Warner Electric/
Wichita Clutch

STOCK AND ASSET PURCHASE AGREEMENT

between

DANA CORPORATION

and

COLFAX CORPORATION

Dated as of November 1, 1999

DANA-0340.100

442373 V.9

SCHEDULES

STOCK AND ASSET PURCHASE AGREEMENT

Dated as of November 1, 1999

The parties to this Agreement are Dana Corporation, a Virginia corporation ("Dana"), and Colfax Corporation, a Delaware corporation (the "Purchaser").

Among other activities, Dana is engaged directly and through subsidiaries in the business of designing and manufacturing motion control products, including industrial clutches and brakes, linear actuators, ball bearing screws and precision electric motors and controls, through its Warner Electric Industrial Products Group and part of its Warner Electric Industrial Motors and Controls Group at the Facilities (as hereinafter defined) (collectively, the "Business").

Dana has agreed to sell or cause to be sold to Purchaser, and Purchaser has agreed to purchase from Dana or an Affiliate (as hereinafter defined) of Dana, as applicable, pursuant to the terms of this Agreement, the Business. In order to effect such sale and purchase, Dana will sell, or cause to be sold (i) the Transferred Company Interests and the Transferred Joint Venture Interests (each as hereinafter defined) and (ii) the Acquired Assets (as hereinafter defined), and Purchaser will assume the Assumed Liabilities (as hereinafter defined) on the terms and conditions set forth herein.

Accordingly, the parties agree as follows:

ARTICLE 1
DEFINITIONS AND TERMS

1.1 Specific Definitions.

As used in this Agreement, the following terms shall have the meanings set forth or as referenced below:

"Acquired Assets" shall have the meaning set forth in Section 2.3(a).

"Adjustments" shall have the meaning set forth in Section 2.1.

"Affiliate" shall mean, with respect to any Person, any Persons directly or indirectly controlling, controlled by or under common control with, such other Person as of the date on which, or at any time during the period for which, the determination of affiliation is being made.

"Affiliate Guarantees" shall have the meaning set forth in Section 5.4(a).

"Agreement" shall mean this Agreement, including all exhibits, annexes and schedules hereto, as the same may be amended or supplemented from time to time in accordance with the terms hereof.

"Allocation Agreement" shall have the meaning set forth in Section 2.12(a).

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

"Auditors" shall have the meaning set forth in Section 2.8(a).

"Australian Company" shall mean Warner Electric Australia Pty Ltd. ACN 000 780 941, a company incorporated under the laws of the State of New South Wales, Australia, whose registered office is at Unit 1, 11 Pachard Avenue, Castle Hill, New South Wales, 2154.

"Balance Sheet" shall have the meaning set forth in Section 3.8(a).

"Balance Sheet Date" shall have the meaning set forth in Section 3.8(a).

"Base-Line Net Working Assets" shall have the meaning set forth in Section 2.8(a).

"Benefit Plans" shall have the meaning set forth in Section 3.14(a).

"Business" shall have the meaning set forth in the recitals hereto.

"Cash Adjustment" shall have the meaning set forth in Section 2.8(b).

"CERCLA" shall have the meaning set forth in Section 3.20(b).

"Chinese Company" shall mean Shui Hing Manufacturing Co. Ltd., a company organized under the laws of Hong Kong.

"Chosen Court" shall have the meaning set forth in Section 10.13.

"Claim Notice" shall have the meaning set forth in Section 8.4.

"Closing" shall mean the closing of the transactions contemplated by this Agreement.

"Closing Balance Sheet" shall have the meaning set forth in Section 2.8(a).

"Closing Date" shall have the meaning set forth in Section 2.4.

"Closing Documents" shall mean the Sellers' Closing Documents and the Purchaser's Closing Documents, collectively.

"Closing Net Working Assets" shall have the meaning set forth in Section 2.8(a).

"COBRA" shall mean the provisions of Code section 4980B and Part 6 of Title I of ERISA, as amended, and any applicable similar state law.

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

"Competition Law" shall mean statutes, rules, regulations, orders, decrees, administrative and judicial doctrines and other laws outside the United States that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade.

"Confidentiality Agreement" shall mean the agreement, dated August 16, 1999 between Purchaser and Dana.

"Consent" shall have the meaning set forth in Section 5.16.

"Consolidated Income Tax Return" shall mean any consolidated Federal Income Tax Return filed by Dana; any consolidated, unitary, or combined State Income Tax Return filed by Dana or its Subsidiaries; or any similar Foreign Income Tax Return filed by or that includes a Transferred Company.

"Consolidated Return Year" shall mean with respect to any Transferred Company, any period for which it is included in a Consolidated Income Tax Return.

"Contracts" shall mean any legally binding agreement, contract, work order, lease, consensual obligation or undertaking Related to the Business or to which any of the Transferred Companies or Transferred Joint Ventures is a party or is otherwise subject.

"Covered Losses" shall have the meaning set forth in Section 8.3(c).

"Dana" shall have the meaning set forth in the recitals to this Agreement.

"Dana Defined Contribution Plan" shall have the meaning set forth in Section 5.7.

"Dana Indemnified Parties" shall have the meaning set forth in Section 8.2.

"Dana Pension Plan" shall have the meaning set forth in Section 5.7.

"Dana UAW Savings Plan" shall have the meaning set forth in Section 5.10(b).

"Dana Welfare Plans" shall have the meaning set forth in Section 5.8.

"Dutch Company" shall mean Warner Electric B.V., a company organized under the laws of the Netherlands.

"Employee Arrangements" shall have the meaning set forth in Section 3.14(b).

"Employees" shall mean all individuals who are employed in the Business as of the Closing Date.

"Encumbrances" shall mean mortgages, deeds of trusts, liens, pledges, charges, encumbrances, security interests, options, rights of first refusal, easements, restrictive covenants, encroachments or any other restrictions or third-party rights.

"Environmental Cap" shall have the meaning set forth in Section 8.3(c).

"Environmental Claim" shall mean all Losses arising out of, based on or resulting from (a) the presence of Hazardous Substances at any of the Facilities at levels in excess of any applicable, relevant or appropriate levels or standards set forth, established, published, proposed or promulgated under, pursuant to or by any Environmental Law or Governmental Authority having jurisdiction over a remedial action, correction of noncompliance or action with respect to such Hazardous Substance at such Facility ("Trigger Standards"), as in effect or proposed on or after the Closing Date; *provided* that to the extent there are no such Trigger Standards, (A) in the case of Facilities located in the United States, the standards contained in the EPA Region III Risk Based Concentration Table, in effect on or after the Closing Date, shall be the applicable Trigger Standards and (B) in the case of the Facilities located outside of the United States, the standards contained in the Niederlandiche Liste-Zeilwerte [A-Werte] Jungste Vorschlagefur Interventionswerte [C-Werte], in effect on or after the Closing Date shall be the applicable Trigger Standards or (b) circumstances forming the basis for any violation, or alleged violation, of Environmental Law.

"Environmental Laws" shall mean all federal, interstate, state, local and foreign Laws relating to pollution or protection of human health, safety, or the environment (including, without limitation, ambient air, surface water, ground water, land surface or subsurface strata), including, without limitation, Laws relating to emissions, discharges, releases or threatened releases of Hazardous Substances, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Substances.

