budgets.

"Pension Plan" shall mean each "employee pension benefit plan" as defined in Section 3(2) of ERISA.

"Permitted Liens" shall mean (i) such imperfections of title, easements, encumbrances, or restrictions which in the Purchaser's reasonable determination individually or in the aggregate do not impair in any material respect the use, ownership or marketability of the Purchased Assets, (ii) Liens for Taxes (whether federal, state, local or foreign) attributable to any taxable period beginning on or prior to the Closing Date and not yet due or payable or being contested in good faith and for which adequate reserves have been established and (iii) materialmen's, mechanics', carriers', workmen's, warehousemen's, repairmen's and other like Liens arising in the ordinary course of business, or deposits to obtain the release of such Liens.

"Person" shall mean any individual, corporation, partnership, firm, association, joint venture, joint stock company, trust, unincorporated organization or other entity, any Governmental Body, or any government or regulatory, administrative or political subdivision or agency, department or instrumentality thereof.

"Plan of Reorganization" shall mean the joint reorganization plan of the Debtors under Chapter 11 of the Bankruptcy Code, together with all exhibits hereto, as it may be amended, modified, or supplemented from time to time in accordance with section 1127 of the Bankruptcy Code, including any Plan Supplements.

"Plan Supplement" means the compilation of documents or forms of documents specified in the Plan of Reorganization, including any exhibits to the Plan of Reorganization not included thereto, that the Debtors will file with the Bankruptcy Court not later than the date that is five (5) days prior to deadline for objections to confirmation of the Plan of Reorganization.

"Plantsville Facility" means the operations of the division of FSI known as VR/Wesson-Plantsville.

"Post-Petition Funded Indebtedness" shall mean all post-petition funded indebtedness owing pursuant to the DIP Agreement.

"Prepaid Items and deposits" means prepaid and deferred items, including but not limited to prepaid rent, compensation, utilities, CAM charges, insurance and unbilled charges and deposits.

"Pre-Petition Contracts" shall mean executory contracts and unexpired Leases of the Seller as of the Petition Date which may be assumed and assigned pursuant to section 365 of the Bankruptcy Code.

"Pre-Petition Liability" shall mean any "claim" against any of Seller, as such term is defined in section 101(5) of the Bankruptcy Code, arising or occurring on or before the

Petition Date, which claim has not been assumed by Seller in the Bankruptcy Case pursuant to section 365 of the Bankruptcy Code, waived, or otherwise satisfied in accordance with the applicable provisions of the Bankruptcy Code and Bankruptcy Rules or order of the Bankruptcy Court.

"Purchase Price Escrow" shall mean the escrow account established by FSI at the Purchase Price Escrow Agent into which the Cash Proceeds are deposited pursuant to this Agreement.

"Purchase Price Escrow Agent" shall mean a banking institution agreed to by the Purchaser and the Seller.

"Receivables" means accounts receivable or other receivables, including all trade account receivables arising from sales or rental of inventory in the ordinary course of business, notes receivable, and all credits, allowances, fees, charges and other amounts owing from other Third Parties.

"Records" means operating data and records, including customer lists and records, financial, accounting and credit records, correspondence, budgets, product catalogs and advertising materials, and other similar documents and records.

"Registered" shall mean issued, registered, renewed or the subject of a pending application.

"Release" shall mean any spilling, leaking, pumping, emitting, emptying, discharging, injecting, escaping, leaching, migrating, dumping, or disposing of Hazardous Materials (including the abandonment or discarding of barrels, containers or other closed receptacles containing Hazardous Materials) into the environment.

"Remedial Action" shall mean all actions taken to (i) clean up, remove, remediate, contain, treat, monitor, assess, evaluate or in any other way address Hazardous Materials in the indoor or outdoor environment; (ii) prevent or minimize a Release or threatened Release of Hazardous Materials so they do not migrate or endanger or threaten to endanger public health or welfare or the indoor or outdoor environment; (iii) perform pre-remedial studies and investigations and post-remedial operation and maintenance activities; or (iv) any other actions authorized by 42 U.S.C. 9601.

"Sale Order" shall mean the order of the Bankruptcy Court approving the sale of the Purchased Assets and the assumption of the Initial Assumed Contracts.

"Sales Procedures Order" shall mean an order of the Bankruptcy Court which shall set forth the procedures for the sale of the Purchased Assets with terms substantially as set forth on Exhibit B hereto.

"Sales Tax" shall mean all sales, use, ad valorem, property and other similar taxes.

"Tax" or "Taxes" shall mean any federal, state, local, foreign or other taxes, assessments, duties or charges of any kind whatsoever, including, without limitation, franchise, income, sales, use, ad valorem, gross receipts, value added, profits, license, capital gains, transfer (including stamp duty and stamp duty reserve tax), minimum, alternative minimum, environmental, withholding, payroll, employment, excise, property, customs and occupation taxes, including any interest, fine, penalty or addition thereto, whether disputed or not, and including any Liability for the payment of any of the above amounts as a result of being a member of an affiliated, consolidated, combined, unitary or similar group or as a result of transferee or successor liability.

"Tax Return" shall mean any federal, state, local, foreign or other return, declaration, report, claim for refund, information return or statement relating to Taxes, including any schedule or attachment thereto.

"Third Party" shall mean any Person not an Affiliate of the other referenced Person or Persons.

Transferred Real Property" shall mean the Owned Real Estate other than the real property located in Waukegan, Illinois; Muskogee, Oklahoma; North Chicago, Illinois; Lexington, Kentucky; and Plantsville, Connecticut.

"WARN" means the Wortker Adjustment and Retraining Notification Act, as amended.

2. For purposes of this Agreement, the following terms shall have the meanings specified in the Sections indicated below:

<u>Term:</u>	<u>Section or Reference:</u>
Accrued Post-Petition Liabilities	3.2
Additional Assumed Contracts	4.10 (c)
Agreement	Preamble
Assumed Contracts	4.10 (c)
Assumed Liabilities	3.2
Bankruptcy Code	Recitals
Bankruptcy Court	Recitals
Bidding Procedures	4.10 (b)
Bidding Procedures Hearing Date	8.1(a)
Bidding Procedures Order	4.10 (b)
Breach of Warranty Claim	
Burkhart	Preamble
Cal Drop	Recitals
Cash Portion	3.1.5
Claim Notice	9.2.1
Closing	4.1
Closing Date	4.1

<u>Term:</u>	<u>Section or Reference:</u>
Closing Statement	3.1.8 (a)
Closing Transactions	4.2
Contest Period	9.3.2
Cure Amount Schedule	4.10 (c)
Debtors	Recitals
Deductions	3.1.5
Deposit	3.2
Divisions	Recitals
Estimated Cash Portion	3.1.7
Estimated Purchase Price	3.1.7
Excluded Assets	2.2
Excluded Liabilities	3.4
Filing Date	Recitals
Financial Statements	5.3
FSI	Preamble
HG	Recitals
HL	Recitals
Indemnified Party	9.2.1
Indemnifiable Damages	9.1
Indemnifying Party	9.2.1
Indemnity Note	3.1.6
Indemnity Terminate Date	9.1.3
Initial Assumed Contracts	4.10 (c)
Initial Objection Notice	3.1.7
Last Balance Sheet	5.3 (b)
Leasehold Rights	2.1 (d)
Leases	5.5.2
Objection Notice	3.1.8 (b)
Owned Real Estate	5.5.1
PAC	Preamble
PAC Assets	Recitals
Post-Petition Accounts Payable	3.2
Priority Payment Schedule	3.1.5 (b)
Purchase Price	3.1.1
Purchased Assets	2.1
Purchased Leasehold Premises	2.1 (d)
Purchaser	Preamble
Purchaser Parties	9.1.1
Sale Hearing	4.10 (b)
Sale Order	Recitals
Section 365 Motion	4.10 (c)
Secured and Priority Liabilities	3.2
Seller	Preamble

Term:

Section or Reference:

Seller Parties

9.1.2

Set Off Amount

9.3.2

Stoutheart East

Preamble

Termination Payment

8.2 (a)

Unresolved Claim

9.3.3

WPC III

Preamble

Exhibit B

Fansteel, Inc./Phoenix Aerospace Corporation

Bidding Procedures

Set forth below are the bidding procedures (the "Bidding Procedures") to be employed with respect to the Asset Purchase Agreement (the "Agreement") by and among by and among Fansteel Inc., a Delaware corporation ("FSI"), Phoenix Aerospace Corporation, a Delaware corporation ("PAC", collectively with FSI, the "Seller"), Stoutheart East Corporation, a Texas corporation ("Stoutheart East"), WPC III Inc., a Texas corporation ("WPC III" and, collectively with Stoutheart East, the "Proposed Purchaser"), and Richard Burkhardt, concerning the prospective sale (the "Sale") of the Purchased Assets (defined below). The Seller will seek entry of an order from the Bankruptcy Court authorizing and approving the Sale to a Qualified Bidder (as hereinafter defined) which the Seller may determine to have made the highest or otherwise best offer (the "Successful Bidder"). The following overbid provisions and related bid protections are designed to reimburse the Proposed Purchaser for its efforts and agreements to date and to facilitate a full and fair process designed to maximize the value of the Purchased Assets for the benefit of the Seller's creditors and stakeholders. These Bidding Procedures shall not be subject to material changes without approval of the Bankruptcy Court. All capitalized terms used in this Exhibit that are not separately defined herein shall have the respective meanings ascribed thereto in the Agreement.

Assets to be Sold

The Seller is offering for sale substantially all of Fansteel's right, title and interest in and to the properties, business and assets of the Fansteel Cal Drop and Hydro Carbide divisions, or otherwise currently used primarily in connection with the business of manufacturing, distribution and sales of specialty metals presently conducted by the Fansteel Cal Drop and Hydro Carbide divisions, of every kind and description, whether real, personal or mixed, tangible or intangible, wherever located (other than the Excluded Assets), the accounts receivable and inventory of the Palmsville division, and the equipment and inventory located at the Lexington Facility, and with respect to Phoenix, assets consisting solely of real property located at 1033 Alhambra Avenue, Los Angeles, California and a lease agreement with Fansteel with respect thereto s(collectively, the "Purchased Assets").

The Bidding Process

The Seller shall (i) determine whether any person is a Qualified Bidder (as defined below), (ii) coordinate the efforts of Qualified Bidders in conducting their due diligence investigations, (iii) receive offers from Qualified Bidders, and (iv) negotiate any offers made to purchase the Purchased Assets (collectively, the "Bidding Process"). Any person who wishes to participate in the Bidding Process must be a Qualified Bidder. Neither the Seller nor its representatives shall be obligated to furnish any information of any kind whatsoever to any person who is not determined to be a Qualified Bidder. Qualified Bidders shall be given all relevant information pertaining to the Sale. The Seller shall have the right to adopt such other

rules for the Bidding Process, which rules will better promote the goals of the Bidding Process and which are not inconsistent with any of the other provisions hereof or of any Bankruptcy Court order.

Participation Requirements

Unless otherwise ordered by the Bankruptcy Court for cause shown or as otherwise determined by the Seller, in order to participate in the Bidding Process each person (a "**Potential Bidder**") must deliver (unless previously delivered) to the Seller:

(i) An executed confidentiality agreement in form and substance satisfactory to the Seller; and

(ii) Current audited financial statements of the Potential Bidder, or, if the Potential Bidder is an entity formed for the purpose of acquiring the Purchased Assets, current audited financial statements of the equity holder(s) of the Potential Bidder, or such other form of financial disclosure acceptable to the Seller and its advisors demonstrating such Potential Bidder's ability to close a proposed transaction.

A "**Qualified Bidder**" is any Potential Bidder or multiple Potential Bidders participating in the Bidding process together that delivers the documents described in subparagraphs (i) and (ii), whose financial information demonstrates the financial capability of the Potential Bidders, either jointly or separately, to consummate the Sale, and that the Seller determines is reasonably likely (based on availability of financing, experience and other considerations) to submit a bona fide offer and to be able to consummate the Sale if selected as the Successful Bidder.

Within two Business Days after a Potential Bidder delivers all of the materials required by subparagraphs (i) and (ii) above, the Seller shall determine, and shall notify the Potential Bidder, if such Potential Bidder is a Qualified Bidder.

Due Diligence

The Seller may afford any Qualified Bidder the opportunity to conduct a due diligence review. The Seller will designate an employee or other representative to coordinate all reasonable requests for additional information and due diligence access from Qualified Bidders. The Seller shall not be obligated to furnish any due diligence information after the Bid Deadline (as hereinafter defined). Neither the Seller nor any of its representatives are obligated to furnish any information to any person. Bidders are advised to exercise their own discretion before relying on any information provided by anyone other than the Seller or its representatives.

Bid Deadline

A Qualified Bidder who desires to make a bid shall deliver a written copy of its bid to (1) the Seller, c/o Schulte, Roth & Zabel LLP, 919 Third Avenue, New York, NY 10022, Attn: Jeffrey Sabin, Esq., not later than 11:00 a.m. (eastern time) on the date which is three Business Days prior to the date scheduled by the Bankruptcy Court for the Sale Hearing (the "**Bid**

Deadline"). The Seller will immediately distribute by facsimile transmission, personal delivery or reliable overnight courier service in accordance with the Agreement, a copy of each Bid upon receipt to counsel for the Proposed Purchaser. The Seller may, in its discretion, extend the Bid Deadline once or successively, but is not obligated to do so. The Seller shall announce the terms of the highest and best Qualified Bids received by the Bid Deadline by 5:00 p.m. (Prevailing eastern time) on that date.

Bid Requirements

For the purposes of determining the existence of a bid, a bid may be in the form of a joint bid from more than one Qualified Bidder, or may be in the form of separate bids from more than one Qualified Bidder, with each such separate bid being for a portion of the Purchased Assets, but all of such separate bids collectively aggregating a bid price having a value greater than or equal to the sum of (x) the value, as reasonably determined by the independent financial advisor of the Seller, of the Proposed Purchaser's offer plus (y) other than where the Proposed Purchaser makes a bid, the amount of the Termination Payment(as defined below) plus (z) (A)in the case of the initial Qualified Bid, \$150,000, and (B) in the case of any subsequent Qualified Bids, \$150,000 plus the amount by which the preceding Qualified Bid exceeds the sum of (x) plus (y) above. All bids must include the following documents (the "Required Bid Documents"):

- A letter stating that one or more Qualified Bidders offer to purchase all or a portion of the Purchased Assets and that such offer is irrevocable until two Business Days after the Purchased Assets have been disposed of pursuant to these Bidding Procedures.
- A statement by each Qualified Bidder that it is prepared to enter into and consummate the Sale as soon as practicable but in no event more than thirty-one (31) days after entry by the Bankruptcy Court of the Sale Order.
- An executed copy of the Agreement, together with all Exhibits and Schedules thereto (the "Definitive Sale Documentation") marked and initialed to show those amendments and modifications to such agreement that the Qualified Bidder proposes, including, but not limited to, price and the time of closing.
- A good faith deposit (the "Good Faith Deposit") in the form of a certified check or other form acceptable to the Seller in its sole discretion payable to the order of the Seller (or such other party as the Seller may determine) in an amount equal to \$500,000. All Qualified Bidders shall enter into an escrow agreement as directed by the Seller.
- Written evidence of a commitment for financing or other evidence of ability to consummate the proposed transaction satisfactory to the Seller.
- A statement by each Qualified Bidder as to whether such bidder intends to assume any Liabilities associated with any defined benefit plan sponsored by the Company.

The Seller will consider a bid only if the bid is on terms that are not conditioned on obtaining financing or on the outcome of unperformed due diligence by the bidder. A bid received from a Qualified Bidder that includes all of the Required Bid Documents and meets all of the above requirements is a "Qualified Bid."

If the Seller does not receive any Qualified Bids, the Seller will report the same to the Bankruptcy Court and will proceed with a sale and assignment of the Purchased Assets to Proposed Purchaser pursuant to the terms of the Agreement. The Agreement executed by Proposed Purchaser shall constitute a Qualified Bid for all purposes.

Bid Protection

Recognizing the Proposed Purchaser's expenditure of time, energy and resources, the Seller has agreed to provide certain bidding protections to the Proposed Purchaser. Specifically, the Seller has determined that the Agreement will further the goals of the Bidding Procedures by setting a floor for which all other Potential Bids must exceed and, therefore, is entitled to be selected as a "Stalking Horse Bid." As a result, the Seller has agreed to pay, in certain limited circumstances, to the Proposed Purchaser a break-up fee equal to \$350,000 (the "Termination Payment"). The payment of the Termination Payment shall be governed solely by the provisions of the Agreement.

Auction

If the Seller receives a Qualified Bid, the Seller will conduct an auction (the "Auction") at the offices of Schulte, Roth & Zabel LLP, 919 Third Avenue, New York, NY 10022, Attn: Jeffrey Sabin, Esq., on the date that is one Business Day prior to the date scheduled by the Bankruptcy Court for the Sale Hearing, beginning at 11:00 a.m. (EST) or such later time or other place as the Seller shall notify all Qualified Bidders who have submitted Qualified Bids. Only the Proposed Purchaser, the Seller, any representative of any creditors' committee appointed in the bankruptcy case and any Qualified Bidders who have timely submitted Qualified Bids shall be entitled to attend the Auction, and only the Proposed Purchaser and Qualified Bidders will be entitled to make any subsequent Qualified Bids at the Auction. During the Auction, bidding shall begin initially with the highest Qualified Bid and continue in minimum increments of at least \$40,000 higher than the previous Qualified Bid. Bidding at the Auction will continue until such time as the highest and best Qualified Bid is determined. The Seller may announce at the Auction additional procedural rules that are reasonable under the circumstances (e.g., the amount of time allotted to make subsequent overbids) for conducting the Auction so long as such rules are not inconsistent with these Bidding Procedures.

Upon conclusion of the Auction, the Seller, in consultation with its financial and business advisors shall (i) review each Qualified Bid or bids on the basis of financial and contractual terms and the factors relevant to the sale process, including those factors affecting the speed and certainty of consummating the Sale, and (ii) identify the highest and otherwise best offer for the Purchased Assets (the "Successful Bid"), which highest and best offer will provide the largest amount of net value to the Seller after payment of, among other things, the Termination Payment, if necessary. The Seller may adopt rules for the bidding process at the Auction that

will better promote the goals of the bidding process and that are not inconsistent with any of the provisions of the Bankruptcy Code, any Bankruptcy Court order, or these Bidding Procedures.

Acceptance of Qualified Bids

The Seller shall sell the Purchased Assets for the highest or otherwise best Qualified Bid received at the Auction upon the approval of such Qualified Bid by the Bankruptcy Court after the hearing (the "Sale Hearing"). The Seller's presentation of a particular Qualified Bid to the Bankruptcy Court for approval does not constitute the Seller's acceptance of the bid. The Seller will be deemed to have accepted a bid only when the bid has been approved by the Bankruptcy Court at the Sale Hearing.

Sale Hearing

The Sale Hearing will be held before the Honorable [Joseph J. Farnan] on [], 2003 at [] a.m. (prevailing eastern time) at the United States District Court for the District of Delaware, located in Wilmington, Delaware, but may be adjourned or rescheduled without further notice by an announcement of the adjourned date at the Sale Hearing.