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

"Excluded Assets" shall have the meaning set forth in Section 2.3(b).

"Excluded Intellectual Property" shall have the meaning set forth in Section 2.3(b).

"Excluded Liabilities" shall have the meaning set forth in Section 2.3(d).

"Expatriate Employees" shall have the meaning set forth in Section 5.6(d).

"Facilities" shall mean the Business' facilities located in (i) Charlotte, North Carolina, (ii) Bristol, Connecticut, (iii) Belvidere, Illinois, (iv) Columbia City, Indiana (v) Marengo, Illinois, (vi) Roscoe, Illinois, (vii) S. Beloit, Illinois, (viii) Warren, Michigan, (ix) Kristianstad, Sweden, (x) Partille, Sweden, (xi) Barcelona, Spain, (xii) Milan, Italy, (xiii) Bishop Auckland, U.K., (xiv) Bedford, U.K., (xv) Garching/Munich, Germany, (xvi) Heidelberg, Germany, (xvii) Singapore, (xviii) Rotterdam, Netherlands, (xix) Villars Ste. Croix, Switzerland; (xx) Wolfschlugen, Germany; (xxi) Sydney, Australia; (xxii) Hong Kong SAR, PRC; (xxiii) Taipei, Taiwan; (xxiv) Bangkok, Thailand; (xxv) Hurffville, New Jersey; (xxvi) Angers, France; (xxvii) LeMans, France; (xxviii) Wichita Falls, Texas; (xxix) Los Angeles, California; (xxx) Indianapolis, Indiana; and (xxxi) Auburn, Massachusetts.

"Federal Income Tax Returns" shall mean all returns, declarations, reports, claims for refunds, information returns, statements and other forms required to be filed with respect to any Federal Income Taxes, including any schedule or attachment thereto, and including any amendments thereof.

"Federal Income Taxes" shall mean all United States federal income taxes, and any interest, penalties, and additions imposed with respect to such taxes.

"FICA" shall mean the United States Federal Insurance Contribution Act of 1954, as amended.

"Financial Statements" shall have the meaning set forth in Section 3.8(a).

"Foreign Employees" shall mean any Employee employed outside the United States other than Expatriate Employees.

"Foreign Income Tax Returns" shall mean all returns, declarations, reports, claims for refunds, information returns, statements and other forms required to be filed with respect to any Foreign Income Taxes, including any schedule or attachment thereto, and including any amendments thereof.

"Foreign Income Taxes" shall mean all income taxes (and other taxes measured by net income or net gain) imposed by any country other than the United States or by any political subdivision of any such country, and any interest, penalties, and additions imposed with respect to such taxes.

"Foreign Plans" shall have the meaning set forth in Section 3.14(a).

"Foreign Transferred Companies" shall mean the French Companies, the Swiss Company, the Dutch Company, the German Company, the Australian Company, the Chinese Company, the Taiwanese Company and the Thai Company.

"French Companies" shall mean Warner France S.A., a company organized under the laws of France, and Collins & Tournadre, a company organized under the laws of France.

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

"German Company" shall mean Warner Electric GmbH, a company organized under the laws of Germany.

"Governmental Authority" shall mean and include any national government, any political subdivision of a national government or of any state, county or local jurisdiction therein or any agency or instrumentality of any such government or political subdivision.

"Governmental Authorizations" shall mean all licenses, permits, certificates and other authorizations and approvals required from a Governmental Authority to carry on the operations of the Business as conducted at the Closing Date under applicable Laws.

"Hazardous Substances" shall mean all substances defined as Hazardous Substances, Oil, Pollutants or Contaminants in the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. § 300.5, or defined, listed or regulated under any Environmental Law.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"Income Statement" shall have the meaning set forth in Section 3.8(a).

"Income Taxes" shall mean all Federal Income Taxes, State Income Taxes and Foreign Income Taxes.

"Income Tax Returns" shall mean all returns, declarations, reports, claims for refunds, information returns, statements, and other forms required to be filed with respect to any Income Taxes, including any schedule or attachment thereto, and including any amendments thereof.

"Indemnified Parties" shall have the meaning set forth in Section 8.3(a).

"Indemnifying Party" shall have the meaning set forth in Section 8.4.

"Indemnity Basket" shall have the meaning set forth in Section 8.3(b).

"Indemnity Cap" shall have the meaning set forth in Section 8.3(b).

"Individual Arrangements" shall have the meaning set forth in Section 3.14(c).

"Intellectual Property" shall mean all United States and foreign (a) patents and patent applications whether or not patents are issued on such applications and whether or not such applications are modified, withdrawn or resubmitted; (b) registered and unregistered trade names, trademarks, service names and service marks (and applications for registration of the same) and all goodwill associated therewith; (c) copyrights and copyright registrations (and applications for the same); (d) trade secrets, know how, and confidential or proprietary information; (e) inventions, processes and designs (whether or not patentable or reduced to practice); (f) any computer software program source code, object code, data and documentation; and (g) all other intellectual property rights and assets, in each case owned by a Seller and Related to the Business or owned by a Transferred Company or a Transferred Joint Venture, other than the Excluded Intellectual Property.

"IRS" shall mean the Internal Revenue Service.

"Knowledge of Dana" or any similar phrase shall mean the actual knowledge of Michael Plumley, Dan Fischer, Robert Johnston, Phil Weis, Hans Fischer, Gregory Bomers, Charlie Nartker, Michael Clarke, Mike Miga, Claude Lavenu, Mark Hess, Marc Levin, Christopher Czarka, Lou Benien and Pat Gahagan and all knowledge which was or could have been obtained upon reasonable inquiry by such Persons.

"Laws" shall include any federal, state, foreign, supranational or local law, statute, ordinance, rule, regulation, order, judgment or decree.

"Leased Real Property" shall have the meaning set forth in Section 3.19(c).

"LIBOR" shall mean the London Interbank Offered Rate paid in London on three-month U.S. dollar deposits from other banks as quoted by The Chase Manhattan Bank on the Closing Date or, if such quotation is not available, the rate published on the first publication date following the Closing Date under "Money Rates" in the New York City edition of The Wall Street Journal.

"Losses" shall mean any liabilities, damages, claims, losses, charges, actions, suits, proceedings, deficiencies, Taxes, interest, penalties, and reasonable costs and expenses (including, without limitation, reasonable attorneys' fees, removal costs, remediation costs, closure costs, fines, penalties and expenses of investigation, litigation and ongoing monitoring) known or unknown, fixed or contingent.

"Material Adverse Effect" shall mean an effect that is materially adverse to the Business taken as a whole.

"Material Contracts" shall have the meaning set forth in Section 3.18(a).

"Modified GAAP" shall have the meaning set forth in Section 2.8(a).

"Net Working Asset Adjustment" shall have the meaning set forth in Section 2.8(a).

"Net Working Assets of the Business" shall have the meaning set forth in Section 2.8(a).

"Non-Basket Representations" shall have the meaning set forth in Section 8.3(a).

"Non-Union Transferred U.S. Employees" shall have the meaning set forth in Section 5.6(e).

"Notice Period" shall have the meaning set forth in Section 8.4.

"Ordinary Course of Business" shall mean the ordinary course of business of the Business consistent with past practices.

"Other Taxes" shall mean all Taxes of the Sellers, the Transferred Companies and the Transferred Joint Ventures other than (i) Income Taxes and (ii) Taxes described in Section 2.3(e) as assumed by Purchaser.

"Other Taxes of the Transferred Companies and Transferred Joint Ventures" shall mean Other Taxes excluding Taxes indemnifiable by Dana pursuant to Section 2.3(e) hereof.

"Owned Real Property" shall have the meaning set forth in Section 3.19(a).

"Permitted Encumbrance" shall have the meaning set forth in Section 3.19(b).

"Person" shall mean an individual, a corporation, a partnership, an association, a trust or other entity or organization.

"Post-Closing Period" shall mean any taxable period beginning after the Closing Date.

"pre-Adjusted Purchase Price" shall have the meaning set forth in Section 2.1.

"Pre-Closing Environmental Liabilities" shall mean all Environmental Claims arising from any facts, circumstances or conditions existing, initiated or occurring prior to the Closing Date relating to Owned Real Properties, except to the extent such claims (i) have been exacerbated by any act or omission by Purchaser (but not including the failure to conduct environmental investigations of Owned Real Properties) or (ii) are Retained Environmental Liabilities.

"Pre-Closing Period" shall mean any taxable period ending on or before the Closing Date.

"Precision Specialties" shall mean Precision Specialties, Inc., a company organized under the laws of Delaware.

"Purchase Price" shall have the meaning set forth in Section 2.1.

"Purchase Price Determination Date" shall have the meaning set forth in Section 2.12(a).

"Purchaser" shall have the meaning set forth in the recitals of this Agreement.

"Purchaser Defined Contribution Plan" shall have the meaning set forth in Section 5.7.

"Purchase Rights" shall have the meaning set forth in Section 3.2(b).

"Purchaser Indemnified Parties" shall have the meaning set forth in Section 8.3(a).

"Purchaser Retirement Plans" shall have the meaning set forth in Section 5.6(e).

"Purchaser's Closing Documents" shall have the meaning set forth in Section 4.2.

"Purchaser Welfare Plans" shall have the meaning set forth in Section 5.6(e).

"Qualified Plans" shall have the meaning set forth in Section 3.14(d).

"Real Property Leases" shall have the meaning set forth in Section 3.19(c).

"Related to the Business" shall mean primarily related to or used primarily in connection with the operation of the Business as conducted immediately prior to the Closing.

"Retained Employees" shall have the meaning set forth in Section 5.6(a).

"Retained Environmental Liabilities" shall mean (i) all obligations and liabilities arising from any offsite disposal of Hazardous Substances on or prior to the Closing Date in connection with the Business, any Transferred Company or any Transferred Joint Venture, (ii) all contractual commitments entered into prior to the Closing Date relating to environmental matters, or any Environmental Claims arising from any facts, circumstances or conditions existing, initiated or occurring prior to the Closing Date, in each case relating to Leased Real Properties, and (iii) all costs and expenses relating to compliance with state environmental transfer laws in connection with the transfer of the Hurffville, New Jersey, Bristol, Connecticut and Roscoe, Illinois Facilities under this Agreement.

"Review Period" shall have the meaning set forth in Section 2.8(a).

"Securities Act" shall mean the Securities Act of 1933, as amended.

"Sellers" shall mean Dana, Dana Spicer Europe Ltd., a company organized under the laws of England and Wales, Dana S.A., a company organized under the laws of France, Dana Europe Holdings B.V., a company organized under the laws of the Netherlands, Dana Equipamientos S.A., a company organized under the laws of Spain, Warner Electric AB, a company organized under the laws of Sweden, Dana Italia S.p.A., a company organized under the laws of Italy, Dana Holdings GmbH, a company organized under the laws of Germany and Dana Asia (Singapore) Pte. Ltd., a company organized under the laws of Singapore.

"Sellers' Closing Documents" shall have the meaning set forth in Section 3.3.

"Separate Income Tax Return" shall mean any Income Tax Return other than a Consolidated Income Tax Return.

"State" shall mean any State of the United States (including any political subdivision thereof) and the District of Columbia.

"State Income Taxes" shall mean all income taxes (and other taxes measured by net income or net gain) imposed by any State or political subdivision thereof, and any interest, penalties, and additions imposed with respect to such taxes.

"State Income Tax Returns" shall mean all returns, declarations, reports, claims for referrals, information returns, statements and other forms required to be filed with respect to any State Income Taxes, including any schedule or attachment thereto, and including any amendments thereof.

"Straddle Period" shall mean any taxable period that includes, but does not end on, the Closing Date.

"Subsidiary" shall mean, with respect to any Person, any corporation, partnership, joint venture or other legal entity of which such Person, either directly or through or together with any other Subsidiary of such Person, owns 50% or more of the equity interests or has the right to elect or designate a majority of the Board of Directors or similar governing body, whether through the ownership of voting securities, by contract or otherwise.

"Success Fee Agreements" shall mean any Contract for which Dana or any Affiliate has liability for any payment to which any Employee may become entitled as a result of such Employee's efforts in furtherance of the consummation of the purchase and sale contemplated by this Agreement.

"Superfund Site" shall have the meaning set forth in Section 3.20(b).

"Swiss Company" shall mean Warner Electric S.A., a company organized under the laws of Switzerland.

"Taiwanese Company" shall mean Dana Asia (Taiwan) Ltd., a company organized under the laws of Taiwan.

"Tax Audit" shall mean any audit, assessment of Taxes or other examination by any Tax Authority, and any proceeding or appeal or such proceeding relating to Taxes.

"Tax Authority" shall mean the IRS or any other domestic or foreign Governmental Authority responsible for the administration of any Taxes.

"Tax Benefit" shall mean the net reduction of liability for Income Taxes resulting from any loss, deduction, credit, or other item.

"Tax Detriment" shall mean the net increase of liability for Income Taxes resulting from any income, gain, recapture of credit, or other item.

"Taxes" shall mean any federal, state, local, foreign, or other tax of any kind whatsoever (whether imposed directly or through withholding) together with any interest, penalties, or additions imposed with respect thereto.

"Tax Returns" shall mean all returns, declarations, reports, claims for refunds, information returns, statements and other forms required to be filed with respect to any Taxes, including any schedule or attachment thereto, and including any amendment thereof.

"Thai Company" shall mean Dana Industrial Company Limited, a Thai company.

"Transferred Companies" shall mean Precision Specialties, the French Companies, the Dutch Company, the Swiss Company, the German Company, the Australian Company, the Chinese Company, the Taiwanese Company and the Thai Company.

"Transferred Company Interests" shall mean all of the issued and outstanding capital stock or other equity interests of the Transferred Companies set forth in Schedule 3.2(a).

"Transferred Joint Ventures" shall mean Stieber Precision Pvt. Ltd., an Indian joint venture company, and Elastomeric Actuators, Inc., a Texas corporation.