Following the Sale Hearing approving the sale of the Purchased Assets to the Successful Bidder, if such Successful Bidder fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the next highest or otherwise best Qualified Bid, as disclosed at the Sale Hearing, shall be deemed to be the Successful Bid and the Seller shall be authorized, but not required, to consummate the sale with the Qualified Bidder submitting such bid without further order of the Bankruptcy Court.

Return of Good Faith Deposit

Good Faith Deposits of all Qualified Bidders (except for the Successful Bidder) shall be held in an interest-bearing escrow account until two Business Days following the Auction. If a Successful Bidder fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Seller will not have any obligation to return the Good Faith Deposit deposited by such Successful Bidder.

Modifications

The Seller may (a) determine, which Qualified Bid, if any, is the highest or otherwise best offer; and (b) reject at any time before entry of an order of the Bankruptcy Court approving a Qualified Bid, any bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code, the Bidding Procedures, or the terms and conditions of sale, or (iii) contrary to the best interests of the Seller, its estates and creditors. At or before the Sale Hearing, the Seller may impose such other terms and conditions as it may determine to be in the best interests of the Seller's estate, its creditors and other parties in interest.

EXHIBIT III

ASSET PURCHASE AGREEMENT

by and among

FANSTEEL INC.,

PHOENIX AEROSPACE CORPORATION,

as Seller,

and

STOUTHEART EAST CORPORATION,

WPC III INC.,

as Purchaser,

and

RICHARD BURKHART

as Guarantor

Dated as of July 24, 29, 2003

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Exhibit D - Form of Indemnity Note

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT ("Agreement") is made and entered into this 24²⁹th day of July 2003 by and among Fansteel Inc., a Delaware corporation ("FSI"), Phoenix Aerospace Corporation, a Delaware corporation ("PAC", collectively with FSI, the "Seller"), Stoutheart East Corporation, a Texas corporation ("Stoutheart East"), WPC III Inc., a Texas corporation ("WPC III" and, collectively with Stoutheart East, the "Purchaser"), and Richard Burkhart ("Burkhart").

RECITALS

A. WHEREAS, on January 15, 2002 (the "Filing Date"), FSI and certain of its domestic wholly-owned subsidiaries (collectively, the "Debtors") including PAC, each filed a voluntary petition for relief under chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware under case number 01-10109, which chapter 11 case was transferred to the United States District Court for the District Court of Delaware (the "Bankruptcy Court") on January 22, 2002 and assigned Civil Action No.: 02-44, and the Debtors continue to manage their properties as debtors and debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code;

B. WHEREAS, on July 24, 2003, the Debtors filed a joint disclosure statement with respect to their Plan of Reorganization;

C. WHEREAS, the Plan of Reorganization contemplates and is conditioned upon consummation of the sale contemplated pursuant to this Agreement;

D. WHEREAS, the Plan of Reorganization provides for, among other things, the escrow of the cash proceeds from the sale so as to provide a cash distribution to general unsecured creditors of the Debtors;

E. WHEREAS, FSI, among other things, operates certain divisions known as, California Drop Forge ("Cal Drop"), Hydro Carbide-Gulfport ("HG") and Hydro Carbide-Latrobe ("HL" and, together with Cal Drop and HG, the "Divisions");

~~C. F.~~ WHEREAS, the Divisions are engaged primarily in the business of manufacturing, distribution and sales of specialty metals;

~~D. G.~~ WHEREAS, the assets of PAC consist solely of real property located at 1033 Alhambra Avenue, Los Angeles, California and a lease agreement with FSI with respect thereto (collectively, the "PAC Assets");

~~E. H.~~ WHEREAS, the Seller desires to sell, transfer and assign to the Purchaser and the Purchaser desires to purchase from the Seller, pursuant to and in accordance with the Bankruptcy Code, the Purchased Assets (as defined below) for consideration comprised of cash, the Indemnity Note (as defined below) and the assumption of the Assumed Liabilities (as defined below), all as herein provided and on the terms and conditions hereinafter set forth; and

F.-L. WHEREAS, the foregoing sale would be effected pursuant to the terms of this Agreement and an order of the Bankruptcy Court under sections 363 and 365 of the Bankruptcy Code (the "Sale Order")²;

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants, and agreements set forth herein, the parties hereto agree as follows:

ARTICLE I

DEFINED TERMS

1.1 Defined Terms. For the purposes of this Agreement, defined terms shall have meanings set forth or referenced in Appendix I.

1.2 Other Definitional and Interpretive Matters. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation shall apply:

1.2.1 Gender and Number. Any reference in this Agreement to gender shall include all genders, and words imparting the singular number only shall include the plural and vice versa.

1.2.2 Headings. The provisions of the Table of Contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in construing or interpreting this Agreement. All references in this Agreement to any "Section" are to the corresponding Section of this Agreement unless otherwise specified.

1.2.3 Herein. The words such as "herein," "hereinafter," "hereof," and "hereunder" refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires.

1.2.4 Including. The word "including" or any variation thereof means "including, without limitation" and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

1.2.5 Knowledge. The phrase "Knowledge of Seller" (or words of similar import) shall mean the actual knowledge, without independent investigation, of the Chief Executive Officer and Chief Financial Officer of FSI and up to 5 individuals to be designated by Purchaser and identified on Schedule 1.2.5 hereto.

1.2.6 Schedules and Exhibits. The Schedules and Exhibits attached to this Agreement shall be construed with and as an integral part of this Agreement to the same extent as if the same had been set forth verbatim herein. While Seller has attempted in good faith to cross reference between Schedules and Exhibits as applicable, the parties hereto agree that any item disclosed in any particular Schedule or Exhibit shall be deemed disclosed for purposes of any other Schedule or Exhibit with respect to which it is reasonably apparent from a reading of

such information on such first Schedule or Exhibit that such information is applicable to such other Schedule or Exhibit.

ARTICLE II

PURCHASE AND SALE OF THE ASSETS

2.1 **Purchased Assets.** At the Closing, the Seller shall sell, convey, transfer, assign and deliver to the Purchaser and the Purchaser shall purchase from the Seller, free and clear of all Liens, other than the Assumed Liabilities and the Permitted Liens, on the terms and subject to the conditions set forth in this Agreement, all of its right, title and interest in and to (i) the properties, business and assets of the Divisions, or otherwise currently used primarily in connection with the Business, of every kind and description, whether real, personal or mixed, tangible or intangible, wherever located (other than the Excluded Assets), (ii) all equipment and Inventory located at the Lexington Facility, (iii) all Receivables of the Seller arising out of the operations conducted at the Plantsville Facility, (iv) all Inventory located at the Plantsville Facility and (v) the PAC Assets, all as shall exist on the Closing Date, whether or not appearing on the Last Balance Sheet (collectively, the "Purchased Assets"). Without limiting the generality of the foregoing, the Purchased Assets shall include the following, other than the Excluded Assets and except that, by delivery of a notice from the Seller to the Purchaser at any time prior to the issuance of the Sale Order, the Seller may exclude any of the Inventory or Receivables relating to the Plantsville Facility from the Purchased Assets:

(a) all of the Seller's right, title and interest in and to Fixed Assets used primarily in the Business and the equipment located at the Lexington Facility;

(b) all Inventory of the Seller used primarily in the Business or located at the Lexington Facility or Plantsville Facility;

(c) all Receivables of the Seller arising out of the operation of the Business or the operations conducted at the Plantsville Facility;

(d) all of the interest of and the rights and benefits accruing to the Seller as lessee or licensee under (i) the leases of real property currently used primarily in the Business, including all improvements to and buildings thereon (the "Purchased Leasehold Premises"); and (ii) all leases or rental agreements where the Seller is lessee covering machinery, equipment, tools, supplies, furniture and fixtures and other ~~fixed-assets~~ Fixed Assets of the Business, all of which leases of real property and other leases or rental agreements are set forth on Schedule 2.1(d) (the leasehold rights described in clauses (i) and (ii) are collectively referred to as the "Leasehold Rights");

(e) all of the Seller's right, title and interest in and to the Transferred Real Property;

(f) all of the rights and benefits accruing to the Seller under all purchase orders and purchase commitments made by the Seller in the ordinary course of business of the Business;

(g) all Pre-Petition Contracts to be assumed pursuant to Section 4.10(c) and 4.10(d) and all other choses in action, causes of action and other rights of every kind of the Seller relating to the Pre-Petition Contracts, except those rights included in or related to the Excluded Assets and/or the Excluded Liabilities;

(h) all Records of the Seller relating primarily to the Business; provided, however, that the Seller shall have the right to retain copies of all such Records or shall have reasonable access during ~~reasonable~~regular business hours to such Records;

(i) all Intellectual Property of the Seller relating primarily to the Business;
and

(j) all Prepaid Items and deposits of the Seller relating primarily to the operations of the Business; and

(k) all right, title and interest of the Seller in and to the HL Pension Plan in accordance with applicable Law.

2.2 Excluded Assets. Anything to the contrary in Section 2.1 notwithstanding, the Purchased Assets shall exclude the following assets of the Seller (the "Excluded Assets"):

(a) the proceeds of the Purchase Price (as hereinafter defined) and the Seller's other rights under this Agreement and all documents and instruments executed in connection with this Agreement;

(b) the right to receive any refunds of Taxes paid by the Seller prior to the Closing;

~~(c)~~ — prepaid pension assets, if any;

(c) ~~(d)~~—all real property interests of the Seller located in Waukegan, Illinois; Muskogee, Oklahoma; North Chicago, Illinois; Lexington, Kentucky; and Plantsville, Connecticut; and all Fixtures and appurtenances located within the bounds of such real property, other than equipment and Inventory located at the Lexington Facility and Inventory located at the Plantsville Facility;

(d) ~~(e)~~—Equity Securities of the Seller and its subsidiaries;

(e) ~~(f)~~—the corporate and trade name "Fansteel" and "VR/Wesson" and all variations thereof that include the "Fansteel" or "VR/Wesson" name;

(f) ~~(g)~~—any intercompany or intracorporate receivables of the Seller;

(g) ~~(h)~~—any Contract or Lease terminated, expired or rejected prior to the Closing;

(h) ~~(i)~~—all bank accounts, cash (including, but not limited to, cash in bank accounts), cash equivalents and short term investments;

- (i) ~~(j)~~ all Claims, including Avoidance Actions; and
- (i) ~~(k)~~ any item expressly excluded pursuant to the provisions of Section 2.1 above.

2.3 Purchaser Cooperation. Pursuant to and in accordance with section 365 of the Bankruptcy Code, Purchaser shall cooperate with Seller as necessary to transfer the Purchased Assets to Purchaser, including the provision of such information of Purchaser as may be reasonably required.

2.4 Division of Purchased Assets. All of the Purchased Assets specifically attributable solely to Cal Drop and PAC will be purchased by WPC III, and all other Purchased Assets will be purchased by Stoutheart East; provided, however, that the Seller shall have no liability for any transfer of the Purchased Assets to the incorrect recipient.

ARTICLE III

PURCHASE PRICE

3.1 Purchase Price. In consideration for the Purchased Assets, the Purchaser shall pay an aggregate amount (the "Purchase Price") equal to the sum of (a) \$850,000 *plus* (b) (i) eighty percent (80%) of the book value of the Receivables (reduced by book reserves for bad debts and credits and discounts granted prior to the Closing in the ordinary course), *plus* (ii) eighty percent (80%) of the book value of the Inventory (reduced by book reserves for excess and obsolete stock and scrap and by LIFO reserves), *plus* (iii) fifty percent (50%) of the book value of the Prepaid Items and deposits, *plus* (iv) eighty percent (80%) of the book value of the Fixed Assets (reduced by book depreciation and retirement in the ordinary course). Attached as Schedule 3.1 is an illustrative computation of the Purchase Price using the Seller's June 30, 2003 financial data. The Purchase Price shall be paid, in part, by the assumption of debts and payments as follows:

3.1.1 Assumption/Payment of Accounts Payable, Taxes Payable and Accrued Liabilities. At the Closing, the Purchaser will assume all Post-Petition Accounts Payable and, all Accrued Sales Tax obligations of the Business incurred in the ordinary course and accrued on Seller's books as of the Closing Date Taxes, all Accrued Property Taxes and the all Accrued Post-Petition Liabilities and will pay such Liabilities in the ordinary course of business.

3.1.2 Secured and Priority Liabilities. The Purchaser will repay one hundred percent (100%) of the Secured and Priority Liabilities (as defined in Section 3.3) identified on Schedule 3.3 in cash (a) as they become due in the ordinary course or (b) to the extent such Liabilities are past due, on the Closing Date.

3.1.3 Industrial Revenue Bonds. At the Closing, the Purchaser will assume the Liabilities under, and Seller shall be released from any further Liabilities under, the Industrial Revenue Bonds.

3.1.4 Pre-Petition Contracts. The Purchaser will pay or, at the Closing, reimburse the Seller for any Cure Costs with respect to any Additional Assumed Contracts.

3.1.5 Cash Portion. (a) The Purchaser will pay cash in an amount (the "Cash Portion") equal to the (i) Purchase Price less (ii) the sum of the amounts assumed and/or paid at Closing pursuant to Sections 3.1.1 through 3.1.3 inclusive (together, the "Deductions") less (iii) \$850,000, it being agreed that the Deposit shall be credited against any such payment as set forth in Section 3.4.2.

(b) The Cash Portion shall be paid in the following manner (the "Priority Payment Schedule"): (i) first, if so directed by Seller, to an account designated by ANB, an amount payable by Seller equal to all amounts due and payable under the ANB Letter of Credit; (ii) second, if so directed by Seller, to an account designated by the Seller for payment to any broker or finder engaged by Seller of any amounts due and payable in respect of the transactions contemplated by this Agreement as reasonably determined by Seller, and (iii) third, the balance shall be paid into the Purchase Price Escrow.

3.1.6 Indemnity Note. At the Closing, the Purchaser shall issue to Seller and deliver to the Purchase Price Escrow Agent a promissory note in the principal amount of \$850,000 (the "Indemnity Note"), in the form attached hereto as Exhibit DA which shall be supported by a guaranty from Burkhardt as set forth in Section 11.15.

3.1.7 Estimated Purchase Price. Not more than five (5) days nor less than two (2) days prior to the Closing, the Seller shall deliver to the Purchaser in writing a good faith estimate of the Purchase Price determined in accordance with Section 3.1 and using the most recent financial information available (the "Estimated Purchase Price"), including the details for such estimate, as identified in the detailed subledgers of the Seller's trial balance sheet on such date, with such details to include an estimate of the Receivables, Inventory, Prepaid Items and deposits, Fixed Assets, Post-Petition Accounts Payable, Accrued Property and Taxes, Accrued Sales Taxes, Accrued Post-Petition Liabilities, Secured and Priority Liabilities, and the Cash Portion. The Estimated Purchase Price, and the reserves specified in Section 3.1, shall be prepared in accordance with the Seller's practices and procedures consistently applied from period to period and consistent with past practice. Purchaser shall have two (2) Business Days to object in good faith to the Seller's calculation of the Estimated Purchase Price by delivery of written notice setting forth in reasonable detail the basis for any such objection ("Initial Objection Notice"); provided that the only basis for the Initial Objection Notice shall be (i) non-compliance with the standards set forth above for the preparation of the Estimated Purchase Price and (ii) computational errors. The Seller and the Purchaser shall in good faith work to resolve such objection. Except as otherwise specified in Section 4.2 below, at the Closing, the Purchaser will pay, by wire transfer of immediately available funds, in accordance with the Priority Payment Schedule, the amount estimated to be paid pursuant to Section 3.1.5 ("Estimated Cash Portion"). In no event shall the Purchase Price Escrow Agent distribute any funds from the Purchase Price Escrow prior to the final determination of the Cash Portion in accordance with Section 3.1.8 and the transfer, if applicable, of all amounts owing to the Purchaser pursuant to Section 3.1.8.

3.1.8 Post-Closing Adjustment.

(a) Closing Statement. The Purchaser shall prepare and deliver to the Seller, not later than forty-five (45) days after the Closing, a statement and calculation

("Closing Statement") of the Purchase Price, including the details for such calculation, with such details to include the Receivables, Inventory, Prepaid Items and deposits, Fixed Assets, Post-Petition Accounts Payable, Accrued Property and Taxes, Accrued Sales Taxes, Accrued Post-Petition Liabilities, Secured and Priority Liabilities, and the Cash Portion. The Closing Statement, including the reserves specified in Section 3.1, shall be prepared in accordance with the Seller's practices and procedures consistently applied from period to period and consistent with past practice. The Seller shall cooperate (at its expense), and shall cause its accountants and representatives to cooperate (at Seller's reasonable expense), with the Purchaser and its accountants, representatives and employees in the preparation of the Closing Statement.

(b) Objections. Within thirty (30) days following the Seller's receipt of the Closing Statement, the Seller shall notify the Purchaser in writing of any objections that the Seller may have to the Closing Statement, stating in reasonable detail the basis for any such objection (an "Objection Notice"); provided that the only basis for objection shall be (i) non-compliance with the standards set forth in this Section 3.1.9 for the preparation of the Closing Statement and (ii) computational errors. If the Seller fails to deliver an Objection Notice to the Purchaser within such thirty (30) day period, the Seller will be deemed to have concurred with the Closing Statement. During such thirty (30) day period, and thereafter until all matters in all Objection Notices are resolved, the Purchaser shall afford to the Seller and its representatives reasonable access during regular business hours to all of the Purchaser's management and books, documents and records that relate to the Business and are necessary or desirable for purposes of the Seller's review of the Closing Statement.

(c) Dispute Resolution. If the Seller timely delivers an Objection Notice to the Purchaser in accordance with Section 3.1.9(b), the Seller and the Purchaser shall promptly consult with each other in good faith and exercise reasonable efforts to attempt to resolve differences in their respective analyses of the Closing Statement within twenty (20) days after the Seller delivers the Objection Notice (or such longer period as the parties shall mutually agree). Any matter not specifically referenced in the Objection Notice shall be conclusively deemed to have been agreed upon by the parties. If the parties are unable to resolve their differences within such twenty (20) day period (or such longer period as the parties shall mutually agree), the matter shall be promptly referred to an Independent Accounting Firm, which shall make its own determination of the matters in dispute within thirty (30) days after the matter is referred to it, based solely on the information submitted by the Seller and the Purchaser and based on the standards set forth above in Section 3.1.8(a) and Section 3.1.8(b). The determination of the Independent Accounting Firm will be final, binding and conclusive on the parties.

(d) Fees and Expenses. Each party shall bear its own fees and expenses incurred in performing services pursuant to this Section 3.1.8. If the Independent Accounting Firm is used to resolve differences between the Seller and the Purchaser in accordance with Section 3.1.8(c), all fees and expenses, including any retainers, of the Independent Accounting Firm will be allocated 50% to the Purchaser and 50% to the Purchase Price Escrow.

(e) Payment of Adjustment. Within five (5) Business Days after the final determination of the Purchase Price pursuant to Section 3.1.8(c):

(i) if the Cash Portion is greater than the Estimated Cash Portion, then Purchaser shall deliver to the Purchase Price Escrow, by wire transfer of immediately available funds to the account or accounts specified by the Purchase Price Escrow Agent in writing, an amount equal to such excess; and

(ii) if the Cash Portion is less than the Estimated Cash Portion, then the Purchase Price Escrow Agent shall deliver to Purchaser, by wire transfer of immediately available funds to the account or accounts specified by Purchaser in writing, an amount equal to such shortfall.