"Transferred Joint Venture Interests" shall mean all of the issued and outstanding capital stock or other equity interests of the Transferred Joint Ventures set forth in Schedule 3.2(a).

"Transferred U.S. Employees" shall have the meaning set forth in Section 5.6(a).

"Treasury Regulations" shall mean the Treasury regulations promulgated under the Code.

"Trust" shall have the meaning set forth in Section 5.8(d).

"UAW Plan Participants" shall have the meaning set forth in Section 5.9(a).

"Union Transferred U.S. Employees" shall have the meaning set forth in Section 5.6(g).

"U.S. Assumed Benefit Plans" shall have the meaning set forth in Section 3.14(d).

"U.S. Employees" shall mean all Employees employed in the United States and all Employees on the Dana United States payroll located outside the United States.

"U.S. Plans" shall have the meaning set forth in Section 3.14(a).

"WARN Act" shall have the meaning set forth in Section 5.13.

"Warner Savings Plan" shall have the meaning set forth in Section 5.10(a).

"Wichita Falls Savings Plan" shall have the meaning set forth in Section 5.10(a).

1.2 Other Terms.

Other terms may be defined elsewhere in the text of this Agreement and, unless otherwise indicated, shall have such meaning throughout this Agreement.

1.3 Other Definitional and Interpretive Provisions.

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

(b) The terms defined in the singular shall have a comparable meaning when used in the plural, and vice versa.

(c) The terms "dollars" and "$" shall mean United States dollars.

ARTICLE 2
PURCHASE AND SALE OF THE BUSINESS

2.1 Purchase Price.

2.2 Purchase and Sale of the Transferred Company Interests and the Transferred Joint Venture Interests.

On the terms and subject to the conditions set forth herein, at the Closing, Dana shall sell, transfer and deliver to Purchaser or cause to be sold, transferred and delivered, as the case may be, and Purchaser shall purchase, acquire, accept and pay for, all of the right, title and interest of Sellers in the Transferred Company Interests and the Transferred Joint Venture Interests.

2.3 Purchase and Sale of the Acquired Assets.

(a) Acquired Assets.

On the terms and subject to the conditions set forth herein, at the Closing, Dana shall sell, transfer and deliver to Purchaser or Dana shall cause to be sold, transferred and delivered to Purchaser, and Purchaser shall purchase, acquire, accept and pay for, all of the right, title and interest of Sellers in all of the properties, assets and rights, tangible and intangible, whether real, personal or mixed, wherever located, whether now existing or hereafter acquired in each case only if Related to the Business (collectively, the "Acquired Assets"). The Acquired Assets shall (i) not include the Excluded Assets and (ii) include the following assets:

(b) Excluded Assets.

(c) Assumed Liabilities.

At the Closing, except with respect to the Excluded Liabilities or as otherwise provided in this Agreement, Purchaser shall assume, and undertake to pay, perform and discharge when due all obligations and liabilities of the Business, whether such liabilities and obligations relate to payment, performance or otherwise, arise before or after the Closing Date, are matured or unmatured, are known or unknown, are contingent or non-contingent, are fixed or undetermined, or are present, future or otherwise (the "Assumed Liabilities"). The Assumed Liabilities shall include, without limitation:

(d) Excluded Liabilities.

Notwithstanding anything to the contrary herein, Purchaser shall not assume or in any way be responsible for any of the following obligations and liabilities of the Business (the "Excluded Liabilities"):

(iii) all obligations and liabilities to third parties, employees or otherwise for accidents or injuries (whether personal injury, bodily harm or property damage) occurring prior to the Closing Date;

(vi) all obligations and liabilities to third parties for injuries (whether personal injury, bodily harm or property damage), whether asserted prior to, on or after the Closing Date, relating to or arising out of asbestos contained in any product manufactured or sold by the Business prior to the Closing Date;

(vii) all obligations and liabilities to employees of the Business with respect to claims, whether asserted prior to, on or after the Closing Date, and whether asserted pursuant to any worker's compensation or similar law or otherwise, for occupational disease, injury or illness arising out of exposure to asbestos at the Facilities on or prior to the Closing Date; and

(viii) all obligations and liabilities for occupational disease and illness, employment discrimination and product recalls to third parties, employees or otherwise arising from the operation of the Business prior to the Closing Date, including the manufacture, sale and distribution of products prior to the Closing Date except as otherwise provided herein.

(e) Limitation on Taxes Assumed in Asset Purchases.

2.4 Closing.

2.5 Deliveries by Purchaser.

2.6 Deliveries by the Sellers.

2.7 Transfer Taxes and Recording Fees.

2.8 Post-Closing Adjustment.

(a) Net Working Asset Adjustment.

2.9 Payment of Purchase Price.

Purchaser will pay the Purchase Price as follows:

2.10 Refund of Adjustment.

2.11 Method of Payment.

2.12 Purchase Price Allocation.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES OF DANA

Dana represents and warrants to Purchaser as follows:

3.1 Organization and Qualification.

Each of the Sellers and the Transferred Companies is a company, duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and has all requisite corporate power and authority to own, lease and operate its assets and properties constituting its business and to carry on its business as currently conducted. Each of the Transferred Joint Ventures is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and has all requisite power and authority to own, lease and operate its assets and properties constituting its business and to carry on its business as currently conducted. Each of the Transferred Companies and Transferred Joint Ventures is duly licensed or qualified to do business and is in good standing as a foreign corporation in each jurisdiction where the ownership, lease or operation of its assets and properties or the conduct of its business requires such license or qualification, except where the failure to be so licensed or qualified or in good standing, as the case may be, would not be material to such Transferred Company or Transferred Joint Venture.

3.2 Capitalization; Title.

3.3 Corporate Authorization.

Dana has full corporate power and authority to enter into, execute and deliver this Agreement and to perform its obligations hereunder. Dana and each other Seller has the full corporate power and authority to enter into, execute and deliver each other agreement to be executed or delivered by any such party at the Closing ("Sellers' Closing Documents") and to perform its obligations thereunder. The execution, delivery and performance by Dana of this Agreement and by Sellers of the Sellers' Closing Documents has been and will be at Closing duly and validly authorized by all necessary corporate action.

3.4 Consents and Approvals.

3.5 Non-Contravention.

3.6 Binding Effect.

This Agreement constitutes and, when executed and delivered at the Closing, each of the Sellers' Closing Documents will constitute, a valid and legally binding obligation of Dana or such other Seller as is party thereto, enforceable in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles.

3.7 Investments.

3.8 Financial Statements; No Undisclosed Liabilities; Absence of Certain Changes.

(b) Except as set forth in Schedule 3.8(b), there are no liabilities of the Business of the type required to be reflected on a balance sheet prepared in accordance with Modified GAAP other than (1) liabilities provided for in the Balance Sheet or the notes thereto; (2) liabilities that will be provided for in the Closing Balance Sheet which were incurred in the Ordinary Course of Business since the Balance Sheet Date under the terms of this Agreement; (3) Excluded Liabilities; (4) liabilities specifically disclosed herein on any schedule hereto; (5) liabilities under the Contracts; and (6) other non-material undisclosed liabilities which, individually or in the aggregate, would not have a Material Adverse Effect.