3.2 Deposit. Upon the execution and delivery by the parties hereto of the Deposit Escrow Agreement, the Purchaser shall deposit \$500,000 in immediately available funds (the "Deposit") with the Deposit Escrow Agent pursuant to the Deposit Escrow Agreement. Except as otherwise specified in Section 4.2(b) below, the Deposit will be paid to ~~Seller~~the Purchase Price Escrow as set forth in the Deposit Escrow Agreement. The Deposit will be refundable on such date as this Agreement is terminated, only if (i) the Agreement is terminated pursuant to Section 8.1 (other than a termination by the Seller under Section 8.1(c) or a termination under Section 8.1(e) occasioned by a breach by the Purchaser) or (ii) the Bankruptcy Court approves a Successful Bid (as defined in the Sales Bid Procedures Order) that is submitted by a party other than the Purchaser, in either which case the Deposit shall be immediately refunded to Purchaser, provided that, if the Deposit is so refunded pursuant to clause (ii), the ~~Purchase~~Purchaser shall, unless this Agreement has been terminated under Section 8.1 by that time, return the Deposit to the Deposit Escrow Agent immediately upon the sale contemplated by clause (ii) being abandoned by the Seller, provided, however, that in no event shall Purchaser have any obligation to consummate the transactions contemplated hereunder if as of the Closing Date, in Purchaser's reasonable judgment, there has been or there exists a Material Adverse Effect not in existence on the date hereof, in which case the Deposit shall be immediately returned to the Purchaser. The return of the Deposit to Purchaser shall be in addition to the payment of the Termination Payment, if applicable.

3.3 Assumed Liabilities. The Purchaser will assume only the following Liabilities of the Business (the "Assumed Liabilities");

(a) the post-petition Accounts Payable of the Business owed to Third Parties (the "Post-Petition Accounts Payable");

(b) all Accrued Property Taxes and Accrued Sales Tax obligations attributable to the ~~Purchased Assets~~ (to the extent reserved on the Seller's financials)Taxes;

(c) all secured Liabilities related to the Business (the "Secured and Priority Liabilities");

(d) all accrued post-petition Liabilities of the Business, including, without limitation, all capital lease obligations and obligations for compensation and benefits due with respect to employees for whom offers are required under Section 7.1(a), all post-petition administrative expense obligations related to the Business, or which are of the type set forth on the Last Balance Sheet and incurred by the Business in the ordinary course of business through the Closing, to the extent reserved on the Seller's financials and other than Excluded Liabilities (the "Accrued Post-Petition Liabilities"),

(e) all Liabilities related to the Industrial Revenue Bonds;

(f) any retiree death benefits associated with the Purchased Assets;

(g) COBRA liabilities as specifically set forth in Section 7.1(b) hereof;

~~(h) any compensation and benefits due with respect to employees for whom offers are required under Section 7.1(g) hereof (to the extent reserved on the Seller's financials);~~

(h) ~~(i) the Fansteel Hydro Carbide Hourly Employees'~~ the HL Pension Plan;

(i) ~~(j) the HL CBA;~~ and

(i) ~~(k)~~ In addition, the Purchaser will assume all capital leases of the Business, to the extent set forth on the Last Balance Sheet or which are of the type set forth on the Last Balance Sheet and incurred by the Business in the ordinary course of business through the Closing, and all Assumed Contracts (as defined below).

3.3.2 The Assumed Liabilities that are monetary obligations are specified in detail, by type, on Schedule 3.3, using estimates where final numbers are not available. Assumed Liabilities which are primarily attributable to or incurred primarily by or on behalf of Cal Drop and PAC will be assumed by WPC III, and all other Assumed Liabilities will be assumed by Stoutheart East.

3.4 **Excluded Liabilities.** Except as specifically set forth in Section 3.3, the Purchaser will not assume any Liabilities of the Seller (the "Excluded Liabilities") including:

3.4.1 any Liability that arises out of the transactions contemplated by this Agreement or results from any breach or default by the Seller under this Agreement or any agreement, certificate or other document or instrument that may be executed or delivered in connection with this Agreement or the transactions contemplated hereby, or any Liability where the existence, imposition, nature or extent of such Liability gives rise to or constitutes a breach or default by the Seller under this Agreement or any other agreement, certificate or other document or instrument that may be executed or delivered in connection with this Agreement or the transactions contemplated hereby;

3.4.2 any Liability directly relating to the Excluded Assets;

3.4.3 any Liability relating to any violation of any Law by the Seller or any employee or agent of the Seller that arises out of or results from the Closing or any act, omission, occurrence or state of facts prior to the Closing, ~~but not including known or unknown Environmental Liabilities associated with the Purchased Assets;~~

3.4.4 any Liability or intercompany or intracorporate payable owed to the Seller or any Affiliate of the Seller;

3.4.5 any Liability relating to any employee or group of employees of the Business related to claims under worker's compensation laws;

3.4.6 any commission, fee or claim of any person, firm or corporation employed or retained or claiming to be employed or retained by the Seller to bring about, or to represent it in, the transactions contemplated hereby;

3.4.7 ~~other than pension obligations subject to the collective bargaining agreement for the Seller's employees at HL arising from and after the Closing Date~~ except as specifically described in Sections 3.3 (d), (f), (g), (h) and (i), any Liabilities relating to Pension Plan obligations the compensation or benefits of the Seller, any employee or former employee including, without limitation, Liabilities arising under ERISA or any obligation or liability plan subject to ERISA (e.g., COBRA Liabilities and obligations and liabilities to the Pension Benefit Guaranty Corporation); and

3.4.8 any obligations or liabilities arising under any Pre-Petition Contracts that are not, or do not become, Assumed Contracts;

3.4.9 any liability or obligation relating to any federal, state, local or foreign income tax of the Seller, including any interest or penalties related thereto, arising as a result of the operation of the Business or ownership of any assets of the Business prior to the Closing Date, including any liability for deferred income taxes of any nature; and

3.4.10 any Environmental Liabilities arising out of Releases and threatened Releases of Hazardous Substances in, on, at or from the Transferred Real Property or the Purchased Leasehold Premises attributable to acts or omissions of the Business or the Seller that occurred prior to the Closing,

3.5 No Expansion of Third-Party Rights. The (i) assumption by the Purchaser of the Assumed Liabilities, (ii) transfer thereof by the Seller and (iii) limitations in the description of Excluded Liabilities in Section 3.4, shall in no way expand the rights or remedies of any Third Party against the Purchaser or the Seller as compared to the rights and remedies which such Third Party would have had against the Seller had the Purchaser not assumed such liabilities. Without limiting the generality of the preceding sentence, the assumption by the Purchaser of the Assumed Liabilities shall not create any third-party beneficiary rights.

3.6 Allocation of the Purchase Price among the Purchased Assets. The Purchase Price shall be allocated among each item or class of the Purchased Assets as specifically agreed to by the parties and set forth on Schedule 3.6 (which schedule will be attached hereto on or prior

to the Closing Date). The Seller and the Purchaser agree that this allocation will be used on Form 8594 and any other notice or filing required pursuant to Section 1060 of the Code.

3.7 Taxes. (a) The Purchaser agrees that it shall pay all sales, transfer and other similar taxes, if any, required to be paid by reason of the sale of the Purchased Assets to the Purchaser hereunder, based upon the allocation provided for in Section 3.6. If Purchaser fails to pay such sales, transfer or other similar taxes referred to in this section, Purchaser shall indemnify Seller for all expenses, losses, costs, deficiencies, liabilities and damages (including reasonable legal fees and expenses) incurred or suffered by Seller on a pre-tax basis.

(b) The parties hereto intend that the transaction contemplated hereunder is exempt from any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax, or other similar tax or governmental assessment pursuant to section 1146(c) of the Bankruptcy Code.

ARTICLE IV

CLOSING; CLOSING CONDITIONS; PRE-CLOSING COVENANTS

4.1 Time and Place of the Closing. The closing of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of Freeborn & Peters, 311 South Wacker Drive, Suite 3000, Chicago, Illinois, or such other place as agreed upon by the parties (the "Closing Date"). The Closing shall be held on such date as agreed upon by the Purchaser and Seller, but in no event later than the first Business Day after the Sale Order entered by the Bankruptcy Court has become a Final Order.

4.2 Closing Transactions. Subject to the conditions set forth in this Agreement, the parties shall consummate the following transactions (the "Closing Transactions") on the Closing Date:

(a) the Seller shall deliver to the Purchaser ~~a bill~~bills of sale for the Purchased Assets to be sold by Seller hereunder reasonably satisfactory to Purchaser;

(b) ~~(i) if the Purchaser shall deliver the Estimated Cash Portion exceeds less the Deposit, the Purchaser shall deliver the difference in accordance with the Priority Payment Schedule by wire transfer of immediately available funds;~~

~~(ii) if the Estimated Cash Portion is less than the Deposit, the Deposit Escrow Agent shall deliver the difference to the Purchaser; and~~

~~(iii) any amounts to be delivered pursuant to this Section 4.2(b) shall be delivered by wire transfer of immediately available funds.~~

(c) the Purchaser shall deliver the Indemnity Note to the Purchase Price Escrow Agent;

(d) the Seller shall deliver a flow of funds memorandum setting forth in reasonable detail, all sources and uses of the Purchase Price; and

(e) the Seller and the Purchaser, as applicable, shall deliver the opinions, certificates and other documents and instruments required to be delivered by or on behalf of such Party under Article IV.

4.3 The Seller's Closing Deliveries. Subject to and conditioned upon the Closing, on or prior to the Closing Date, the Seller shall have delivered to Purchaser all of the following:

(a) for FSI and PAC, a certificate of the Secretary of State of such entity's state of incorporation (and each other state in which the Seller is qualified to conduct the Business) providing that each of FSI and PAC is in good standing;

(b) copies of all third-party (including landlords) and governmental consents, approvals, filings, releases and terminations that are required by the terms of this Agreement;

~~(c) an opinion, dated the Closing Date, of counsel to the Seller, substantially in the form attached hereto as Exhibit A;~~

(c) ~~(d)~~ a certificate of the Seller certifying that the conditions to Closing set forth in Sections 4.5(a) and 4.5(b) have been satisfied; and

(d) ~~(e)~~ bills of sale, warranty deeds (conveying good and marketable fee simple title to all of the Transferred Real Property) and such other documents or instruments as the Purchaser may reasonably request (in form and substance reasonably acceptable to Purchaser) to effect the transactions contemplated hereby (including without limitation a certified copy of the Sale Order).

4.4 The Purchaser's Closing Deliveries. Subject to and conditioned upon the Closing, on or prior to the Closing Date, the Purchaser shall have delivered to the Seller or the Purchase Price Escrow Agent, as the case may be, all of the following:

(a) an amount equal to the Estimated Cash Portion less the amount of the Deposit and any interest accrued thereon, by wire transfer of immediately available same day funds in an account or accounts designated by Seller to the Purchase Price Escrow;

(b) the Indemnity Note;

(c) assumption agreements to effect the assumption by Purchaser or its designated Affiliates of the Assumed Liabilities in form and substance reasonably satisfactory to Seller;

(d) all consents, waivers and approvals obtained by Purchaser or its Affiliates that are required by the terms of this Agreement;

(e) a certificate of the Secretary of State of the State of Texas providing that theeach Purchaser is in good standing;

(f) certified copies of the resolutions of the Purchaser's board of directors approving the transactions contemplated by this Agreement;

(g) a certificate of the Purchaser certifying that the conditions to Closing set forth in Sections 4.6(a) and 4.6(b) have been satisfied; and

(h) such other documents or instruments as the Seller may reasonably request to effect the transactions contemplated hereby.

4.5 Conditions to the Purchaser's Obligations. The obligation of the Purchaser to consummate the transactions contemplated by this Agreement is subject to the satisfaction of the following conditions as of the Closing Date:

(a) The representations and warranties set forth in Article V hereof shall be true and correct at and as of the Closing Date as though then made and as though the Closing Date were substituted for the date of this Agreement throughout such representations and warranties except where the failure of such representations and warranties to be so true and correct does not have, individually or in the aggregate, a Material Adverse Effect.

(b) The Seller shall have performed and complied in all material respects with all of the covenants and agreements required to be performed by it under this Agreement on or prior to the Closing.

(c) The purchase of Purchased Assets by the parties hereunder shall not be prohibited by any applicable Law or Governmental Body.

(d) No preliminary or permanent injunction issued by any court of competent jurisdiction restraining or prohibiting the transactions hereby shall be in effect.

(e) The Bankruptcy Court shall have entered a Sale Order which shall have become a Final Order, in form and substance reasonably satisfactory to the Purchaser.

(f) Taking into account Seller's bankruptcy filing, from the date of this Agreement to the Closing Date, there shall have been no condition or event which has occurred which has resulted in or could reasonably be expected to result in a Material Adverse Effect.

(g) The Seller shall have delivered evidence, reasonably satisfactory to Purchaser, showing that the Liens related to the Post-Petition Funded Indebtedness have been released with respect to the Purchased Assets.

(h) The Purchaser shall have received at Purchaser's cost, title insurance (in customary form, substance and amounts and at a customary cost) on all Purchased Leasehold Premises and all Transferred Real Property.

Any condition specified in this Section 4.5 may be waived by the Purchaser; provided that no such waiver shall be effective against the Purchaser unless it is set forth in a writing executed by the Purchaser.

4.6 Conditions to the Seller's Obligation. The obligation of the Seller to consummate the transactions contemplated by this Agreement is subject to the satisfaction of the following conditions as of the Closing Date:

(a) The representations and warranties set forth in Article VI shall be true and correct in all material respects at and as of the Closing Date as though then made and as though the Closing Date were substituted for the date of this Agreement throughout such representations and warranties except where the failure of such representations and warranties to be so true and correct does not have, individually or in the aggregate, a Material Adverse Effect.

(b) The Purchaser shall have performed and complied in all material respects with all of the covenants and agreements required to be performed by it under this Agreement on or prior to the Closing.

(c) The sale of the Purchased Assets by the parties hereunder shall not be prohibited by any applicable Law or Governmental Body.

(d) ~~No action, suit, or proceeding shall be pending before~~preliminary or permanent injunction issued by any court or quasi-judicial or administrative agency of any federal, state, local, or foreign competent jurisdiction or before any arbitrator wherein an unfavorable judgment, decree, injunction, order or ruling would ~~prevent~~restraining or prohibiting the performance of this Agreement or any of the transactions contemplated hereby, ~~declare unlawful the transactions contemplated by this Agreement, cause such transactions to be rescinded or materially and adversely affect the right of the Seller to retain the Cash Portion, and no judgment, decree, injunction, order or ruling shall have been entered which has any of the foregoing effects~~ shall be in effect.

Any condition specified in this Section 4.6 may be waived by the Seller; provided that no such waiver shall be effective against the Seller unless it is set forth in a writing executed by the Seller.

4.7 Affirmative Covenants of the Seller. Prior to the Closing, unless the Purchaser otherwise agrees in writing and except as expressly contemplated by this Agreement, the Seller shall:

(a) conduct business and operations of the Business only in the ordinary course of business, consistent with past practice;

(b) maintain the books, accounts and records of the Business in accordance with past custom and practice as used in the preparation of the Financial Statements;

(c) promptly (once it obtains knowledge thereof) inform the Purchaser in writing of any material variances from the representations and warranties contained in Article V hereof or any breach of any covenant hereunder by the Seller;

(d) cooperate with the Purchaser and use commercially reasonable best efforts to cause the conditions to the Purchaser's obligation to close to be satisfied;

(e) promptly make all filings and submissions set forth on Schedule 4.7(e) to consummate the transactions contemplated by this Agreement, and promptly provide the Purchaser with copies of all correspondence, filings, or communications between Seller or its representatives and any governmental agency or authority or members of their staffs with respect to such filings and submissions; and

(f) as promptly as practicable, but in no event more than five Business Days prior to the Bid Procedures Hearing Date, deliver the Schedules under this Agreement to the Purchaser other than the Schedules that the Purchaser is required to deliver under Section 4.9.

4.8 Negative Covenants of the Seller. Prior to the Closing, unless the Purchaser otherwise agrees in writing and except as expressly contemplated by this Agreement, the Seller shall not:

(a) make any loans, enter into any transaction with any key employee or Affiliate of the Seller or make or grant any increase in any employee's compensation (other than in the ordinary course of business consistent with past practice) or make or grant any increase in any employee benefit plan, incentive arrangement or other benefit covering any of the employees of the Business;

(b) establish or, except in the ordinary course of business consistent with past practice, contribute to any pension, retirement, profit sharing or stock bonus plan or multiemployer plan covering the employees of the Business;

(c) enter into any contract, agreement or transaction, other than in the ordinary course of business consistent with past practice with Third Parties; or

(d) declare, pay, make or otherwise effectuate any distributions from Seller to its shareholders or to cause its subsidiaries to declare, pay, make or otherwise effectuate any distributions to Seller or any other shareholder of the subsidiaries.

4.9 Covenants of the Purchaser. Prior to the Closing, the Purchaser shall:

(a) promptly (once it obtains knowledge thereof) inform the Seller in writing of any variances from the representations and warranties contained in Article VI or any breach of any covenant hereunder by the Purchaser;

(b) as promptly as practicable, but in no event more than five Business Days prior to the Bid Procedures Hearing Date, deliver Schedule 1.2.5 under this Agreement to the Seller;

(c) cooperate with Seller and use its reasonable best efforts to cause the conditions to the Seller's obligation to close to be satisfied, including, without limitation, the execution and delivery of all agreements contemplated hereunder to be so executed and delivered (including, without limitation, the making and obtaining of all Third Party and governmental filings, authorizations, approvals, consents, releases and terminations); and

(d) promptly make all filings and submissions as necessary and advisable to consummate the transactions contemplated by this Agreement, and promptly provide the Seller with copies of all correspondence, filings, or communications between Purchaser or its representatives and any governmental agency or authority or members of their staffs with respect to such filings and submissions.

4.10 Bankruptcy Actions.

(a) Submission For Bankruptcy Court Approval. As promptly as practicable, but in no event later than five Business Days after the date hereof, the Seller shall file with the Bankruptcy Court, and seek a hearing on, a motion (i) seeking the approval of the Bidding Procedures (as defined below) and (ii) authorizing the observance and performance of such terms by the Seller and the Purchaser.

(b) Competitive Bidding. The Seller acknowledges that this Agreement is the culmination of an extensive process to identify and negotiate a transaction with a bidder who is prepared to pay the highest and best purchase price for the Purchased Assets. Set forth on Exhibit B hereto are the bidding procedures (the "Bidding Procedures") to be employed with respect to this Agreement concerning the sale of the Purchased Assets to the Purchaser; provided, that the Purchaser reserves the right to further comment on the form of the order of the Court approving the Bidding Procedures (the "Bidding Procedures Order"). The Sale is subject to competitive bidding only as set forth herein and approval by the Court at a hearing under section 363 of the Bankruptcy Code (the "Sale Hearing").

(c) Assumption and Assignment of Assumed Contracts. Within 20 Business Days prior to the Sale Hearing, the Seller shall move to assume and assign to the Purchaser the Assumed Contracts (as defined below) and shall provide notice thereof in accordance with all applicable Bankruptcy Rules (the "Section 365 Motion"). On or before August 8, 2003, the Seller will deliver to the Purchaser a true, correct, and complete list of the Estimated Cure Costs of the Pre-Petition Contracts. Within 5 Business Days of such delivery, the Purchaser shall notify the Seller of the Pre-Petition Contracts that the Purchaser has selected for the Seller to assume and assign to Purchaser at the Closing (the "Initial Assumed Contracts"). The Seller shall promptly file with the Bankruptcy Court a schedule (the "Cure Amount Schedule") of each of such selected Pre-Petition Contracts. As soon as practicable thereafter, and in any event, no later than two

Business Days after the Cure Amount Schedule is filed with the Court, the Seller shall provide notice to the other parties to such contracts (A) of the Seller's intention to assume, assign, and transfer such designated contracts to the Purchaser; (B) of the Cure Cost, if any, required to be paid under each such contract; and (C) containing such other matters as requested by the Purchaser.

(d) In addition, at any time that is at least fifteen (15) Business Days prior to the Closing, Purchaser may notify the Seller of its intention to assume any additional Pre-Petition Contract(s) of the Business that (i) has not otherwise been rejected, assumed, or assigned by the Seller and (ii) is not the subject, as of the date of such notice, of a pending Court motion of the Seller to reject, assume, or assign (the "Additional Assumed Contracts") and together with the Initial Assumed Contracts, the "Assumed Contracts"). As soon as practicable after the date of receipt of such notice from the Purchaser with respect to the Additional Assumed Contracts, the Seller shall, pursuant to a motion in form and substance acceptable to the Purchaser, move to assume and assign the Additional Assumed Contracts to the Purchaser, and shall provide notice thereof in accordance with all applicable Bankruptcy Rules. The Seller shall not reject any Contract of the Business prior to the Closing Date without the written consent of the Purchaser. The Purchaser shall not be obligated to provide the Seller with any additional consideration in connection with any such assumption and assignment of the Additional Assumed Contracts. ~~The Seller shall not reject any Contract of the Business prior to the Closing Date without the consent of the Purchaser.~~ In, provided, that in connection with any such assumption and assignment of the Assumed Contracts, the Purchaser shall be responsible for any Cure Costs payable pursuant to the Additional Assumed Contracts in order to cure any defaults or otherwise effectuate, pursuant to section 365 of the Bankruptcy Code, the assumption by the Seller and assignment to the Purchaser of the Additional Assumed Contracts. The Seller shall be responsible for any Cure Costs payable pursuant to the Initial Assumed Contracts in order to cure any defaults or otherwise effectuate, pursuant to section 365 of the Bankruptcy Code, the assumption by the Seller and assignment to the Purchaser of the Initial Assumed Contracts.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF THE SELLER

To induce the Purchaser to enter into this Agreement and to consummate the transactions contemplated hereunder, FSI and PAC, jointly and severally, make the following representations and warranties.

5.1 **Organization, Power and Authority; Subsidiaries.** Each of FSI and PAC is validly existing and in good standing in its respective jurisdiction of incorporation. Each of FSI and PAC is legally qualified to transact business in each of the jurisdictions in which their businesses or properties are located such as to require that they be thus qualified other than if such failure to be so qualified would not have a Material Adverse Effect, and they are in good standing in each of the jurisdictions in which they are so qualified.

5.2 Capitalization; Ownership of Purchased Assets. FSI is the sole stockholder (directly or through one or more subsidiaries) of PAC. At the Closing, the applicable Seller will own the applicable Purchased Assets free and clear of all Liens except Permitted Liens. Subject to the Sale Order, Seller on the Closing Date will have, the completed and unrestricted power to sell, transfer, convey and deliver to Purchaser the Purchased Assets, free and clear of any Liens except Permitted Liens. The Purchased Assets and the Excluded Assets are all the assets and properties used solely/primarily in connection with the conduct of the Business.

5.3 Financial Statements. Attached hereto as Schedule 5.3 are the following financial statements, including the notes pertaining thereto (the "Financial Statements"), of FSI on a consolidated basis:

- (a) balance sheets at December 31, 2002 and December 31, 2001;
- (b) balance sheet at June 30, 2003 (the "Last Balance Sheet");
- (c) statements of income for the years ended December 31, 2002 and December 31, 2001; and
- (d) statement of income for the six-month period ended June 30, 2003.

The Financial Statements present fairly and are true, correct and complete statements of the financial position of the Business, in all material respects, at each of the said balance sheet dates and of the results of its operations for each of the said periods covered, and they have been prepared in accordance with the Seller's existing accounting practices and procedures consistently applied from period to period except as set forth in Schedule 5.3.

5.4 Liabilities. The Business has no liabilities or obligations, either accrued, absolute, contingent or otherwise, except: (i) liabilities set forth on the Last Balance Sheet and not heretofore paid or discharged; (ii) to the extent specifically set forth in any of the schedules hereto; (iii) normal liabilities incurred in the ordinary course of business since the date of the Last Balance Sheet and (iv) obligations and liabilities that are not required by existing practices, consistently applied, from period to period to be set forth in a balance sheet prepared in accordance with existing practices, consistently applied; from period to period.

5.5 Real Estate.

5.5.1 Schedule 5.5.1 sets forth the street address of all real estate owned by in connection with the Business (the "Owned Real Estate"). The Seller has good, valid, marketable and indefeasible fee simple title to, and is in actual, exclusive possession of, the Owned Real Estate. On the Closing, the Owned Real Estate will be free and clear of all Liens, other than as set forth on Schedule 5.5.1-5.5.1 and Permitted Liens.

5.5.2 Schedule 5.5.2 contains an accurate list of each lease agreement with respect to the Business' leasehold premises (the "Leases"). The properties leased pursuant to the Leases, together with the Owned Real Estate, constitute all real property used by the Business in the twelve months prior to the Closing Date.

5.5.3 The Seller has valid leasehold interests in the Leases, free and clear of any Liens, except for (i) other than Permitted Liens for real estate taxes not yet due and payable; and (ii) such imperfections of title and encumbrances, if any, as are not material in character, amount or extent and do not materially detract from the value, or interfere with the present use, of such properties.

5.6 **Good Title to and Condition of Assets.** On the Closing Date, the applicable Seller will have possession of and good and marketable title to all of its assets, free and clear of any Liens, except as set forth in Schedule ~~5.6~~ 5.6 and Permitted Liens.

5.7 **Intellectual Property Rights.** Schedule 5.7 contains an accurate and complete list of all of the material Intellectual Property relating primarily to the products or business of the Business, except for off-the-shelf software and licenses implied in the sale of such software. To Knowledge of Seller, (i) the Seller is the sole and exclusive owners of such proprietary rights and (ii) there are no claims, demands or proceedings pending or threatened to the Seller that challenge the Seller's rights with regard thereto.

5.8 **Power, Authority, Execution and Delivery.** The Seller has all requisite corporate power and authority to enter into this Agreement and all other agreements contemplated hereby and to perform its obligations hereunder and thereunder, subject to the approval of the Bankruptcy Court. The Seller has duly executed and delivered this Agreement. This Agreement is valid and binding upon the Seller, enforceable against it in accordance with ~~its~~ its terms, subject to the approval of the Bankruptcy Court.

5.9 **Absence of Litigation.** Other than as set forth on Schedule 5.9, there is no action, suit or proceeding pending or, to the Knowledge of Seller, threatened against or affecting the Seller or the Seller's property before any court, arbitrator or governmental body, agency or official which would have a Material Adverse Effect.

5.10 **Governmental Authorization; Consents.** Except for consents, approvals, authorizations, or declarations of, or filings with, the Bankruptcy Court (all of which will be obtained prior to Closing), the execution, delivery and performance by the Seller of this Agreement require no action by or in respect of, or filing with, any Governmental Body other than as set forth on Schedule 5.10. No consent, approval, waiver or other action by any private party under any contract, agreement, indenture, lease, instrument or other document to which the Seller or the Business is a party or by which the Seller or the Business is bound is required for the execution, delivery and performance of this Agreement by the Seller or the consummation of the transactions contemplated hereby.

5.11 **Due Authorization; Binding Obligation; No Conflicts.** The execution, delivery and performance of this Agreement and all other agreements contemplated hereby and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action of the Seller. This Agreement has been duly executed and delivered by the Purchaser and, subject to the approval of the Bankruptcy Court, is a valid and binding obligation of the Seller, enforceable in accordance with its terms. Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will, in any material respect: (i) contravene any provision of the certificate of incorporation or by-laws

of the Purchaser; (ii) violate or conflict with any federal, state or local law, statute, ordinance, rule, regulation or any decree, writ, injunction, judgment or order of any court or administrative or other governmental body or of any arbitration award which is either applicable to, binding upon or enforceable against the Seller; or (iii) conflict with, result in any breach of or default (or an event which would, with the passage of time or the giving of notice or both, constitute a default) under any material mortgage, contract, agreement, lease, license, indenture, will, trust or other instrument that is either binding upon or enforceable against the Seller.

5.12 Compliance with Laws. Each of Seller and the Business are in compliance in all material respects with all material Laws applicable to it. The Seller has not, and, to its Knowledge, none of its Affiliates has been cited, fined or otherwise notified in writing of any asserted failure to comply with any Laws, the violation of which could reasonably be expected to have a Material Adverse Effect, and no proceeding with respect to any such violation is now pending or, to the Knowledge of Seller, has been threatened.

5.13 Purchased Assets and Related Matters. There are no contractual rights of first refusal with respect to the sale of the Purchased Assets hereunder.

5.14 Insurance. To Seller's Knowledge, all insurance policies currently held or insurance coverage relating to the Business or the Purchased Assets are set forth on Schedule 5.14.

5.15 Environmental. Except as disclosed on Schedule 5.15, (i) the ~~Owner~~Transferred Real Estate Property and Purchased Leasehold Premises are in compliance with Environmental Laws; (ii) there is no Release or threatened Release of any Hazardous Materials in, on, at or from the ~~Owned~~Transferred Real Estate Property that requires or may require Remedial Action or that may form the basis of any Environmental Liabilities; ~~and~~ (iii) there is no Release or threatened Release of Hazardous Materials in, on, at, or from the Purchased Leasehold Premises that is attributable to the Business or the Purchased Assets, ~~and~~ (iv) the Plan of Reorganization provides that the proof of claim filed by the South Coast Air Quality Management District for the notice of violation for compliance for 1999 shall be treated as a general unsecured claim and be discharged pursuant to the terms of the Plan of Reorganization and Purchaser shall have no liability for any amount owed or claimed to be owed to the South Coast Air Quality Management District.

5.16 Disclaimer of Other Representations and Warranties.

(a) Seller does not make, and has not made, any representations or warranties relating to the Seller, the Purchased Assets or the Business, or the operations of Seller or the Business or otherwise in connection with the transactions contemplated hereby other than those expressly set forth herein. Except for those representations and warranties expressly stated herein, no Person has been authorized by any Seller or the Business to make any representation or warranty relating to any Seller or the Business or otherwise in connection with the transactions contemplated hereby and, if made, such representation or warranty must not be relied upon as having been authorized by the Seller.

(b) Notwithstanding anything to the contrary contained in this Agreement or in any of the Schedules attached hereto, any information disclosed in one Schedule shall be deemed to be disclosed in all Schedules but only when it is reasonably likely that such multiple disclosures are deemed to be disclosed in such other Schedules. Certain information set forth in the Schedules is included solely for informational purposes and may not be required to be disclosed pursuant to this Agreement. The disclosure of any information shall not be deemed to constitute an acknowledgment that such information is required to be disclosed in connection with the representations and warranties made by Seller in this Agreement or that it is material, nor shall such information be deemed to establish a standard of materiality.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

To induce the Seller to enter into this Agreement and to consummate the transactions contemplated hereunder, the Purchaser makes the following representations and warranties.

6.1 Organization, Power and Authority. Each Purchaser is a corporation validly existing and in good standing under the laws of the State of Texas, and has all requisite corporate power and authority to enter into this Agreement and all other agreements contemplated hereby and to perform its obligations hereunder and thereunder. Each Purchaser has delivered true and correct copies of its Articles of Incorporation and Code of Regulations to the Seller. Such Articles of Incorporation and Regulations will be in full force and effect as of the Closing without amendment.

6.2 Due Authorization; Binding Obligation; No Conflicts. The execution, delivery and performance of this Agreement and all other agreements contemplated hereby and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action of the Purchaser. This Agreement has been duly executed and delivered by the Purchaser and is a valid and binding obligation of the Purchaser, enforceable in accordance with its terms. Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will, in any material respect: (i) contravene any provision of the certificate of incorporation or by-laws of the Purchaser; (ii) violate or conflict with any federal, state or local law, statute, ordinance, rule, regulation or any decree, writ, injunction, judgment or order of any court or administrative or other governmental body or of any arbitration award which is either applicable to, binding upon or enforceable against the Purchaser; or (iii) conflict with, result in any breach of or default (or an event which would, with the passage of time or the giving of notice or both, constitute a default) under any material mortgage, contract, agreement, lease, license, indenture, will, trust or other instrument which is either binding upon or enforceable against the Purchaser.

6.3 Litigation. There are no actions, suits, claims, governmental investigations or arbitration proceedings pending or, to the best of the Purchaser's knowledge, threatened against or affecting the Purchaser, or which question the validity or enforceability of this Agreement or any action contemplated herein, and there is no basis for any of the foregoing. There are no

outstanding orders, decrees or stipulations issued by any federal, state, local or foreign judicial or administrative authority in any proceeding to which the Purchaser is or was a party.

6.4 Compliance with Laws. The Purchaser is in compliance in all material respects with all laws, regulations and orders applicable to it. The Purchaser has not, and, to its knowledge, none of its affiliates has been cited, fined or otherwise notified in writing of any asserted failure to comply with any laws, including those relating to the issuance and the sale of securities, the violation of which could reasonably be expected to have a Material Adverse Effect on the current and prospective operations and business of the Purchaser and no proceeding with respect to any such violation is now pending or, to the Purchaser's knowledge, has been threatened.

6.5 Financial Performance. Purchaser has sufficient financial resources to perform in a timely manner all of its obligations under this Agreement.

ARTICLE VII

CERTAIN ACTIONS AFTER THE CLOSING

7.1 Employees of the Business. (a) The Purchaser shall offer to employ any personnel currently employed by the Business (whether salaried or hourly, union or non-union and full time or part time, including employees on vacations, maternity and family leave, sick or short-term disability leave and leave under the Family Medical Leave Act but excluding employees on long-term disability) on the same terms and for the same compensation and other substantially similar (in the aggregate) benefits (including prior service credit for eligibility, vesting and accrual of benefits) to which they are entitled to on the date hereof. The Purchaser shall offer such employees health and other welfare benefits which in the aggregate are not materially less advantageous than current at least as favorable in terms of coverage, cost or otherwise as the comparable health and welfare benefits offered by the Seller. Such employees and their dependents shall receive credit under health and welfare plans for deductibles paid by them for the plan year and the health and welfare plans of the Purchaser shall not contain any "pre-existing conditions" exclusions or limitations or "actively at work" requirement. Seller agrees not to discourage any employees of the Business who are not otherwise involved in the businesses of the Seller from accepting employment with the Purchaser. Notwithstanding any provision contained to the contrary, employees covered by the HL CBA shall be subject to the terms and conditions of employment contained in the HL CBA which will be assumed by Purchaser.

(b) Purchaser shall provide continuation coverage pursuant to Section 4980B of the Code and Part 6 of Title I of ERISA enacted as part of the COBRA under a health and welfare benefit plan of the Purchaser or a member of the Purchaser's "buying group" (as defined in Treas. Reg. Section 4980B-9, Q&A-3(b)) to all employees who are offered employment by the Purchaser pursuant to Section 7.1(a). Seller shall provide continuation coverage pursuant to Section 4980B of the Code and COBRA to with respect to all other employees associated with the Purchased Assets whose "qualifying event" under COBRA occurred prior to the offer made to employees pursuant to Section 7.1(a).

(c) In the event that the termination of employees by the Purchaser results in an event that is subject to WARN, Purchaser shall be responsible for providing the required notices under WARN to the appropriate parties and shall be responsible for any payments or benefits to affected employees and any penalties or fines resulting from failure to comply with WARN. Purchaser shall fully indemnify and hold the Seller harmless with respect to any liability under WARN.

7.2 Books and Records. Unless otherwise consented to in writing by the Seller, the Purchaser will not, for a period of seven years following the date hereof, destroy, alter or otherwise dispose of any of the Records without first using commercially reasonable efforts to offer to surrender to the Seller such Records or any portion thereof of which the Purchaser may intend to destroy, alter or dispose. The Purchaser will allow the Seller and its representatives, attorneys and accountants reasonable access to such Records, upon reasonable request for access during such party's normal business hours, for the purpose of examining and copying the same in connection with any matter whether or not related to or arising out of this Agreement or the transactions contemplated hereby.

7.3 Use of Name. From and after the Closing, Purchaser shall own all of the corporate names, trade names and trademarks used solely by the Business, except for the name "Fansteel" and all variations thereof that include the "Fansteel" name. Purchaser shall use its best efforts to avoid the use of the "Fansteel" name in its business after the Closing. Seller shall, promptly following the Closing Date, change their names to delete any reference to the corporate names, trade names or trademarks used by the Business and transferred to the Purchaser hereunder (and file with the appropriate governmental authorities any certificates or instruments required to effect such name changes).

7.4 Postal Addresses. Seller and Purchaser will cooperate to transfer postal addresses to the nominee of the Purchaser, in all cases in which such postal addresses are used by the Business.

7.5 Termination of Lease Agreement. Immediately upon the Closing, FSI and PAC shall terminate that certain lease agreement between PAC and FSI with respect to the PAC Assets.

7.6 Agreement to Turn Over Assets of the Other. Each of the Seller and the Purchaser agree that, to the extent that it becomes aware that it has possession or subsequently acquires possession of an asset or property which, under the provisions of this Agreement, is the property of the other party hereto, it shall make available such assets to the other party and shall do such other acts and/or execute such further deeds and documents as the other party shall reasonably require to vest the assets or property in question in accordance with the terms and conditions of this Agreement.

7.7 Access to Purchased Assets Located on Seller's Premises. Until the Indemnity Termination Date, Seller agrees that it will hold any Purchased Asset that is not located on any Transferred Real Property or Purchased Leasehold Property for the benefit of the Purchaser in the Seller's ordinary course and shall provide Purchaser with reasonable access during regular business hours to the premises on which such Purchased

Asset is located so that the Purchaser may remove such Purchased Assets at the Purchaser's expense; provided, that (i) the Purchaser waives any obligation on the part of the Seller to provide any security or protection for such Purchased Assets, it being agreed that the insurance therefor shall be at the Purchaser's expense, (ii) the Purchaser provides the Seller with reasonable notice prior to the removal of the Purchased Asset and (iii) the Purchaser hereby agrees to indemnify and hold harmless the Seller from any loss or damage arising from or in connection with the Seller's retention (other than a breach of Seller's obligations under this Section 7.7) or the Purchaser's removal of such Purchased Assets. Notwithstanding the foregoing, if at any time the Seller shall sell, transfer or assign the property on which any Purchased Asset is located, Seller shall provide Purchaser with at least 30 days written notice thereof and the Seller's obligations and the rights of Purchaser under this Section 7.7 shall terminate with respect to such Purchased Asset on the termination of such notice period. On the Indemnity Termination Date, all rights to and title in any Purchased Asset that has not been removed from Seller's premises shall revert back to Seller as having been deemed abandoned by Purchaser and Purchaser shall have no further right to such Purchased Assets or any proceeds therefrom.