3.9 Inventories.

3.10 Accounts Receivable.

3.11 No Material Adverse Effect.

Since the Balance Sheet Date, there has been no event or change that would have a Material Adverse Effect.

3.12 Litigation.

(a) Schedule 3.12(a) sets forth, as of the date hereof, a complete and accurate list of each material civil or administrative, and each criminal, action, suit, claim, hearing, arbitration, proceeding or investigation (other than relating to asbestos) pending or, to the Knowledge of Dana, threatened, against (1) any of the Transferred Companies or Transferred Joint Ventures or (2) any Seller (or its Affiliates) and which is Related to the Business or to the Acquired Assets.

(b) Except as set forth in Schedule 3.12(b), there is no order, writ, judgment, award, injunction or decree of any Governmental Authority of competent jurisdiction against or affecting the Business which would have a material effect on a Transferred Company or Transferred Joint Venture.

3.13 Taxes.

Except as set forth in Schedule 3.13:

3.14 Employee Benefits.

3.15 Compliance with Laws

3.16 Intellectual Property.

3.17 Labor Matters.

3.18 Contracts.

3.19 Property.

3.20 Environmental Law.

3.21 Finders' Fees.

3.22 Year 2000 Compliance.

3.23 Asbestos.

No Transferred Company or with respect to the Business, no Seller, currently manufacturers or sells or maintains in inventory any product or material that contains asbestos.

3.24 No Other Representations or Warranties.

Except for the representations and warranties contained in this Article 3, neither Dana nor any other Person makes any other express or implied representation or warranty on behalf of Dana or any of its Affiliates.

ARTICLE 4
REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser represents and warrants to Dana as follows:

4.1 Organization and Qualification.

Purchaser is a corporation duly formed, validly existing and in good standing under the laws of Delaware and has all requisite power and authority to own, lease and operate and to carry on its business as currently conducted in all material respects. Purchaser is duly licensed or qualified to do business and is in good standing in each jurisdiction where the ownership of its properties or the operation of its business requires such license or qualification, except where the failure to be so licensed or qualified or in good standing, as the case may be, would not be materially adverse to Purchaser.

4.2 Authorization.

Purchaser has full corporate power and authority and full legal right to enter into, execute and deliver this Agreement and each other agreement to be executed and delivered by Purchaser at the Closing (the "Purchaser's Closing Documents") and to perform its obligations hereunder and thereunder. The execution, delivery and performance by Purchaser of this Agreement and the Purchaser's Closing Documents have been and will be at Closing duly and validly authorized by all necessary corporate action.

4.3 Consents and Approvals.

4.4 Non-Contravention.

4.5 Binding Effect.

This Agreement constitutes and, when executed and delivered at the Closing, each of the Purchaser's Closing Documents will constitute a valid and legally binding obligation of Purchaser enforceable in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles.

4.6 Finders' Fees.

4.7 Financial Capability.

4.8 No Other Representations or Warranties.

Except for the representations and warranties contained in this Article 4, neither Purchaser nor any other Person makes any other express or implied representation or warranty on behalf of Purchaser.

ARTICLE 5
COVENANTS

5.1 Access.

5.2 Conduct of Business.

5.3 Commercially Reasonable Efforts.

5.4 Further Assurances.

5.5 Use of Corporate Names and Symbols.

After ninety (90) days following the Closing, (a) neither Purchaser, its Affiliates nor any of the Transferred Companies shall use the Excluded Intellectual Property and (b) neither Dana nor any of its Affiliates (other than the Transferred Companies) shall use the Intellectual Property, except in each case as provided in any Closing Document.

5.6 U.S. Employees and Service Credit.

5.7 Dana Retirement Benefits.

5.8 Dana Welfare Benefits.

5.9 Pension Transfer.

5.10 Hourly 401(k) Plans.

5.11 Foreign Employees.

5.12 Notice and Implementation.

5.13 WARN Act.

5.14 Preservation of Records.

5.15 Notice of Breach.

(a) From time to time prior to Closing, Dana shall promptly supplement or amend the Schedules. In the event such additional disclosure, if not made, would constitute a material breach of any such representation or warranty by Dana, Purchaser shall be permitted to terminate this Agreement within ten (10) days after such disclosure is made to Purchaser by Dana and, if

Purchaser so terminates this Agreement, neither Purchaser nor Dana shall have any liability to the other hereunder. If Purchaser does not terminate this Agreement within such 10-day period or if such supplement or amendment is not material, the Schedule shall be amended or supplemented, as the case may be, which shall be deemed to be effective as of the date of this Agreement, and Purchaser shall have no right not to proceed with Closing as a result of such amendment or supplement.

(b) Purchaser agrees that, if between the date hereof and the Closing Date, Purchaser obtains knowledge of any facts or circumstances that cause or, if in existence on the Closing Date, would cause a material breach of any representation or warranty by Dana (a) Purchaser will notify Dana in writing reasonably promptly after learning of such facts or circumstances and (b) Dana shall have ten (10) days within which to notify Purchaser that Dana has cured or is proceeding to cure such breaches or that Dana does not intend to cure such breaches. If Dana notifies Purchaser that it is proceeding to cure such breaches, then Purchaser shall not be entitled to terminate this Agreement for thirty (30) days following receipt of such notice. If Dana notifies Purchaser that it does not intend to cure such breaches or that despite its diligent efforts Dana has been unable to effect a cure and is ceasing to pursue a cure, then Purchaser shall be permitted to terminate this Agreement within thirty (30) days after receipt of such notice and, if Purchaser so terminates this Agreement, neither Purchaser nor Dana shall have any liability to the other hereunder. If Purchaser does not terminate this Agreement within such 30-day period, the Schedules hereto shall be amended as necessary to reflect the facts underlying such breach and Purchaser shall have no rights against Dana pursuant to Article 8 in respect of such breach nor any right not to proceed with Closing based on such breach.

5.16 <u>Assignment of Beneficial Interests</u>.

5.17 Marengo Facility.

5.18 Transition Services.

Prior to Closing, the parties shall enter into a mutually agreeable arrangement for the provision of transition services by Dana and its Affiliates to and from the Business.

ARTICLE 6
CONDITIONS TO CLOSING

6.1 Conditions to the Obligations of Purchaser and Dana.

(d) <u>Environmental Transfer Statutes</u>. Dana will have complied with the provisions of the property transfer and notification statutes of New Jersey, Connecticut and Illinois to the extent necessary to consummate the Closing.

6.2 <u>Conditions to the Obligations of Purchaser</u>.

6.3 Conditions to the Obligation of Dana.

ARTICLE 7
TAX MATTERS

7.1 Filing of Income Tax Returns.

7.2 Indemnification and Payment of Income Taxes.

7.3 Section 338 and Similar Elections.

7.4 Offset of Claims.

7.5 Cooperation and Procedures.

7.6 Termination of Tax-Sharing Agreements.

7.7 Relationship of this Article 7 to Article 8.

The indemnities provided in this Article 7 are in addition to, but not in duplication of, the indemnities provided in Article 8 (Survival; General Indemnification). Sections 8.1 and 8.3 shall apply to claims subject to indemnification under this Article 7 to the extent provided therein. Where the provisions of Section 7.5 (Cooperation and Procedures) are applicable, the procedures set forth in Section 7.5, rather than Section 8.5, shall control.

ARTICLE 8
SURVIVAL; GENERAL INDEMNIFICATION

8.1 Survival.

(a) All claims and causes of action with respect to all of the representations, warranties, covenants and agreements of Dana contained in this Agreement shall survive until the second anniversary of the Closing Date, except that all claims and causes of action with respect to (A) the representations and warranties in (i) Sections 3.1 (Organization and Qualification), 3.2 (Capitalization; Title), 3.3 (Corporate Authorization), and 3.6 (Binding Effect) shall have no expiration date and shall survive indefinitely and (ii) Section 2.3(e) (Limitations on Taxes Assumed in Asset Purchases) and Article 7 (Tax Matters) shall survive for the applicable statute of limitations (including extensions) plus a period of thirty (30) days, (B) the Excluded Assets and Excluded Liabilities shall have no expiration date and shall survive indefinitely (except with respect to Other Taxes that are Excluded Liabilities, which shall survive for the applicable statute of limitations (including extension) plus a period of thirty (30) days) and (C) Pre-Closing Environmental Liabilities shall survive until the fifth anniversary of the Closing Date. All claims and causes of action with respect to the representations, warranties, covenants and agreements of Purchaser contained in this Agreement shall have no expiration date and shall survive indefinitely.

(b) In the event notice of any claim for indemnification for breach of a representation, warranty, covenant or agreement under Section 8.2 (Indemnification by Purchaser) or Section 8.3 (Indemnification by Dana) is given (within the meaning of Section 10.1 (Notices)) within the applicable survival period, the cause of action that is the subject of such indemnification claim shall survive until such time as such claim is finally resolved.

8.2 Indemnification by Purchaser.

Purchaser hereby agrees that, from and after the Closing, it shall indemnify, defend and hold harmless Dana, its Affiliates and, if applicable, their respective directors, officers, shareholders and employees and their heirs, successors and assigns (the "Dana Indemnified Parties") from, against and in respect of any Losses imposed on, sustained, incurred or suffered by or asserted against any of the Dana Indemnified Parties, directly or indirectly, relating to or arising out of:

(a) the breach of any representation or warranty made by Purchaser contained in this Agreement;

(b) the breach of any covenant or agreement of Purchaser contained in this Agreement;

(c) the Assumed Liabilities, regardless of when they arose or arise and regardless of by whom or when asserted, to the extent Dana is not required to indemnify Purchaser therefor pursuant to Section 8.3 (Indemnification by Dana);

(d) any and all claims based upon or arising out of (1) the use after the Closing of (A) the Financial Statements or the Closing Balance Sheet, (B) any pro forma adjustments to the information contained in the Financial Statements or the Closing Balance Sheet or (C) any other information appearing in a registration statement, prospectus or other offering document prepared by Purchaser and/or its Affiliates, in connection with any debt and/or equity financings by Purchaser and/or its Affiliates (including, at and after the Closing, the Business) or (2) the execution after the Closing of any "management representation letters" addressed to the auditors by employees or agents of Dana or their Affiliates in connection therewith, except to the extent that, in the case of either (1) or (2), Dana would be obligated to indemnify Purchaser with respect to the subject matter of such claims pursuant to Section 8.3(a)(1) or Section 8.3(a)(2) of this Agreement; and

(e) any liability under the WARN Act with respect to any former Employee whose employment terminated prior to the Closing Date, which liability arises as a result of the termination of employment of Employees following the Closing Date.

8.3 Indemnification by Dana.

(a) Dana hereby agrees that, from and after the Closing, it shall indemnify, defend and hold harmless Purchaser, its Affiliates (including the

Transferred Companies) and, if applicable, their respective directors, officers, shareholders and employees and their heirs, successors and assigns (the "Purchaser Indemnified Parties" and, collectively with Dana Indemnified Parties, the "Indemnified Parties") from, against and in respect of any Losses imposed on, sustained, incurred or suffered by or asserted against any of the Purchaser Indemnified Parties, directly or indirectly, relating to or arising out of:

(1) subject to Section 8.3(b), the breach of any representation, warranty, covenant or agreement made by Dana contained in this Agreement (other than those contained in Section 3.13 (Taxes) and the Non-Basket Representations) for the period claims and causes of action with respect thereto survive;

(2) the breach of any representations or warranties in Sections 3.1 (Organization and Qualification), 3.2 (Capitalization; Title), 3.3 (Corporate Authorization), 3.6 (Binding Effect) (collectively, the "Non-Basket Representations");

(3) subject to Section 8.3(c), Pre-Closing Environmental Liabilities for the period claims and causes of action with respect thereto survive;

(4) all Excluded Liabilities; or

(5) all claims by any Transferred U.S. Employees or Foreign Employees relating to changes or reductions made by Dana effective prior to the Closing Date in or to any Dana Welfare Plans, the Dana Pension Plan, the Dana Defined Contributed Plan, U.S. Assumed Plans, the Dana Manufacturing Group Pension Scheme or the Warner Electric Retirement Benefits Pension Scheme.

(b) Dana shall not be liable to the Purchaser Indemnified Parties for any Losses with respect to the matters contained in Section 8.3(a)(1) (indemnities subject to basket) except to the extent (and then only to the extent) the Losses therefrom exceed an aggregate amount equal to $3,000,000 (the "Indemnity Basket"); *provided, however,* that in no event shall the aggregate of all Losses paid or payable by Dana pursuant to Sections 8.3(a)(1) and 8.3(a)(2) and with respect to Other Taxes of the Transferred Companies and the Transferred Joint Ventures exceed an amount equal to $140,000,000 (the "Indemnity Cap"); and

(c) Dana shall only be liable to the Purchaser Indemnified Parties for any Losses with respect to Pre-Closing Environmental Liabilities as follows:

(i) 100% of the first $10.000.000 of such Losses;

(ii) 50% of any such Losses in excess of $10.000.000 up to $20.000.000; and

(iii) 100% of any such Losses in excess of $20.000.000; *provided, however*, that in no event shall the aggregate amount of all such Losses exceed $50,000,000 (the "Environmental Cap"). In the event that the total of all Losses indemnified or indemnifiable by Dana under this Section 8.3(c) (the "Covered Losses") does not exceed $10,000,000, Dana shall promptly after the fifth anniversary of the Closing Date (or such later date as the last claim with respect to indemnifiable Pre-Closing Environmental Liabilities is finally resolved) pay the Purchaser 50% of the amount by which $10,000,000 exceeds Covered Losses.

(d) Dana and Purchaser acknowledge that in the event this Agreement is not performed in accordance with its terms by the other party, the party seeking performance shall be entitled to specific performance of the terms hereof and other equitable relief, without the posting of a bond or other security. In addition, Purchaser acknowledges that the indemnification provisions contained in this Article 8 and elsewhere in this Agreement constitute Purchaser's only other remedies with respect to any of the matters referred to herein and therein.