ARTICLE VIII

TERMINATION

8.1 Termination. This Agreement may be terminated, at any time prior to the Closing, except as set forth in clause (a) below:

(a) by the Purchaser, at any time up to and including the day prior to the date that is initially scheduled by the Bankruptcy Court for the hearing to consider approval of the Bidding Procedures Order (the "Bidding Procedures Hearing Date"), by delivery of a notice to the Seller on or before such date that the Purchaser has through its due diligence or the delivery of the Schedules hereto discovered information that has in Purchaser's reasonable judgment a ~~material adverse impact on its determination to complete the transactions contemplated hereby or on the Purchaser's ability to complete such transactions, which notice shall specify such information~~ Material Adverse Effect;

(b) by mutual written consent of the Seller and the Purchaser;

(c) by the Seller or the Purchaser if there has been a material misrepresentation or breach on the part of the other Party of the representations, warranties or covenants set forth in this Agreement and a failure to cure within ten Business Days after reasonable notice thereof is provided or if events have occurred which have made it impossible to satisfy a condition precedent to the terminating Party's obligations to consummate the transactions contemplated hereby unless such terminating Party's willful or knowing breach of this Agreement has caused the condition to be unsatisfied;

(d) by the Seller or the Purchaser if the Bankruptcy Court approves a Successful Bid (as defined in the SalesBid Procedures Order) that is submitted by a party other than the Purchaser and such sale is consummated;

(e) automatically if the Closing has not occurred on or prior to November 30, 2003, unless a party's willful or knowing breach of this Agreement has prevented the consummation of the transactions contemplated hereby at or prior to such time, in which case the nonbreaching party may elect to extend or terminate this Agreement; and

(f) by the Purchaser if the Bankruptcy Court has not entered the Sales Bid Procedures Order by September 30, 2003;

8.2 Effect of Termination.

(a) In the event (i) this Agreement is terminated pursuant to Section 8.1(d) and (ii) the sale of all or substantially all of the Purchased Assets is consummated within 6 months after the date of the Sale Hearing, then Seller shall be obligated to pay the Purchaser an amount equal to \$350,000 (the "Termination Payment"). Any Termination Payment payable upon termination of this Agreement shall be immediately earned and payable by the Seller to the Purchaser upon such termination.

(b) In the event of termination of this Agreement as provided in Section 8.1, this Agreement shall forthwith become void and there shall be no Liability on the part of any Party to any other Party under this Agreement, other than (i) the return of the Deposit to the Purchaser to the extent required under Section 3.2 above, and (ii) the payment of the Termination Payment (if applicable), and except that nothing herein shall relieve any Party (including Burkhardt under Section 11.15) from Liability for any knowing and willful breach of this Agreement prior to such termination.

ARTICLE IX

INDEMNIFICATION

9.1 **Agreements to Indemnify.** As used in this Agreement, "Indemnifiable Damages" means, without duplication, the aggregate of all expenses, losses, costs, deficiencies, liabilities and damages (including reasonable counsel and paralegal fees and expenses) incurred or suffered by a Party (or any other Person covered by this Section 9.1), on a pre-tax basis, to the extent resulting from (i) any breach by the other Party of any representation or warranty made by such other Party in this Agreement (a "Breach of Warranty Claim"); (ii) any violation by the other Party of any covenant or agreement made by such other Party in this Agreement (unless waived in writing by the Party making the claim); or (iii) in the case of indemnification claims of the Purchaser Parties (as defined below), any of the following items (in each case regardless of any disclosure made by the Seller on the disclosure schedules attached hereto): (I) any income, sales or other taxes payable by the Business prior to or as of the Closing Date, including, in each case, any interest or penalties related thereto; (II) any Environmental ~~Liability~~ Liabilities arising out of Releases or threatened Releases of Hazardous Substances in, on, at or from the Transferred Real Property or the Purchased Leasehold Premises attributable to acts or omissions of the Business or the Seller that occurred prior to the Closing; (III) any liability of the Business under any 401(k) or other employee benefit plan, including related taxes, contributions and all other liabilities and expenses related thereto, except to the extent specifically assumed by the Purchaser pursuant to this Agreement; (IV) any liability under any indebtedness for borrowed

money of the Business existing immediately prior to the Closing (except to the extent specifically assumed by the Purchaser pursuant to this Agreement); and (V) any liability for any violation of any law, statute, rule or regulation by the Business or any of its directors, officers, employees or agents prior to the Closing.

9.1.1 Subject to the limitations provided for herein, the Seller agrees that it will indemnify and hold the Purchaser and its officers, directors, employees, shareholders, agents, successors and assigns (the "Purchaser Parties") harmless in respect of all Indemnifiable Damages suffered by the Purchaser Parties.

9.1.2 The Purchaser shall indemnify the Seller and its officers, directors, employees, shareholders, agents, heirs, successors and assigns (collectively, the "Seller Parties") and hold each of them harmless in respect of all Indemnifiable Damages suffered by the Seller Parties.

9.1.3 Each of the representations and warranties made by the Parties in this Agreement shall survive until June 30, 2004 (the "Indemnity Termination Date"), notwithstanding any investigation at any time made by or on behalf of any party; and ~~after the expiration of the Indemnification Period~~ such representations and warranties shall immediately expire as of the Indemnity Termination Date. The Purchaser acknowledges and consents that after Closing its sole and exclusive remedy for Indemnifiable Damages shall be to proceed directly against the Indemnity Note and the Purchaser expressly waives any other rights it may have against Seller under common or statutory law for any Environmental Liabilities. Furthermore, the Purchaser acknowledges that it shall have no recourse for Indemnifiable Damages after the Indemnity Note has been fully set off against or distributed. The Seller will not be liable for any Indemnifiable Damages unless and until the aggregate amount of Indemnifiable Damages exceeds two percent (2%) of the Cash Portion, after which time the Seller will only be liable for the Indemnifiable Damages which exceed two percent (2%) of the Cash Portion. The aggregate amount of all payments made by the Seller (by set-off against the Indemnity Note) in satisfaction of Indemnifiable Damages shall not exceed \$850,000 and the amount exclusive source of such payments shall be the right of set off of amounts due under the Indemnity Note.

~~9.1.4 The Purchaser acknowledges and agrees that any disclosure made by the Seller on any schedule to this Agreement shall be deemed to have been made to each of the other schedules to this Agreement as to which such disclosure is relevant.~~

9.2 Settlement of Claims.

9.2.1 The Party or Parties seeking indemnification under Section 9.1 (the "Indemnified Party") shall give written notice (a "Claim Notice") to the other Party or Parties, as the case may be (the "Indemnifying Party") after receiving written notice of any action, lawsuit, proceeding, investigation or other claim against it (if by a third party) or discovering the liability, obligation or facts giving rise to such claim for indemnification and in any event within the period specified in subsection 9.1.3, describing the claim, the amount thereof (if known and quantifiable), and the basis thereof; provided that the failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of its or his obligations hereunder except to the extent

such failure shall have materially prejudiced the Indemnifying Party. If any action, lawsuit, proceeding, investigation or other claim shall be brought or asserted by any third party which, if adversely determined, would entitle the Indemnified Party to indemnity pursuant to Section 9.1, the Indemnified Party shall promptly notify the Indemnifying Party of the same in writing, specifying in detail the basis of such claim and the facts pertaining thereto and the Indemnifying Party shall:

(i) be entitled to participate in the defense of such action, lawsuit, proceeding, investigation or other claim giving rise to the Indemnified Party's claim for indemnification at its expense, and

(ii) at its option (subject to the limitations set forth below), if, but only if, the Indemnifying Party gives notice of such election to the Indemnified Party within 10 days after receiving notice of such action, lawsuit, proceeding, investigation or other claim, shall be entitled to appoint lead counsel of such defense with reputable counsel reasonably acceptable to the Indemnified Party and assume control of such defense; provided that in the event the Indemnifying Party elects to assume control of such defense, it shall:

(a) be fully responsible for all Indemnifiable Damages relating to such claims and ~~that it will~~ provide full indemnification to the Indemnified Party for all such Indemnifiable Damages relating to such claim, and

(b) unconditionally guarantee the payment and performance of any liability or obligation which may arise with respect to such claim or the facts giving rise to such claim for indemnification, and

(c) furnish the Indemnified Party with reasonable evidence that the Indemnifying Party is and will be able to satisfy any such liability;

and provided further that the Indemnifying Party shall not have the right to assume control of such defense, and shall pay the fees and expenses of counsel retained by the Indemnified Party, if the claim which the Indemnifying Party seeks to assume control (i) seeks non-monetary relief, (ii) involves criminal or quasi-criminal allegations solely against the Indemnified Party, (iii) involves a claim as to which the Indemnified Party reasonably believes an adverse determination would materially injure the Indemnified Party's reputation or future business prospects, or (iv) involves a claim which, upon petition by the Indemnified Party, the Indemnifying Party failed or is failing to vigorously prosecute or defend.

9.2.2 If the Indemnifying Party is permitted to assume and control the defense and elects to do so, the Indemnified Party shall have the right to employ counsel separate from counsel employed by the Indemnifying Party in any such action and to participate in the defense thereof, but the fees and expenses of such counsel employed by the Indemnified Party shall be at the expense of the Indemnified Party unless (i) the employment thereof has been specifically authorized by the Indemnifying Party in writing, or (ii) the Indemnifying Party has been advised by counsel that a reasonable likelihood exists of a conflict of interest between the Indemnifying Party and the Indemnified Party.

9.2.3 If the Indemnifying Party shall control the defense of any such claim, the Indemnifying Party shall obtain the prior written consent of the Indemnified Party before entering into any settlement of a claim or ceasing to defend such claim, if pursuant to or as a result of such settlement or cessation, an injunction or other equitable relief will be imposed against the Indemnified Party or if such settlement does not expressly, unconditionally and irrevocably release the Indemnified Party from all liabilities and obligations with respect to such claim, with prejudice.

~~9.2.4 The Indemnifying Party shall pay the Indemnified Party in immediately available funds (in U.S. Dollars) promptly after the Indemnified Party provides the Indemnifying Party with written notice of a claim hereunder and the Parties reasonably agree that there is a reasonable basis for such claim.~~

9.2.4 9.2.5—Amounts paid to or on behalf of any party under Section 9.1 as indemnification shall be treated as adjustments to the Purchase Price.

9.3 Satisfaction of Indemnification Claims by the Purchaser Parties.

9.3.1 The Purchaser may set off against the Indemnity Note any Indemnifiable Damages for which the Seller is responsible under Section 9.1, subject, however, to the terms and conditions of this Section 9.3.

9.3.2 The amount of Indemnifiable Damages to be set off against the Indemnity Note (the "Set Off Amount") shall be (x) the full amount of the claim made in such Claim Notice if the Seller either agreed to such amount or failed to respond to such Claim Notice in writing within ten (10) business days after the date of delivery of such Claim Notice (the "Contest Period") or (y) if such claim is contested by the Seller prior to the end of the Contest Period, the amount of the claim that is either agreed to by the parties or the amount of any final, non-appealable judgment on such claim.

9.3.3 On the first Business Day following the Indemnity Termination Date, the Purchaser shall pay any remaining portion of amount due under the Indemnity Note to the Purchase Price Escrow; provided that if any claim made in a Claim Notice delivered on or prior to the Indemnity Termination Date has been properly contested by the Seller and has not either been resolved by the parties or is not subject to a final, nonappealable judgment (each, an "Unresolved Claim"), then the Purchaser shall be entitled to continue to withhold payment of all or such portion of the Indemnity Note equal to the amount of such Unresolved Claim until such claim is agreed to by the parties or any final, non-appealable judgment is rendered with respect to such claim, at which time the Purchaser shall set off the amount of such Unresolved Claim against the Indemnity Note being held in respect of such Unresolved Claim and pay any remaining portion of the Indemnity Note to the Purchase Price Escrow. Burkhardt shall be jointly and severally liable with the Purchaser for the payment of any amounts owing by the Purchaser to the Seller or the Purchase Price Escrow pursuant to this Section.

ARTICLE X

ACCESS TO INFORMATION

10.1 Seller will cooperate with Purchaser in providing any information reasonably requested by Purchaser for its evaluation of the Business and the Purchased Assets. Seller will permit Purchaser and its agents access during business hours to Seller's books, records, environmental reports and analyses, premises, personnel records, accounting records, corporate records and such other information reasonably requested by Purchaser that relate to the Business or the Purchased Assets.

10.2 Seller shall permit Purchaser and its representatives after the date of execution of this Agreement to have reasonable access, during regular business hours and upon reasonable advance notice, to the properties, officers and employees of Seller (and Seller shall use their commercially reasonable efforts to cause Seller's outside independent accountants to be available to Purchaser on the same basis), and shall furnish, or use their commercially reasonable efforts to cause to be furnished, to Purchaser any financial and operating data, tax information, books and records, contracts and documents and other information that is available with respect to Seller and the Purchased Assets as Purchaser shall from time to time reasonably request, provided that such access does not materially interfere with the normal business operations of the Seller; and provided ~~however~~ further, that Purchaser agrees not to collect any soil or ground water samples as part of its environmental due diligence on any of the Seller's properties.

10.3 All information provided or obtained pursuant to Sections 10.1 and 10.2 shall be held by Purchaser in accordance with and subject to the terms of the Confidentiality Agreement, all of the terms of which shall remain in full force and effect notwithstanding the execution and delivery of this Agreement or the termination hereof, and Purchaser agrees to be bound by the terms of the Confidentiality Agreement to the same extent as if it were party thereto.

ARTICLE XI

MISCELLANEOUS

11.1 **Survival of Representations and Warranties.** The representations, warranties, covenants and agreements of all parties contained in this Agreement or in any instrument delivered pursuant to this Agreement, including any rights arising out of any breach of such representations, warranties, covenants and agreements, shall terminate as of June 30, 2004, and shall thereafter have no force or effect, except for those covenants and agreements contained herein and therein that by their terms are required to be performed after such date.

11.2 **Transaction Expenses.** The Purchaser will indemnify and hold harmless the Seller from the commission, fee or claim of any person, firm or corporation employed or retained or claiming to be employed or retained by the Purchaser to bring about, or to represent it in, the transactions contemplated hereby. The Seller will indemnify and hold harmless the Purchaser from the commission, fee or claim of any person, firm or corporation employed or retained or claiming to be employed or retained by the Seller to bring about, or to represent any of them in, the transactions contemplated hereby. In addition, each party shall pay its own expenses

(including legal and accounting fees) incident to the negotiation and preparation of this Agreement and any other documents prepared in connection therewith, and the consummation of the transactions contemplated herein.

11.3 Amendment and Modification. The parties hereto may amend, modify and supplement this Agreement in such manner as may be agreed upon by all of them in writing.

11.4 Entire Agreement. This Agreement, including the exhibits, schedules, certificates and other documents and agreements delivered on the date hereof in connection herewith, contains the entire agreement of the parties hereto with respect to the purchase of the Purchased Assets and the other transactions contemplated herein, and supersedes all prior understandings and agreements (oral or written) of the parties with respect to the subject matter hereof. The parties expressly represent and warrant that in entering into this Agreement they are not relying on any prior representations made by any other party concerning the terms, conditions or effects of this Agreement which terms, conditions or effects are not expressly set forth herein. Any reference herein to this Agreement shall be deemed to include the schedules and exhibits.

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

11.6 Notices. Any notice, consent, approval, request, acknowledgment, other communications or information to be given or made hereunder to any of the parties by any other party shall be in writing and delivered personally or sent by certified mail, postage prepaid, as follows, or by facsimile to the fax number listed below (provided that, for a facsimile, a copy is also sent promptly by U.S. mail, certified mail or overnight delivery service):

If to the Seller addressed to the Seller at:

Prior to the Closing:

Fansteel Inc.
One Tantalum Place
North Chicago, IL 60064
Attn: Chief Executive Officer
Fax: (847) 689-0307

with copies to:

Schulte Roth & Zabel LLP
919 Third Avenue
New York, NY 10022
Attn: André Weiss and Jeffrey S. Sabin
Fax: (212) 593-5955

Freeborn & Peters
311 South Wacker Drive

Suite 3000
Chicago, Illinois 60606
Attn: Frances Gecker and Joseph D. Frank

If to the Purchaser or Burkhardt, addressed to:

Stoutheart East Corporation
Post Office Box 39217
Solon, Ohio 44139
Attn: Richard Burkhardt
Fax: (440) 914-9777

Personal and Overnight Deliveries to:

Stoutheart East Corporation
6130 Cochran Road
Solon, Ohio 44139

with a copy to:

Benesch, Friedlander, Coplan & Aronoff LLP
2300 BP Tower, 200 Public Square
Cleveland, Ohio 44114
Attn: James M. Hill
Fax: (216) 363-4588

Freeborn & Peters
311 South Wacker Drive
Suite 3000
Chicago, Illinois 60606
Attn: Frances Gecker and Joseph D. Frank

Any party may change the address to which notices hereunder are to be sent to it by giving written notice of such change of address in the manner herein provided for giving notice. Any notice delivered personally or by facsimile shall be deemed to have been given on the date it is so delivered, and any notice delivered by registered or certified mail shall be deemed to have been given on the date it is received.

11.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to conflicts of laws principles that would cause any state's laws, other than the laws of the State of Delaware, to apply.

11.8 Confidentiality; Publicity. Except as may be required by Law or as otherwise permitted or expressly contemplated herein, without the prior consent of the Purchaser, neither the Seller nor its Affiliates, agents or representatives shall (i) disclose to any Third Party the

31 DeltaView comparison of iManage://nydms1/NEWYORK/9472908/5 and
iManage://NYDMS1/NEWYORK/9472908/10. Performed on 08/06/03.

subject matter or terms of this Agreement or (ii) issue any press release or other public announcement related to this Agreement or the transactions contemplated hereby.

11.9 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the greatest extent possible.

11.10 Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto without the prior consent of the other parties, except that after the Closing, the Purchaser may assign its rights (but if so must also delegate its duties) to any person who acquires all or substantially all of the assets of the Purchaser or to an Affiliate of Purchaser.

11.11 Binding Effect; No Third-Party Beneficiaries. This Agreement shall inure to the benefit of, be binding upon and be enforceable by and against the Seller and the Purchaser and their respective successors and permitted assigns, and nothing herein expressed or implied shall be construed to give any other person any legal or equitable rights hereunder.

11.12 Negotiation Representations. Each party hereto expressly represents and warrants to all other parties hereto that (a) before executing this Agreement, said party has fully informed itself or himself of the terms, contents, conditions and effects of this Agreement; (b) said party has relied solely and completely upon its or his own judgment in executing this Agreement; (c) said party has had the opportunity to seek and has obtained the advice of counsel before executing this Agreement; (d) said party has acted voluntarily and of its or his own free will in executing this Agreement; (e) said party is not acting under duress, whether economic or physical, in executing this Agreement; and (f) this Agreement is the result of arm's-length negotiations conducted by and among the parties and their counsel.

11.13 Cumulative Remedies. All rights and remedies of either party hereto are cumulative of each other and of every other right or remedy such party may otherwise have at law or in equity, and the exercise of one or more rights or remedies shall not prejudice or impair the concurrent or subsequent exercise of other rights or remedies.