8.4 Indemnification Procedures.

With respect to third-party claims and all other claims under this Article 8, all claims for indemnification by any Indemnified Party hereunder shall be asserted and resolved as set forth in this Section 8.4. In the event that any written claim or demand for which either Purchaser or Dana, as the case may be (an "Indemnifying Party"), would be liable to any Indemnified Party hereunder is asserted against or sought to be collected from any Indemnified Party by a third party, such Indemnified Party shall promptly, but in no event more than thirty (30) days following such Indemnified Party's receipt of such claim or demand, notify the Indemnifying Party of such claim or demand and the amount or the estimated amount thereof to the extent then feasible (which estimate shall not be conclusive of the final amount of such claim or demand) (the "Claim Notice"); *provided, however*, that the Indemnified Party's failure to provide such notice in not more than thirty (30) days shall not preclude the Indemnified Party from being indemnified for such claim or demand, except to the extent that the failure to give timely notice results in the forfeiture of substantive defenses by the Indemnifying Party. The Indemnifying Party shall have thirty (30) days from the personal delivery or mailing of the Claim Notice (the "Notice Period") to notify the Indemnified Party (a) whether or not the Indemnifying

Party disputes the liability of the Indemnifying Party to the Indemnified Party hereunder with respect to such claim or demand and (b) whether or not it desires to defend the Indemnified Party against such claim or demand. All costs and expenses incurred by the Indemnifying Party in defending such claim or demand shall be a liability of, and shall be paid by, the Indemnifying Party; *provided, however*, that the amount of such costs and expenses that shall be a liability of Dana as an Indemnifying Party, when aggregated with all Losses paid by Dana pursuant to Section 8.3 shall not exceed the maximum liability of Dana set forth in Section 8.3. Except as hereinafter provided, in the event that the Indemnifying Party notifies the Indemnified Party within the Notice Period that it desires to defend the Indemnified Party against such claim or demand, the Indemnifying Party shall have the right to defend the Indemnified Party by appropriate proceedings and shall have the sole power to direct and control such defense. If any Indemnified Party desires to participate in any such defense, it may do so at its sole cost and expense. The Indemnified Party shall not settle a claim or demand without the consent of the Indemnifying Party. The Indemnifying Party shall not, without the prior written consent of the Indemnified Party, settle, compromise or offer to settle or compromise any such claim or demand on a basis that would result in the imposition of a consent order, injunction or decree that would materially restrict the future activity or conduct of the Indemnified Party or any Subsidiary or Affiliate thereof. If the Indemnifying Party elects not to defend the Indemnified Party against such claim or demand, whether by not giving the Indemnified Party timely notice as provided above or otherwise, then the amount of any such claim or demand or, if the same be contested by the Indemnified Party, then that portion thereof as to which such defense is unsuccessful (and the reasonable costs and expenses pertaining to such defense), shall be the liability of the Indemnifying Party hereunder, subject to the limitations set forth in Section 8.3(b) including the Indemnity Basket and the Indemnity Cap. To the extent the Indemnifying Party shall direct, control or participate in the defense or settlement of any third-party claim or demand, the Indemnified Party will give the Indemnifying Party and its counsel, without charge, access to, during normal business hours, the relevant business records and other documents, and shall permit them to consult with the employees and counsel of the Indemnified Party. The Indemnified Party shall use its commercially reasonable best efforts in the defense of all such claims or demands. Notwithstanding the foregoing, the Indemnified Party shall have the right to employ separate counsel at the Indemnifying Party's expense and solely to control its own defense of such asserted liability if in the reasonable written opinion of counsel to the Indemnified Party, a conflict or potential conflict exists between the Indemnifying Party and the Indemnified Party that would make such separate representation necessary under the applicable canons of ethics; *provided, however*, that the Indemnified Party shall not settle or compromise any claim or demand without the consent of the Indemnifying Party, such consent not to be unreasonably withheld.

8.5 Characterization of Indemnification Payments.

All amounts paid by Purchaser or Dana, as the case may be, under Article 2, Article 5, Article 7 or this Article 8 shall be treated as adjustments to the Purchase Price for all Tax purposes.

8.6 Computation of Losses Subject to Indemnification.

The amount of any Loss for which indemnification is provided under this Article 8 shall be computed net of any third party insurance proceeds received by the Indemnified Party in connection with such Loss, Tax Benefits attributable to the Loss and exclude consequential damages and lost profits (except to the extent due to a party other than the Indemnified Party). The Indemnified Party shall use its commercially reasonable efforts to obtain third party insurance proceeds to which the Indemnified Party is entitled in connection with any Loss for which the Indemnified Party seeks indemnification pursuant to this Article 8.

8.7 Pre-Closing Environmental Liabilities.

(a) In connection with any and all Pre-Closing Environmental Liabilities, Purchaser shall have the right to conduct and retain exclusive control over any remedial action, correction of noncompliance or other action, including, without limitation, the exclusive right to (i) investigate any suspected contamination or noncompliance, (ii) conduct and obtain any tests, reports, surveys and investigations, (iii) contact, negotiate or otherwise deal with Governmental Authorities, (iv) prepare any plan for such remedial action, correction of noncompliance or other action and (v) conduct or direct any such remedial action, correction of noncompliance or other action *provided that*, with respect to any Pre-Closing Environmental Liabilities for which Dana is obligated to indemnify Purchaser, Purchaser shall use reasonable efforts to consult with Dana in good faith prior to conducting any such remedial action, correction of noncompliance or other action. Purchaser and Dana agree that any liability relating to disposal of wastes or other materials (or the arrangement of such disposal) in connection with any remedial action, correction of noncompliance or other action for which Purchaser shall have control pursuant to this Section 8.7 shall be deemed to be a Pre-Closing Environmental Liability for which Dana has an obligation to indemnify the Indemnified Parties, *provided further that* Purchaser shall comply in all material respects with all Environmental Laws in connection with such disposal and in good faith select a facility for such disposal which, to Purchaser's knowledge, is operating in material compliance with all Environmental Laws and is not listed on the National Priorities List or any equivalent state list.

(b) Dana and Purchaser agree that any remedial action, correction of noncompliance, or other action to be undertaken (i) shall be the most commercially reasonable method under the circumstances and based upon the understanding that the Facilities are and will continue to be used for industrial purposes, (ii) shall not exceed the least stringent requirements of any applicable Environmental Law or any clean-up standards set forth. established. published, proposed or promulgated under. pursuant to or by an Environmental Law or Governmental Authority having jurisdiction over such remedial action, correction of noncompliance. or action. in each case as in effect on the date of such remedial action, correction of noncompliance, or other action or any requirement or order of any Governmental Authority having jurisdiction over such remedial action. correction of noncompliance. or action, and (iii) shall be conducted in compliance with all Environmental Laws. To the extent necessary to achieve the purposes set forth in Section 8.7(b)(i), Purchaser shall agree to a deed restriction or other institutional controls on the Facilities that are subject to such action, provided that such deed restriction or other institutional controls shall not restrict or limit the industrial activities currently being performed at these Facilities. Purchaser agrees that it shall. in good faith, seek to enter, when necessary, into an agreement with the Governmental Authority having jurisdiction over the remedial action, correction of noncompliance or other action, to allow Purchaser to use the most commercially reasonable method and least stringent standard in connection with remedial action, correction of noncompliance, or other action under such circumstances and use.