11.14 Bulk Transfer. The Purchaser and the Seller hereby waive compliance with any state's Uniform Commercial Code - Bulk Transfer provisions that may be applicable to the transactions contemplated hereby.

11.15 Guaranty. Burkhart hereby unconditionally, absolutely and irrevocably guarantees the punctual payment and performance when due, whether at stated maturity, by required prepayment, by acceleration or otherwise, of all amounts and pre-Closing obligations now or hereafter owing or due by the Purchaser to the Seller under this Agreement and agrees to

pay any and all expenses (including reasonable counsel fees and expenses) reasonably incurred by the Seller in enforcing any rights under this Section 11.15. Without limiting the generality of the foregoing, Burkhart's liability shall extend to the obligations of the Purchaser and that would be due from the Purchaser to the Seller but for the fact that they are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving the Purchaser. The guaranty owing hereunder shall expire on the Indemnity Termination Date except as to claims made against the Purchaser on or before the Indemnity Termination Date; provided, however, that the guaranty of the Indemnity Note shall not terminate until the later of the Indemnity Termination Date and the date on which all Unresolved Claims have been resolved pursuant to Section 9.3.3 and payment thereon made in full.

[SIGNATURE PAGE FOLLOWS]

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

FANSTEEL INC.

Gary L. Tessitore
By: Gary L. Tessitore
Its: President & CEO

PHOENIX AEROSPACE CORPORATION

Gary L. Tessitore
By: Gary L. Tessitore
Its: President & CEO

STOUTHEART EAST CORPORATION

Richard Burkhart
By: Richard Burkhart
Its: Corporate Secretary

WPC III INC.

Richard Burkhart
By: Richard Burkhart
Its: Corporate Secretary

Richard Burkhart
RICHARD BURKHART, as Guarantor
under Section 11.15

1. For the purposes of this Agreement, the following terms shall have the following meanings:

"Accrued Property Taxes" shall mean all property, ad valorem and other similar taxes levied by local and state governmental authorities on the personal and real property which comprises the Purchased Assets that are accrued on Seller's books as of the Closing Date.

"Accrued Sales Taxes" shall mean all sales, use and other similar taxes due in the ordinary course of business as a consequence of commercial transactions of the Business that are accrued on Seller's books as of the Closing Date.

"Affiliate" of any Person shall mean any Person that controls, is controlled by, or is under common control with such Person. As used herein, the term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or to cause the direction of the management and policies of a Person, whether through ownership of voting securities or other interests, by contract or otherwise.

"ANB" shall mean American National Bank and Trust Company of Chicago

"ANB Letter of Credit" shall mean the irrevocable direct pay letter of credit issued by ANB on behalf of FSI in the stated amount of \$1,169,114.17 as credit support for FSI's repayment obligations under the Industrial Revenue Bonds.

"Avoidance Actions" means the Debtors' causes of action for any avoidance or recovery action under sections 502, 506, 510, 541, 542, 543, 544, 545, 547, 548, 549, 550, 551, 553 and 724(a) of the Bankruptcy Code, or under related state or federal statutes and common law, including fraudulent transfers, whether or not litigation has been commenced with respect to such causes of action as of the Effective Date (as defined in the Plan of Reorganization).

"Bid Procedures Order" shall mean an order of the Bankruptcy Court, in a form reasonably acceptable to Purchaser, which shall set forth the procedures for the sale of the Purchased Assets with terms substantially as set forth on Exhibit B hereto.

"Business Day" shall mean a day, other than a Saturday or Sunday, on which banks are open for business in New York City, New York.

"Business" shall mean the business of manufacturing, distribution and sales of specialty metals which is currently conducted by the Divisions.

"Claims" shall mean any and all rights, claims, credits, allowances, rebates, causes of action, known or unknown, pending or threatened (including all Avoidance Actions) or rights of set-off.

"COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Contracts" shall mean any contract, lease, sublease, capitalized lease, agreement, license, Benefit Plan, collective bargaining agreement, or binding understanding, arrangement or commitment, including all amendments thereof and supplements thereto.

"Cure Costs" shall mean the amounts necessary to cure or remedy all defaults of Seller under each Pre-Petition Contract (without giving effect to any acceleration clauses relating to bankruptcy or insolvency) that must be cured pursuant to Section 365 of the Bankruptcy Code in connection with the assumption of the Pre-Petition Contracts.

"Deposit Escrow Agent" shall mean Schulte Roth & Zabel LLP.

"Deposit Escrow Agreement" shall mean an escrow agreement by and among the Seller, the Purchaser and the Deposit Escrow Agent substantially in the form attached hereto as Exhibit C hereto.

"DIP Credit Agreement" shall mean the Loan and Security Agreement, dated as of May 2, 2002, by and among Seller, the debtors named therein and Congress Financial Corporation (Central), as amended, supplemented, modified or any substitutions therefor.

"Environmental Claims" refers to any complaint, summons, citation, notice, directive, order, claim, litigation, investigation, notice of violation, judicial or administrative proceeding, judgment, letter or other communication from any governmental agency, department, bureau, office or other authority, or any Third Party involving violations of Environmental Laws or Releases of Hazardous Materials from any assets, properties or businesses of Seller, or any of the Subsidiaries from or onto any facilities which received Hazardous Materials generated by Seller or any of the Subsidiaries.

"Environmental Laws" includes the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq., as amended; the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., as amended; the Clean Air Act, 42 U.S.C. 7401 et seq., as amended; the Clean Water Act, 33 U.S.C. 1251 et seq., as amended; the Occupational Safety and Health Act, 29 U.S.C. 655 et seq., the Connecticut Transfer Act, C.G.S. § 22a-134 through 134e, and any other international, European, federal, state, local or municipal laws, treaties, statutes, regulations, rules, codes of practice, guidance notes, circulars or ordinances of any jurisdiction (whether foreign or domestic) imposing liability or establishing standards of conduct for protection of the environment.

"Environmental Liabilities" shall mean any monetary obligations, losses, liabilities (including strict liability), damages, punitive damages, consequential damages, treble damages, costs and expenses (including all reasonable out-of-pocket fees, disbursements and expenses of counsel, out-of-pocket expert and consulting fees and out-of-pocket costs for environmental site assessments, remedial investigation and feasibility studies), fines, penalties, sanctions and interest incurred as a result of any Environmental Claim filed by any Governmental Body or any Third Party which relate to any violations of Environmental Laws, Remedial Actions, Releases or threatened Releases of Hazardous Materials from or onto (i) any

property presently by Seller or any Acquired Subsidiary, or (ii) any facility which received Hazardous Materials generated by Seller or any Acquired Subsidiary.

"Equity Securities" shall mean, with respect to any Person, (i) capital stock of, partnership interests, membership interests or other equity interests in, such Person, (ii) securities convertible into or exchangeable for shares of capital stock, voting securities or other equity interests in such Person or (iii) options, warrants or other rights to acquire the securities described in clauses (i) and (ii), whether fixed or contingent, matured or unmatured, contractual, legal, equitable or otherwise.

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

"Estimated Cure Costs" shall mean Seller's estimate of Cure Costs as of the Closing Date.

"Final Order" means an order, ruling, or judgment of the Bankruptcy Court or any other court of competent jurisdiction as to which the time to appeal, petition for certiorari, or move for reargument or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for reargument or rehearing shall then be pending or, in the event that an appeal, writ of certiorari, or reargument or rehearing thereof has been sought, such order of the Bankruptcy Court or other court of competent jurisdiction shall have been determined by the highest court to which such order was appealed, or certiorari, reargument or rehearing shall have been denied and the time to take any further appeal, petition for certiorari, or move for reargument or rehearing shall have expired; *provided, however*, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous Bankruptcy Rule or applicable state court rules of civil procedure, may be filed with respect to such order shall not cause such order not to be a Final Order.

"Fixed Assets" means all furniture, furnishings, computers and other tangible personal property, whether affixed or moveable, owned or leased (pursuant to an executory contract or lease as defined under section 365 of the Bankruptcy Code) by Seller and located on any Purchased Leasehold Premise or Transferred Real Property.

"Governmental Body" shall mean (i) any legislative, executive, judicial or administrative unit of any governmental entity (foreign, federal, state or local) or any department, commission, board, agency, bureau, official or other regulatory, administrative or judicial authority thereof, (ii) any self-regulatory organization, agency or commission or (iii) any court or arbitral tribunal.

"Hazardous Materials" shall include, without regard to amount and/or concentration (a) any element, compound, or chemical that is defined, listed or otherwise classified as a contaminant, pollutant, toxic pollutant, toxic or hazardous substances, extremely hazardous substance or chemical, hazardous waste, medical waste, biohazardous or infectious waste, special waste, or solid waste under Environmental Laws; (b) petroleum, petroleum-based or petroleum-derived products; (c) polychlorinated biphenyls; (d) any substance exhibiting a hazardous waste characteristic including but not limited to corrosivity, ignitibility, toxicity or

reactivity as well as any radioactive or explosive materials; and (e) any raw materials, building components, including but not limited to asbestos-containing materials and manufactured products containing Hazardous Materials.

"HL CBA" shall mean the Working Agreement between Fansteel Hydro Carbide and the United Auto Workers Local Union No. 204, effective May 27, 2002.

"HL Pension Plan" shall mean the Fansteel Hydro Carbide Hourly Employees' Pension Plan.

"Independent Accounting Firm" shall mean any independent nationally recognized accounting firm reasonably acceptable to the Seller and the Purchaser.

"Industrial Revenue Bonds" shall mean the obligations, liabilities and indebtedness pursuant to the Mississippi Small Enterprise Development Finance Act Loan Agreement among Mississippi Business Finance Corporation (acting for the State of Mississippi), Bank of Mississippi, as Servicing Trustee and Fansteel, Inc. dated May 1, 1996, and related agreements, instruments, and other documents in connection with the foregoing.

"Intellectual Property" shall mean (i) inventions and discoveries, whether patentable or not, all patents, patent applications, together with all patent disclosures, reissuances, continuations, continuations-in-part, divisions, revisions, extensions and reexaminations thereof, trademarks, tradenames, service marks, trade dress, logos, domain names and designs, and other indicia of origin, and all goodwill associated therewith, and all applications, registrations, extensions, modifications and renewals in connection therewith, all published and unpublished works of authorship, whether copyrightable or not, copyrights and copyright applications and all registrations and renewals and all extensions, restorations and reversions thereof, in connection therewith; (ii) all know-how, trade secrets and confidential business information, customer and supplier lists; (iii) all electronic data processing, information, record keeping, communications, telecommunications, account management, inventory management and other computer systems (including all computer programs, software, databases, firmware, hardware and related documentation) and Internet websites and related content; (iv) all other intangible proprietary rights; and (v) all Contracts related to any of the foregoing.

"Inventory" means inventories, supplies, goods, raw materials, and works in process.

"Law" shall mean any national, foreign, federal, state, provincial or local law, statute, ordinance, rule, regulation, code, order, judgment, injunction or decree of any jurisdiction (whether foreign or domestic).

"Lexington Facility" means the real property located at 203 Lisle Industrial Road, P.O. Box 11399, Lexington, Kentucky.

"Liabilities" shall mean any and all debts, liabilities, commitments and obligations, whether or not fixed, contingent or absolute, matured or unmatured, liquidated or unliquidated, accrued or unaccrued, known or unknown, whether or not required by GAAP to be reflected in financial statements or disclosed in the notes thereto.

"Liens" shall mean Taxes, liens, mortgages, pledges, security interests, Claims, assessments, restrictions, encumbrances, encroachments and charges of every kind.

"Material Adverse Effect" shall mean any change, effect, event, occurrence, development, circumstance or state of facts materially adverse to the Business taken as a whole or which materially impair the ability of Sellers to perform their obligations under this Agreement or have a material adverse effect on or prevent or materially delay the consummation of the transactions contemplated hereby; provided, however, that the following shall be excluded from any determination as to whether a "Material Adverse Effect" has occurred: (i) any change, effect, event, occurrence, development, circumstance or state of facts in general economic or political conditions, conditions in the United States or worldwide capital markets and any act of terrorism or any outbreak of hostilities or war, (ii) any adverse event or circumstances that affect generally the industry in which the Seller is engaged, and (iii) any failure to meet any financial projections or budgets. Any such change, effect, event, occurrence, development, circumstance or state of facts which results in a decrease in the Cash Portion as set forth on Schedule 3.1 hereto (excluding any equipment, Receivables and Inventory attributable to the Plantsville Facility) by more than 25% on the date on which such determination of materiality is made (excluding any equipment, Receivables and Inventory attributable to the Plantsville Facility) shall be a Material Adverse Effect.

"Pension Plan" shall mean each "employee pension benefit plan" as defined in Section 3(2) of ERISA.

"Permitted Liens" shall mean (i) such imperfections of title, easements, encumbrances, or restrictions which in the Purchaser's reasonable determination individually or in the aggregate do not impair in any material respect the use, ownership or marketability of the Purchased Assets, (ii) Liens for Taxes (whether federal, state, local or foreign) attributable to any taxable period beginning on or prior to the Closing Date and not yet due or payable or being contested in good faith and for which adequate reserves have been established and (iii) materialmen's, mechanics', carriers', workmen's, warehousemen's, repairmen's and other like Liens arising in the ordinary course of business, or deposits to obtain the release of such Liens to the extent reserved on the Seller's books.

"Person" shall mean any individual, corporation, partnership, firm, association, joint venture, joint stock company, trust, unincorporated organization or other entity, any Governmental Body, or any government or regulatory, administrative or political subdivision or agency, department or instrumentality thereof.

"Plan of Reorganization" shall mean the joint reorganization plan of the Debtors under Chapter 11 of the Bankruptcy Code, dated July 24, 2003, together with all exhibits hereto, as it may be amended, modified, or supplemented from time to time in accordance with section 1127 of the Bankruptcy Code, including any Plan Supplements.

"Plan Supplement" means the compilation of documents or forms of documents specified in the Plan of Reorganization, including any exhibits to the Plan of Reorganization not included thereto, that the Debtors will file with the Bankruptcy Court not later than the date that is five (5) days prior to deadline for objections to confirmation of the Plan of Reorganization.

"Plantsville Facility" means the real property and other assets located or related to FSI's site at Plantsville, Connecticut used for the operations of the division of FSI known as VR/Wesson-Plantsville.

"Post-Petition Funded Indebtedness" shall mean all post-petition funded indebtedness owing pursuant to the DIP Agreement.

"Prepaid Items and deposits" means prepaid and deferred items, including but not limited to prepaid rent, compensation, utilities, CAM charges, insurance and unbilled charges and deposits.

"Pre-Petition Contracts" shall mean executory contracts and unexpired Leases of the Seller as of the Petition Date which may be assumed and assigned pursuant to section 365 of the Bankruptcy Code.

"Pre-Petition Liability" shall mean any "claim" against any of Seller, as such term is defined in section 101(5) of the Bankruptcy Code, arising or occurring on or before the Petition Date, which claim has not been assumed by Seller in the Bankruptcy Case pursuant to section 365 of the Bankruptcy Code, waived, or otherwise satisfied in accordance with the applicable provisions of the Bankruptcy Code and Bankruptcy Rules or order of the Bankruptcy Court.

"Purchase Price Escrow" shall mean the escrow account established by FSI at the Purchase Price Escrow Agent into which the Cash Proceeds are deposited pursuant to this Agreement.

"Purchase Price Escrow Agent" shall mean a banking institution agreed to by the Seller, the Purchaser and the Seller Official Committee of Unsecured Creditors of Fansteel, Inc.

"Receivables" means accounts receivable or other receivables, including all trade account receivables arising from sales or rental of inventory in the ordinary course of business, notes receivable, and all credits, allowances, fees, charges and other amounts owing from other Third Parties.

"Records" means operating data and records, including customer lists and records, financial, accounting and credit records, correspondence, budgets, product catalogs and advertising materials, and other similar documents and records.

"Registered" shall mean issued, registered, renewed or the subject of a pending application.

"Release" shall mean any spilling, leaking, pumping, emitting, emptying, discharging, injecting, escaping, leaching, migrating, dumping, or disposing of Hazardous Materials (including the abandonment or discarding of barrels, containers or other closed receptacles containing Hazardous Materials) into the environment.

"Remedial Action" shall mean all actions taken to (i) clean up, remove, remediate, contain, treat, monitor, assess, evaluate or in any other way address Hazardous Materials in the indoor or outdoor environment; (ii) prevent or minimize a Release or threatened Release of Hazardous Materials so they do not migrate or endanger or threaten to endanger public health or welfare or the indoor or outdoor environment; (iii) perform pre-remedial studies and investigations and post-remedial operation and maintenance activities; or (iv) any other actions authorized by 42 U.S.C. 9601.

~~"Sale Order" shall mean the order of the Bankruptcy Court approving the sale of the Purchased Assets and the assumption of the Initial Assumed Contracts.~~

~~"Sales Procedures Order" shall mean an order of the Bankruptcy Court which shall set forth the procedures for the sale of the Purchased Assets with terms substantially as set forth on Exhibit B hereto.~~

~~"Sales Tax" shall mean all sales, use, ad valorem, property and other similar taxes.~~

"Tax" or "Taxes" shall mean any federal, state, local, foreign or other taxes, assessments, duties or charges of any kind whatsoever, including, without limitation, franchise, income, sales, use, ad valorem, gross receipts, value added, profits, license, capital gains, transfer (including stamp duty and stamp duty reserve tax), minimum, alternative minimum, environmental, withholding, payroll, employment, excise, property, customs and occupation taxes, including any interest, fine, penalty or addition thereto, whether disputed or not, and including any Liability for the payment of any of the above amounts as a result of being a member of an affiliated, consolidated, combined, unitary or similar group or as a result of transferee or successor liability.

"Tax Return" shall mean any federal, state, local, foreign or other return, declaration, report, claim for refund, information return or statement relating to Taxes, including any schedule or attachment thereto.

"Third Party" shall mean any Person not an Affiliate of the other referenced Person or Persons.

"Transferred Real Property" shall mean the Owned Real Estate other than the real property located in Waukegan, Illinois; Muskogee, Oklahoma; North Chicago, Illinois; Lexington, Kentucky; and Plantsville, Connecticut.

"WARN" means the Worker Adjustment and Retraining Notification Act, as amended.

2. For purposes of this Agreement, the following terms shall have the meanings specified in the Sections indicated below:

<u>Term:</u>	<u>Section or Reference:</u>
Accrued Post-Petition Liabilities	3.2

<u>Term:</u>	<u>Section or Reference:</u>
Additional Assumed Contracts	4.10 (c)
Agreement	Preamble
Assumed Contracts	4.10 (c)
Assumed Liabilities	3.2
Bankruptcy Code	Recitals
Bankruptcy Court	Recitals
Bidding Procedures	4.10 (b)
Bidding Procedures Hearing Date	8.1(a)
Bidding Procedures Order	4.10 (b)
Breach of Warranty Claim	<u>9.1</u>
Burkhart	Preamble
Cal Drop	Recitals
Cash Portion	3.1.5
Claim Notice	9.2.1
Closing	4.1
Closing Date	4.1
Closing Statement	3.1.8 (a)
Closing Transactions	4.2
Contest Period	9.3.2
Cure Amount Schedule	4.10 (c)
Debtors	Recitals
Deductions	3.1.5
Deposit	3.2
Divisions	Recitals
Estimated Cash Portion	3.1.7
Estimated Purchase Price	3.1.7
Excluded Assets	2.2
Excluded Liabilities	3.4
Filing Date	Recitals
Financial Statements	5.3
FSI	Preamble
HG	Recitals
HL	Recitals
Indemnified Party	9.2.1
Indemnifiable Damages	9.1
Indemnifying Party	9.2.1
Indemnity Note	3.1.6
Indemnity Terminate <u>Termination</u> Date	9.1.3
Initial Assumed Contracts	4.10 (c)
Initial Objection Notice	3.1.7
Last Balance Sheet	5.3 (b)
Leasehold Rights	2.1 (d)
Leases	5.5.2
Objection Notice	3.1.8 (b)
Owned Real Estate	5.5.1

<u>Term:</u>	<u>Section or Reference:</u>
PAC	Preamble
PAC Assets	Recitals
Post-Petition Accounts Payable	3.2
Priority Payment Schedule	3.1.5 (b)
Purchase Price	3.1.1
Purchased Assets	2.1
Purchased Leasehold Premises	2.1 (d)
Purchaser	Preamble
Purchaser Parties	9.1.1
Sale Hearing	4.10 (b)
Sale Order	Recitals
Section 365 Motion	4.10 (c)
Secured and Priority Liabilities	3.2
Seller	Preamble
Seller Parties	9.1.2
Set Off Amount	9.3.2
Stoutheart East	Preamble
Termination Payment	8.2 (a)
Unresolved Claim	9.3.3
WPC III	Preamble

EXHIBIT A
FORM OF INDEMNITY NOTE

PROMISSORY NOTE

\$850,000

New York, New York
_____, 2003

FOR VALUE RECEIVED, the undersigned, Stoutheart East Corporation, a Texas corporation ("Stoutheart East") and WPC III Inc., a Texas corporation ("WPC III" and, collectively with Stoutheart East, the "Purchaser"), JOINTLY AND SEVERALLY HEREBY PROMISE TO PAY to the order of the [PURCHASE PRICE ESCROW] on behalf of Fansteel Inc., a Delaware corporation ("FSI"), (i) the principal sum of Eight Hundred Fifty Thousand Dollars (**\$850,000**) or such lesser amount as is outstanding hereunder on any Payment Date (as defined below), and (ii) interest on any and all principal amounts remaining unpaid hereunder from time to time outstanding from the date hereof until such principal amounts become due, accrued and added to principal quarterly on the first day of January, April, July and October of each year during the term hereof and on the final day when such principal amounts become due, at the rate of six percent (6%) per annum.

1. Any amount of principal hereof that is not paid when due (whether upon demand, by acceleration or otherwise) shall bear interest from the day when due until such principal amount is paid in full, payable on demand, at an interest rate per annum equal at all times to 8% per annum (the "Default Rate"). All interest shall be computed on the basis of a year of 360 days for the actual number of days (including the first day but excluding the last day) elapsed. Notwithstanding any other provision of this Promissory Note, interest paid or becoming due hereunder shall in no event exceed the maximum rate permitted by applicable law.

2. If any amount payable hereunder shall be due on a day on which banks are required or authorized to close in New York City (any other day being a "Business Day"), such payment may be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of interest payable hereon.

3. Both principal and interest are payable in lawful money of the United States and in immediately available funds to the following account : [PURCHASE PRICE ESCROW ACCOUNT], or at such other place as FSI shall designate in writing to the Purchaser.

4. Any amounts of interest and principal due under this Promissory Note shall be offset by the amounts determined by agreement among the Purchaser and the Seller or by final, unappealable judgment of a court of competent jurisdiction to be owed to the Purchaser pursuant to Section 3.1.8 or Article IX (Indemnification) of the Asset Purchase Agreement by and among FSI, Phoenix Aerospace Corporation, the Purchaser and Richard Burkhart (the "Purchase Agreement").

5. A "Payment Date" shall mean: (i) June 30, 2004, to the extent that the aggregate amount of Unresolved Claims (as defined in the Purchase Agreement), is less than the principal and accrued interest on this Note at such date and (ii) one Business Day following the date that any Unresolved Claims have been settled or resolved in the manner set forth in the Purchase

Agreement, to the extent that the aggregate amount of Unresolved Claims is less than the principal and accrued interest on this Note on such Business Day.

6. Notices shall be provided as set forth in Section 11.6 of the Purchase Agreement.

7. No failure by FSI to exercise, and no delay in exercising, any right, power, privilege or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof by FSI preclude any other or further exercise thereof or the exercise of any other right, power, privilege or remedy of FSI. No amendment or waiver of any provision of this Note, nor consent to any departure by the Purchaser therefrom, shall in any event be effective unless the same shall be in writing and signed by FSI, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

8. Any provision hereof which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

9. The Purchaser hereby agrees to pay on demand all costs and expenses (including, without limitation, all fees and expenses of counsel to FSI) incurred by FSI in connection with the enforcement of FSI's rights, and the collection of all amounts due, hereunder.

10. The Purchaser hereby (i) irrevocably submits to the jurisdiction of the United States Bankruptcy Court for the District of Delaware in any action or proceeding arising out of or relating to this Note, (ii) waives any defense based on doctrines of venue or forum non conveniens, or similar rules or doctrines, and (iii) irrevocably agrees that all claims in respect of such an action or proceeding may be heard and determined in the United States Bankruptcy Court for the District of Delaware. Each Purchaser waives any right to trial by jury in any action, proceeding or counterclaim arising out of or relating to this Note.

11. The holder of this Note is entitled to the benefits of the Guaranty from Richard Burkhart set forth in Section 11.15 of the Purchase Agreement.

[Remainder of Page Intentionally Left Blank.]

This Note shall be governed by, and construed in accordance with, the laws of the State of New York.

STOUTHEART EAST CORPORATION

By: _____

Name:

Title:

Address:

Stoutheart East Corporation

6130 Cochran Road

Solon, Ohio 4139

Attn: Richard Burkhart

Fax: 440.914.9777

WPC III INC.

By: _____

Name:

Title:

Address:

c/o Stoutheart East Corporation

6130 Cochran Road

Solon, Ohio 4139

Attn: Richard Burkhart

Fax: 440.914.9777

RICHARD BURKHART

Exhibit B

Fansteel, Inc./Phoenix Aerospace Corporation

Bidding Procedures

Set forth below are the bidding procedures (the "Bidding Procedures") to be employed with respect to the Asset Purchase Agreement (the "Agreement") by and among ~~by and among~~ Fansteel Inc., a Delaware corporation ("FSI"), Phoenix Aerospace Corporation, a Delaware corporation ("PAC", collectively with FSI, the "Seller"), Stoutheart East Corporation, a Texas corporation ("Stoutheart East"), WPC III Inc., a Texas corporation ("WPC III" and, collectively with Stoutheart East, the "Proposed Purchaser"), and Richard Burkhart, concerning the prospective sale (the "Sale") of the Purchased Assets (defined below). The Seller will seek entry of an order from the Bankruptcy Court authorizing and approving the Sale to a Qualified Bidder (as hereinafter defined) which the Seller may determine to have made the highest or otherwise best offer (the "Successful Bidder"). The following overbid provisions and related bid protections are designed to reimburse the Proposed Purchaser for its efforts and agreements to date and to facilitate a full and fair process designed to maximize the value of the Purchased Assets for the benefit of the Seller's creditors and stakeholders. For avoidance of doubt, in the event the Proposed Purchaser seeks to become a Qualified Bidder, the amount of the Termination Payment will be credited to the Proposed Purchaser in determining whether its subsequent bid exceeds the preceding Qualified Bid. These Bidding Procedures shall not be subject to material changes without approval of the Bankruptcy Court. All capitalized terms used in this Exhibit that are not separately defined herein shall have the respective meanings ascribed thereto in the Agreement.

Assets to be Sold

The Seller is offering for sale substantially all of Fansteel's right, title and interest in and to the properties, business and assets of the Fansteel Cal Drop and Hydro Carbide divisions, or otherwise currently used primarily in connection with the business of manufacturing, distribution and sales of specialty metals presently conducted by the Fansteel Cal Drop and Hydro Carbide divisions, of every kind and description, whether real, personal or mixed, tangible or intangible, wherever located (other than the Excluded Assets), the accounts receivable and inventory of the ~~Palatsville~~Plantsville division, and the equipment and inventory located at the Lexington Facility, and with respect to ~~Phoenix~~PAC, assets consisting solely of real property located at 1033 Alhambra Avenue, Los Angeles, California and a lease agreement with Fansteel with respect thereto s(collectively, the "Purchased Assets").

The Bidding Process

The Seller shall (i) determine whether any person is a Qualified Bidder (as defined below), (ii) coordinate the efforts of Qualified Bidders in conducting their due diligence investigations, (iii) receive offers from Qualified Bidders, and (iv) negotiate any offers made to purchase the Purchased Assets (collectively, the "Bidding Process"). Any person who wishes to participate in the Bidding Process must be a Qualified Bidder. Neither the Seller nor its representatives shall be obligated to furnish any information of any kind whatsoever to any

person who is not determined to be a Qualified Bidder. Qualified Bidders shall be given all relevant information pertaining to the Sale. The Seller shall have the right to adopt such other rules for the Bidding Process, which rules will better promote the goals of the Bidding Process and which are not inconsistent with any of the other provisions hereof or of any Bankruptcy Court order.

Participation Requirements

Unless otherwise ordered by the Bankruptcy Court for cause shown or as otherwise determined by the Seller, in order to participate in the Bidding Process each person (a "Potential Bidder") must deliver (unless previously delivered) to the Seller:

(i) An executed confidentiality agreement in form and substance satisfactory to the Seller; and

(ii) Current audited financial statements of the Potential Bidder, or, if the Potential Bidder is an entity formed for the purpose of acquiring the Purchased Assets, current audited financial statements of the equity holder(s) of the Potential Bidder, or such other form of financial disclosure acceptable to the Seller and its advisors demonstrating such Potential Bidder's ability to close a proposed transaction.

A "Qualified Bidder" is any Potential Bidder or multiple Potential Bidders participating in the Bidding process together that delivers the documents described in subparagraphs (i) and (ii), whose financial information demonstrates the financial capability of the Potential Bidders, either jointly or separately, to consummate the Sale, and that the Seller determines is reasonably likely (based on availability of financing, experience and other considerations) to submit a bona fide offer and to be able to consummate the Sale if selected as the Successful Bidder.

Within two Business Days after a Potential Bidder delivers all of the materials required by subparagraphs (i) and (ii) above, the Seller shall determine, and shall notify the Potential Bidder, if such Potential Bidder is a Qualified Bidder.

Due Diligence

The Seller may afford any Qualified Bidder the opportunity to conduct a due diligence review. The Seller will designate an employee or other representative to coordinate all reasonable requests for additional information and due diligence access from Qualified Bidders. The Seller shall not be obligated to furnish any due diligence information after the Bid Deadline (as hereinafter defined). Neither the Seller nor any of its representatives are obligated to furnish any information to any person. Bidders are advised to exercise their own discretion before relying on any information provided by anyone other than the Seller or its representatives.

Bid Deadline

A Qualified Bidder who desires to make a bid shall deliver a written copy of its bid to (1) the Seller, c/o Schulte, Roth & Zabel LLP, 919 Third Avenue, New York, NY 10022, Attn: Jeffrey Sabin, Esq., not later than 11:00 a.m. (eastern time) on the date which is three Business Days prior to the date scheduled by the Bankruptcy Court for the Sale Hearing (the "Bid");

Deadline"). The Seller will immediately distribute by facsimile transmission, personal delivery or reliable overnight courier service in accordance with the Agreement, a copy of each Bid upon receipt to counsel for the Proposed Purchaser. The Seller may, in its discretion, extend the Bid Deadline once or successively, but is not obligated to do so. The Seller shall announce the terms of the highest and best Qualified Bids received by the Bid Deadline by 5:00 p.m. (Prevailing eastern time) on that date.

Bid Requirements

For the purposes of determining the existence of a bid, a bid may be in the form of a joint bid from more than one Qualified Bidder, or may be in the form of separate bids from more than one Qualified Bidder, with each such separate bid being for a portion of the Purchased Assets, but all of such separate bids collectively aggregating a bid price having a value greater than or equal to the sum of (x) the value, as reasonably determined by the independent financial advisor of the Seller, of the Proposed Purchaser's offer plus (y) other than where the Proposed Purchaser makes a bid, the amount of the Termination Payment(as defined below) plus (z) (A)in the case of the initial Qualified Bid, \$150,000, and (B) in the case of any subsequent Qualified Bids, \$150,000 plus the amount by which the preceding Qualified Bid exceeds the sum of (x) plus (y) above. All bids must include the following documents (the "Required Bid Documents"):

- ☐ A letter stating that one or more Qualified Bidders offer to purchase all or a portion of the Purchased Assets and that such offer is irrevocable until two Business Days after the Purchased Assets have been disposed of pursuant to these Bidding Procedures.
- ☐ A statement by each Qualified Bidder that it is prepared to enter into and consummate the Sale as soon as practicable but in no event more than thirty-one (31) days after entry by the Bankruptcy Court of the Sale Order.
- ☐ An executed copy of the Agreement, together with all Exhibits and Schedules thereto (the "**Definitive Sale Documentation**") marked and initialed to show those amendments and modifications to such agreement that the Qualified Bidder proposes, including, but not limited to, price and the time of closing.
- ☐ A good faith deposit (the "**Good Faith Deposit**") in the form of a certified check or other form acceptable to the Seller in its sole discretion payable to the order of the Seller (or such other party as the Seller may determine) in an amount equal to \$500,000. All Qualified Bidders shall enter into an escrow agreement as directed by the Seller.
- ☐ Written evidence of a commitment for financing or other evidence of ability to consummate the proposed transaction satisfactory to the Seller.
- ☐ A statement by each Qualified Bidder as to whether such bidder intends to assume any Liabilities associated with any defined benefit plan sponsored by the Company.

The Seller will consider a bid only if the bid is on terms that are not conditioned on obtaining financing or on the outcome of unperformed due diligence by the bidder. A bid received from a Qualified Bidder that includes all of the Required Bid Documents and meets all of the above requirements is a "Qualified Bid."

If the Seller does not receive any Qualified Bids, the Seller will report the same to the Bankruptcy Court and will proceed with a sale and assignment of the Purchased Assets to Proposed Purchaser pursuant to the terms of the Agreement. The Agreement executed by Proposed Purchaser shall constitute a Qualified Bid for all purposes.

Bid Protection

Recognizing the Proposed Purchaser's expenditure of time, energy and resources, the Seller has agreed to provide certain bidding protections to the Proposed Purchaser. Specifically, the Seller has determined that the Agreement will further the goals of the Bidding Procedures by setting a floor for which all other Potential Bids must exceed and, therefore, is entitled to be selected as a "Stalking Horse Bid." As a result, the Seller has agreed to pay, in certain limited circumstances, to the Proposed Purchaser a break-up fee equal to \$350,000 (the "Termination Payment"). The payment of the Termination Payment shall be governed solely by the provisions of the Agreement.

Auction

If the Seller receives a Qualified Bid, the Seller will conduct an auction (the "Auction") at the offices of Schulte, Roth & Zabel LLP, 919 Third Avenue, New York, NY 10022, Attn: Jeffrey Sabin, Esq., on the date that is one Business Day prior to the date scheduled by the Bankruptcy Court for the Sale Hearing, beginning at 11:00 a.m. (EST) or such later time or other place as the Seller shall notify all Qualified Bidders who have submitted Qualified Bids. Only the Proposed Purchaser, the Seller, any representative of any creditors' committee appointed in the bankruptcy case and any Qualified Bidders who have timely submitted Qualified Bids shall be entitled to attend the Auction, and only the Proposed Purchaser and Qualified Bidders will be entitled to make any subsequent Qualified Bids at the Auction. During the Auction, bidding shall begin initially with the highest Qualified Bid and continue in minimum increments of at least \$40,000 higher than the previous Qualified Bid. Bidding at the Auction will continue until such time as the highest and best Qualified Bid is determined. The Seller may announce at the Auction additional procedural rules that are reasonable under the circumstances (e.g., the amount of time allotted to make subsequent overbids) for conducting the Auction so long as such rules are not inconsistent with these Bidding Procedures.

Upon conclusion of the Auction, the Seller, in consultation with its financial and business advisors shall (i) review each Qualified Bid or bids on the basis of financial and contractual terms and the factors relevant to the sale process, including those factors affecting the speed and certainty of consummating the Sale, and (ii) identify the highest and otherwise best offer for the Purchased Assets (the "Successful Bid"), which highest and best offer will provide the largest amount of net value to the Seller after payment of, among other things, the Termination Payment, if necessary. The Seller may adopt rules for the bidding process at the Auction that

will better promote the goals of the bidding process and that are not inconsistent with any of the provisions of the Bankruptcy Code, any Bankruptcy Court order, or these Bidding Procedures.

Acceptance of Qualified Bids

The Seller shall sell the Purchased Assets for the highest or otherwise best Qualified Bid received at the Auction upon the approval of such Qualified Bid by the Bankruptcy Court after the hearing (the "Sale Hearing"). The Seller's presentation of a particular Qualified Bid to the Bankruptcy Court for approval does not constitute the Seller's acceptance of the bid. The Seller will be deemed to have accepted a bid only when the bid has been approved by the Bankruptcy Court at the Sale Hearing.

Sale Hearing

The Sale Hearing will be held before the Honorable [Joseph J. Farnan] on [], 2003 at [] a.m. (prevailing eastern time) at the United States District Court for the District of Delaware, located in Wilmington, Delaware, but may be adjourned or rescheduled without further notice by an announcement of the adjourned date at the Sale Hearing.

Following the Sale Hearing approving the sale of the Purchased Assets to the Successful Bidder, if such Successful Bidder fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the next highest or otherwise best Qualified Bid, as disclosed at the Sale Hearing, shall be deemed to be the Successful Bid and the Seller shall be authorized, but not required, to consummate the sale with the Qualified Bidder submitting such bid without further order of the Bankruptcy Court.

Return of Good Faith Deposit

Good Faith Deposits of all Qualified Bidders (except for the Successful Bidder) shall be held in an interest-bearing escrow account until two Business Days following the Auction. If a Successful Bidder fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Seller will not have any obligation to return the Good Faith Deposit deposited by such Successful Bidder.

Modifications

The Seller may (a) determine, which Qualified Bid, if any, is the highest or otherwise best offer; and (b) reject at any time before entry of an order of the Bankruptcy Court approving a Qualified Bid, any bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code, the Bidding Procedures, or the terms and conditions of sale, or (iii) contrary to the best interests of the Seller, its estates and creditors. At or before the Sale Hearing, the Seller may impose such other terms and conditions as it may determine to be in the best interests of the Seller's estate, its creditors and other parties in interest.

DEPOSIT ESCROW AGREEMENT

DEPOSIT ESCROW AGREEMENT, dated as of July 29, 2003, by and among Fansteel Inc., a Delaware corporation ("FSI"), Phoenix Aerospace Corporation, a Delaware corporation ("PAC", collectively with FSI, the "Seller"), Stoutheart East Corporation, a Texas corporation ("Stoutheart East"), WPC III Inc., a Texas corporation ("WPC III" and, collectively with Stoutheart East, the "Purchaser"), Richard Burkhart, as representative of the Purchaser as herein provided (the "Representative"), and Schulte Roth & Zabel LLP, as Escrow Agent (the "Escrow Agent").

WITNESSETH

WHEREAS, the Purchaser and the Sellers are parties to an Asset Purchase Agreement, dated July 29, 2003 (the "Purchase Agreement"), pursuant to which the Purchaser is acquiring the Purchased Assets (as defined in the Purchase Agreement). Defined terms not otherwise defined herein shall have the meanings ascribed to such terms in the Purchase Agreement; and

WHEREAS, the Purchase Agreement provides for the payment and delivery by the Purchaser of a deposit amount into the escrow hereby established, to be held and dealt with by the Escrow Agent as herein provided.

NOW THEREFORE, in consideration of the premises and of the mutual agreements contained herein, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

1. Definitions. The following terms shall have the following meanings when used herein:

"Escrow Period" shall mean the period commencing on the date hereof and ending on September 1, 2003, unless terminated earlier by written agreement of the parties.

"Joint Written Direction" shall mean a written direction executed by the Seller and the Representative and directing the Escrow Agent to disburse all or a portion of the Escrow Funds or to take or refrain from taking an action pursuant to this Deposit Escrow Agreement.

"Representative" shall mean Richard Burkhart or any other person designated in a writing signed by the Purchaser and delivered to the Escrow Agent and the Seller in accordance with the notice provisions of this Deposit Escrow Agreement, to act as representative of the Purchaser under this Deposit Escrow Agreement.

2. Appointment of and Acceptance by Escrow Agent. The Purchaser, the Seller and the Representative hereby appoint Escrow Agent to serve as escrow agent during the Escrow Period hereunder. Escrow Agent hereby accepts such appointment and, upon receipt by wire transfer of the Escrow Funds in accordance with Section 3, agrees to hold and disburse the Escrow Funds in accordance with this Deposit Escrow Agreement.

3. Creation of Escrow Fund. On the date hereof, the Purchaser shall transfer the sum of \$500,000 (the "Escrow Funds") to the Escrow Agent, by wire transfer of immediately available funds, to the following account:

Citibank N.A.
111 Wall Street
New York, New York 10043

ABA Account No.: 021000089
Attorney Business Account
For credit to account number 02816927 in the name of SCHULTE ROTH
& ZABEL, LLP ATTORNEY TRUST ACCOUNT

4. Disbursements of Escrow Fund.

(a) Joint Written Direction. Escrow Agent shall disburse Escrow Funds, at any time and from time to time, in accordance with a Joint Written Direction.

(b) Bid Procedures Order. (i) In the event that the Bankruptcy Court does not enter the Bid Procedures Order by September 1, 2003, Escrow Agent shall disburse the Escrow Funds to the Purchaser as directed by the Representative.

(ii) Upon the entry by the Bankruptcy Court of the Bid Procedures Order at any time prior to September 1, 2003, Escrow Agent shall disburse the Escrow Funds to the Purchase Price Escrow (as defined in the Purchase Agreement).

(c) Expiration of Escrow Period. Unless previously distributed, upon the expiration of the Escrow Period, Escrow Agent shall distribute, as promptly as practicable and without any further instruction or direction from the Seller or the Representative, all funds to the Purchaser as directed by the Representative.

5. Disbursement Into Court.

(a) If, at any time, there shall exist any dispute between the Seller and the Representative with respect to the holding or disposition of any portion of the Escrow Funds or any other obligations of Escrow Agent hereunder, or if at any time Escrow Agent is unable to determine, to Escrow Agent's sole satisfaction, the proper disposition of any portion of the Escrow Funds or Escrow Agent's proper actions with respect to its obligations hereunder, or if the Seller and the Representative have not within 10 days of the furnishing by Escrow Agent of a notice of resignation pursuant to Section 7 hereof, appointed a successor Escrow Agent to act hereunder, then Escrow Agent may, in its sole discretion, take either or both of the following actions: (i) suspend the performance of any of its obligations (including without limitation any disbursement obligations) under this Deposit Escrow Agreement; and/or (ii) petition (by means of an interpleader action or any other appropriate method) the Bankruptcy Court (as defined in the Purchase Agreement), for instructions with respect to such dispute or uncertainty, and to the

extent required by law, pay into such court for holding and disposition in accordance with the instructions of such court, all funds held by it in the Escrow Funds.

(b) Except as otherwise required pursuant to Section 4 of this Agreement, the Escrow Agent shall be entitled to retain and continue to hold the Escrow Fund pursuant hereto until the Escrow Agent shall have received (i) a final non-appealable order of the Bankruptcy Court directing delivery of the Escrow Fund, (ii) a Joint Written Direction or (iii) notice of the appointment of a successor Escrow Agent, in which event the Escrow Agent shall disburse the Escrow Fund in accordance with such order, Joint Written Direction or notice. Any court order referred to in (i) above shall be accompanied by a legal opinion by counsel for the presenting party satisfactory to the Escrow Agent to the effect that said court order is final and non-appealable. The Escrow Agent shall act on such court order and legal opinion without further question.

(c) Escrow Agent shall have no liability to the Purchaser, the Seller, the Representative or any other person with respect to any such suspension of performance or disbursement into court, specifically including any liability or claimed liability that may arise, or be alleged to have arisen, out of or as a result of any delay in the disbursement of funds held in the Escrow Funds or any delay in or with respect to any other action required or requested of Escrow Agent.

6. Investment of Funds. Escrow Agent shall invest the funds held in the Escrow Funds in a non-interest bearing trust account with any federal or state chartered bank, bank and trust company, or national banking association with a combined capital and surplus in excess of \$100,000,000.

7. Resignation and Removal of Escrow Agent; Successor Escrow Agent.

(a) Escrow Agent may resign from the performance of its duties hereunder at any time by giving 10 days' prior written notice to the Seller and the Representative or may be removed, with or without cause, by the Seller and the Representative, acting jointly by furnishing a Joint Written Direction to Escrow Agent, at any time by the giving of 10 days' prior written notice to Escrow Agent. Such resignation or removal shall take effect upon the appointment of a successor Escrow Agent as provided herein below.

(b) Upon any such notice of resignation or removal, the Purchaser and the Representative jointly shall appoint a successor Escrow Agent hereunder, which shall be a bank, bank and trust company, or national banking association with a combined capital and surplus in excess of \$100,000,000. Upon the acceptance in writing of any appointment as Escrow Agent hereunder by a successor Escrow Agent, such successor Escrow Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Escrow Agent, and the retiring Escrow Agent shall be discharged from its duties and obligations under this Deposit Escrow Agreement, but shall not be discharged from any liability for actions taken as Escrow Agent hereunder prior to such succession. In the event that no successor Escrow Agent shall be appointed within 10 days of any resignation by the Escrow Agent hereunder, the Escrow Agent may apply to the Bankruptcy Court for the appointment of a successor Escrow Agent. After any retiring Escrow Agent's resignation or removal, the provisions of this Deposit Escrow Agreement shall inure to its benefit as to any actions taken or

omitted to be taken by it while it was Escrow Agent under this Deposit Escrow Agreement. The retiring Escrow Agent shall transmit all records pertaining to the Escrow Funds and shall pay all funds held by it in the Escrow Funds to the successor Escrow Agent, after making copies of such records as the retiring Escrow Agent deems advisable.

8. Liability of Escrow Agent; Indemnification. The Escrow Agent shall not be liable for and, each of the Purchaser and Seller shall jointly and severally indemnify and hold harmless the Escrow Agent (and any successor Escrow Agent) from and against, any and all losses, liabilities, claims, actions, damages and expenses, including attorneys' fees and disbursements, arising out of or in connection with this Deposit Escrow Agreement; provided that the Escrow Agent shall be liable for its own gross negligence or willful misconduct with respect to losses, liabilities, claims, actions damages and expenses, including attorneys' fees and disbursements, based upon such gross negligence or willful misconduct that are successfully asserted against the Escrow Agent. In no event shall Escrow Agent deduct any amount or otherwise set off against the Escrow Funds in connection with any claim for indemnification or expenses hereunder.

9. Reliance. The Escrow Agent shall be entitled to rely upon any order, judgment, certification, demand, notice, instrument or other writing delivered to it hereunder without being required to determine the authenticity or the correctness of any fact stated therein or the propriety or validity or the service thereof. The Escrow Agent may act in reliance upon any instrument or signature believed by it to be genuine and may assume that any person purporting to give notice or receipt or advice or purporting to make any statement or to execute any document in connection with the provisions hereof has been duly authorized to do so. The Escrow Agent and any agent thereof may act pursuant to the advice of counsel with respect to any matter relating to this Deposit Escrow Agreement and shall not be liable for any action taken or omitted in accordance with such advice.

10. Expenses of Escrow Agent. The Seller shall reimburse Escrow Agent for all of its reasonable out-of-pocket expenses, including attorneys' fees, travel expenses, telephone and facsimile transmission costs, postage (including express mail and overnight delivery charges), copying charges and the like. The obligations of Seller under this Section 10 shall survive any termination of this Deposit Escrow Agreement and the resignation or removal of Escrow Agent.

11. Representations and Warranties.

(a) Each Purchaser makes the following representations and warranties to the Escrow Agent and the Seller:

(i) Such Purchaser is a corporation duly organized, validly existing, and in good standing under the laws of the State of Texas and has full power and authority to execute and deliver this Deposit Escrow Agreement and to perform its obligations hereunder.

(ii) This Deposit Escrow Agreement has been duly approved by all necessary corporate action of each Purchaser, including any necessary

shareholder approval, has been executed by duly authorized officers of such Purchaser, and constitutes a valid and binding agreement of such Purchaser, enforceable in accordance with its terms, except as such enforceability may be limited by or subject to any bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and as such obligations are subject to general principles of equity (regardless of whether enforceability is considered in a proceeding in equity or at law).

(iii) Richard Burkhart has been duly appointed to act as the representative of each Purchaser hereunder and has full power and authority to execute, deliver, and perform this Deposit Escrow Agreement, to execute and deliver any Joint Written Direction, to amend, modify or waive any provision of this Agreement and to take any and all other actions as the Representative of the Purchaser under this Agreement, all without further consent or direction from, or notice to, any Purchaser or any other party.

(b) Each Seller makes the following representations and warranties to the Escrow Agent and the Purchaser:

(i) Such Seller has full power and authority to execute and deliver this Deposit Escrow Agreement and to perform its obligations hereunder.

(ii) This Deposit Escrow Agreement constitutes a valid and binding agreement of such Seller, enforceable in accordance with its terms, except as such enforceability may be limited by or subject to any bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and as such obligations are subject to general principles of equity (regardless of whether enforceability is considered in a proceeding in equity or at law).

12. Termination. Upon the first to occur of the disbursement of all amounts in the Escrow Funds pursuant to Section 4 of this Deposit Escrow Agreement or final court order or the disbursement of all amounts in the Escrow Funds into court pursuant to Section 5 hereof, this Deposit Escrow Agreement shall terminate and Escrow Agent shall have no further obligation or liability whatsoever with respect to this Deposit Escrow Agreement or the Escrow Funds.

13. Miscellaneous.

(a) Amendments and Waivers. The provisions of this Deposit Escrow Agreement may not be amended, modified, supplemented or terminated, and waivers or consents to departures from the provisions hereof may not be given, without the written consent of the Seller, the Representative and the Escrow Agent. Except as expressly provided herein, no delay or omission to exercise any right, power or remedy accruing to any party, upon any breach of default of another party under this Deposit Escrow Agreement, shall impair any such right, power or remedy of such party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring;

nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring.

(b) Notices. All notices and other communications provided for or permitted hereunder shall be made in writing by hand delivery, telecopier, any nationally recognized courier guaranteeing overnight delivery, or first class registered or certified mail, return receipt requested, postage prepaid, addressed to the applicable party set forth below. All such notices and communications shall be deemed to have been duly given: at the time delivered, if delivered by hand; when noted on a confirmation report (or if such delivery date is not a business day, on the next business day), if telecopied; on the next business day, if timely delivered to a nationally recognized courier guaranteeing overnight delivery; five days following the date mailed, if deposited in the United States mail, postage prepaid, certified or registered, return receipt requested.

If to the Escrow Agent:

Schulte Roth & Zabel LLP
919 Third Avenue
New York, NY 10022
Attn: André Weiss and Jeffrey S. Sabin
Fax: (212) 593-5955

with a copy to:

Freeborn & Peters
311 South Wacker Drive, Suite 300
Chicago, Illinois 60606
Attn: Francis Gecker and Joseph D. Frank
Fax: 312.360.6520

If to a Seller:

Fansteel Inc.
One Tantalum Place
North Chicago, IL 60064
Attn: Chief Executive Officer
Fax: (847) 689-0307

with a copy to:

Freeborn & Peters
311 South Wacker Drive, Suite 300
Chicago, Illinois 60606
Attn: Francis Gecker and Joseph D. Frank
Fax: 312.360.6520

If to a Purchaser or the Representative:

Stoutheart East Corporation
Post Office Box 39217
Solon, Ohio 44139
Attn: Richard Burkhart
Fax: 440.914.9777

with a copies to:

Benesch, Friedlander, Coplan & Aronoff LLP
2300 BP Tower, 200 Public Square
Cleveland, Ohio 44114
Attn: James M. Hill
Fax: 216.363.4588

Freeborn & Peters
311 South Wacker Drive, Suite 300
Chicago, Illinois 60606
Attn: Francis Gecker and Joseph D. Frank
Fax: 312.360.6520

(c) Successors and Assigns. This Deposit Escrow Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and assigns. For purposes of this Deposit Escrow Agreement, "successor" for any entity other than a natural person shall mean a successor to such entity as a result of such entity's merger, consolidation, sale of substantially all of its assets or similar transaction.

(d) Counterparts. This Deposit Escrow Agreement may be executed in counterparts, each of which, when so executed and delivered, shall be deemed to be an original and enforceable, but all of which counterparts, taken together, shall constitute one and the same instrument.

(e) Descriptive Headings, Etc. The headings in this Deposit Escrow Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning of terms contained herein. Unless the context of this Deposit Escrow Agreement otherwise requires: (i) words of any gender shall be deemed to include each other gender; (ii) words using the singular or plural number shall also include the plural or singular number, respectively; (iii) the words "hereof", "herein" and "hereunder" and words of similar import when used in this Deposit Escrow Agreement shall refer to this Deposit Escrow Agreement as a whole and not to any particular provision of this Deposit Escrow Agreement, and Section and paragraph references are to the Sections and paragraphs of this Deposit Escrow Agreement; (iv) the word "including" and words of similar import when used in this Deposit Escrow Agreement

shall mean "including, without limitation," unless otherwise specified; (v) "or" is not exclusive; and (vi) provisions apply to successive events and transactions.

(f) Severability. In the event that any one or more of the provisions, paragraphs, words, clauses, phrases or sentences contained herein, or the application thereof in any circumstances, is held invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision, paragraph, word, clause, phrase or sentence in every other respect and of the other remaining provisions, paragraphs, words, clauses, phrases or sentences hereof shall not be in any way impaired, it being intended that all rights, powers and privileges of the parties hereto shall be enforceable to the fullest extent permitted by law; provided that this Section 13(f) shall not cause this Deposit Escrow Agreement to differ materially from the intent of the parties as herein expressed.

(g) Governing Law. This Deposit Escrow Agreement shall be governed by, and construed in accordance with, the laws of the State of New York (without giving effect to the conflict of laws principles thereof).

(h) Entire Agreement. This Deposit Escrow Agreement is intended by the parties as a final expression of their agreement and intended to be a complete and exclusive statement of the agreement and understanding of the parties hereto in respect of the subject matter contained herein. There are no restrictions, promises, representations, warranties, covenants or undertakings relating to such subject matter, other than those set forth or referred to herein. This Deposit Escrow Agreement supersedes all prior agreements and understandings between the Escrow Agent and the other parties to this Deposit Escrow Agreement, both written and oral, with respect to such subject matter.

(i) Consent to Jurisdiction. Each party to this Deposit Escrow Agreement hereby irrevocably and unconditionally agrees that any action, suit or proceeding, at law or equity, arising out of or relating to this Deposit Escrow Agreement or any agreements or transactions contemplated hereby shall only be brought in the Bankruptcy Court and hereby irrevocably and unconditionally expressly submits to the personal jurisdiction and venue of such court for the purposes thereof and hereby irrevocably and unconditionally waives (by way of motion, as a defense or otherwise) any and all jurisdictional, venue and convenience objections or defenses that such party may have in such action, suit or proceeding. Each party hereby irrevocably and unconditionally consents to the service of process of any of the aforementioned court. Nothing herein contained shall be deemed to affect the right of any party to serve process in any manner permitted by law or commence legal proceedings or otherwise proceed against any other party in any other jurisdiction to enforce judgments obtained in any action, suit or proceeding brought pursuant to this Section.

(j) Further Assurances. Each party hereto shall do and perform or cause to be done and performed all such further acts and things and shall execute and deliver all such other agreements, certificates, instruments and documents as any other party hereto reasonably may request in order to carry out the intent and accomplish the purposes of this Deposit Escrow Agreement and the consummation of the transactions contemplated hereby. Any out-of-pocket costs associated with complying with this Section shall be borne by the requesting party.

(k) Termination. This Deposit Escrow Agreement shall continue in effect until the earliest to occur of (i) all funds are disbursed pursuant to Section 4, and (ii) the resignation or removal of the escrow Agent pursuant to Section 7, provided that no such termination shall affect Section 8 of this Agreement.

(l) Construction. The parties hereto acknowledge that each of them has had the benefit of legal counsel of its own choice and has been afforded an opportunity to review this Deposit Escrow Agreement with its legal counsel and that this Deposit Escrow Agreement shall be construed as if jointly drafted by the parties.

(m) Waiver of Jury Trial. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING, WHETHER AT LAW OR EQUITY, BROUGHT BY ANY OF THEM IN CONNECTION WITH THIS DEPOSIT ESCROW AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(n) Remedies; Specific Performance. The parties hereto acknowledge that money damages would not be an adequate remedy at law if any party fails to perform in any material respect any of its obligations hereunder, and accordingly agree that each party, in addition to any other remedy to which it may be entitled at law or in equity, shall be entitled to seek to compel specific performance of the obligations of any other party under this Deposit Escrow Agreement, without the posting of any bond, in accordance with the terms and conditions of this Deposit Escrow Agreement in the Bankruptcy Court, and if any action should be brought in equity to enforce any of the provisions of this Deposit Escrow Agreement, none of the parties hereto shall raise the defense that there is an adequate remedy at law. No remedy shall be exclusive of any other remedy. All available remedies shall be cumulative.

(o) Cost and Expenses. Except as provided in Section 10, the parties hereto shall each bear their own costs and expenses, including, but not limited to, legal fees, with respect to this Deposit Escrow Agreement and the transactions contemplated hereby.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this Deposit Escrow Agreement to be executed under seal as of the date first above written.

SELLERS:

FANSTEEL INC.

By: _____

Name:

Title:

PHOENIX AEROSPACE CORPORATION

By: _____

Name:

Title:

PURCHASERS:

STOUTHEART EAST CORPORATION

By: _____

Name:

Title:

WPC III INC.

By: _____

Name:

Title:

REPRESENTATIVE:

RICHARD BURKHART

ESCROW AGENT:

SCHULTE ROTH & ZABEL LLP

By: _____

Name: Andre Weiss

Title: Partner

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