(c) Purchaser shall promptly notify Dana pursuant to Section 8.4 of any condition which may be subject to indemnity upon receipt of any written document concerning such matter.

(d) Dana and Purchaser mutually agree to cooperate in connection with any Pre-Closing Environmental Liabilities subject to indemnification under this Article 8. Upon request, Purchaser shall provide Dana with (i) any material correspondence, report, technical data or other material information generated as a result of a remedial action by Purchaser, (ii) reasonable access to the Facilities, and (iii) the right to take split samples in each case for the purpose of verifying the performance of any remedial action, correction of noncompliance or other action, the costs for which Dana is required to indemnify Purchaser pursuant to Section 8.3. Dana and Purchaser agree that they each shall maintain in strict confidence any information concerning any Pre-Closing Environmental Liabilities; *provided, however*, that Dana and Purchaser may disclose such information to the extent reasonably necessary to communicate with appropriate Governmental Authorities. If any law requires any party to disclose such information, such party will promptly notify the other party and will give such other party the opportunity to review and comment in advance upon the content and timing of any such disclosure. Purchaser shall submit any reimbursement requests for which Purchaser is seeking indemnification pursuant to Section 8.3 to Dana and, as promptly as practicable after receipt of such reimbursement requests, Dana shall pay any such reimbursement requests in accordance with, and subject to, the terms and conditions of Section 8.4.

(e) Dana shall retain exclusive control of and be solely responsible for the Retained Environmental Liabilities, including, without limitation, the sole control of all aspects of any legal proceedings. Following the Closing, Dana shall use reasonable efforts to consult with Purchaser prior to, and on a periodic basis while, conducting any remedial action, correction of non-compliance, or engaging in any legal proceeding involving the Owned Real Property or the Leased Real Property and shall give the Purchaser the reasonable opportunity to review any material governmental filings or other material governmental correspondence relating thereto made by Dana or its Affiliates. Dana agrees to use its reasonable best efforts to minimize the disruption of the Business in connection with the foregoing.

ARTICLE 9
TERMINATION

9.1 Termination.

This Agreement may be terminated at any time prior to the Closing:

9.2 Effect of Termination.

ARTICLE 10
MISCELLANEOUS

10.1 Notices.

All notices or other communications hereunder shall be deemed to have been duly given and made if (a) in writing and served by personal delivery upon the party for whom it is intended or (b) if delivered by registered mail, certified mail, courier service, or telecopier, return receipt received:

10.2 Amendment; Waiver.

Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and signed, in the case of an amendment, by Purchaser and Dana, or in the case of a waiver, by the party against whom the waiver is to be effective. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law, except as otherwise expressly provided herein.

10.3 Assignment.

No party to this Agreement may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other party hereto, except that Purchaser may assign any and all of its rights and remedies and delegate its obligations under this Agreement, including its rights to acquire the Transferred Company Interests, the Transferred Joint Venture Interests and the Acquired Assets, to one or more Affiliates of Purchaser (*provided, however*, that Purchaser shall not be released from any of its obligations hereunder).

10.4 Entire Agreement.

This Agreement (including all Schedules hereto) contains the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral or written, with respect to such matters, except for the Confidentiality Agreement which will remain in full force and effect for the term specified therein.

10.5 Fulfillment of Obligations.

Any obligation of any party to any other party under this Agreement or any of the Supplemental Agreements, which obligation is performed, satisfied or fulfilled by an Affiliate of such party, shall be deemed to have been performed, satisfied or fulfilled by such party.

10.6 Parties in Interest.

This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

10.7 No Third Party Rights.

Except as otherwise provided in Article 8, nothing in this Agreement, express or implied, is intended to confer on any Person not a party hereto, any rights or remedies by reason of this Agreement.

10.8 Public Disclosure.

Notwithstanding anything herein to the contrary, each of the parties to this Agreement hereby agrees with the other party or parties hereto that, except as may be required to comply with the requirements of any applicable Laws and the rules and regulations of any stock exchange upon which the securities of one of the parties (or its Affiliate) is listed, the parties shall agree in advance as to the contents of any press release with respect to the transactions contemplated by this Agreement issued through the time of Closing.

10.9 Return of Information.

If for any reason whatsoever the transactions contemplated by this Agreement are not consummated, Purchaser shall, in addition to satisfying the requirements of the Confidentiality Agreement, promptly return to Dana all books and records furnished by Dana or any of its Affiliates or any of their respective agents, employees or representatives (including all copies, if any, thereof), and shall not use or disclose the information contained in such books and records for any purpose or make such information available to any other entity or person.

10.10 Expenses.

Except as otherwise expressly provided in this Agreement, whether or not the transactions contemplated by this Agreement are consummated, all out-of-pocket costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be borne by Dana if the costs and expenses are incurred by Dana or its Affiliates, or by Purchaser if the costs and expenses are incurred by Purchaser or its Affiliates. All fees for filings required under the HSR Act and other Competition Laws shall be paid by Purchaser.

10.11 Schedules.

The disclosure of any matter in any schedule to this Agreement shall be deemed to be a disclosure for all purposes of this Agreement to which such matter could reasonably be expected to be pertinent, but shall expressly not be deemed to constitute an admission by Dana or to otherwise imply that any such matter is material for the purposes of this Agreement.

10.12 Governing Law.

This Agreement shall in all respects and to the maximum extent permitted by applicable Law be governed by the Law of the State of New York, including all matters of construction, validity and performance (including sections 5-1401 and 5-1402 of the New York General Obligations Law but excluding all other choice of law and conflicts of law rules).

10.13 SUBMISSION TO JURISDICTION; SELECTION OF FORUM.

EACH PARTY HERETO AGREES THAT IT SHALL BRING ANY ACTION OR PROCEEDING IN RESPECT OF ANY CLAIM ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTAINED IN OR CONTEMPLATED BY THIS AGREEMENT, WHETHER IN TORT OR CONTRACT OR AT LAW OR IN EQUITY, EXCLUSIVELY IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK (THE "CHOSEN COURT") AND (A) IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE CHOSEN COURT, (B) WAIVES ANY OBJECTION TO LAYING VENUE IN ANY SUCH ACTION OR PROCEEDING IN THE CHOSEN COURT, (C) WAIVES ANY OBJECTION THAT THE CHOSEN COURT IS AN INCONVENIENT FORUM OR DOES NOT HAVE JURISDICTION OVER ANY PARTY HERETO AND (D) AGREES THAT SERVICE OF PROCESS UPON SUCH PARTY IN ANY SUCH ACTION OR PROCEEDING SHALL BE EFFECTIVE IF NOTICE IS GIVEN IN ACCORDANCE WITH SECTION 10.1 OF THIS AGREEMENT.

10.14 Counterparts.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same Agreement.

10.15 Headings.

The heading references herein and the table of contents hereto are for convenience purposes only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

10.16 Severability.

The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision of this Agreement, or the application thereof to any Person or any circumstance, is invalid or unenforceable, (a) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision and (b) the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

[SIGNATURES ON FOLLOWING PAGE]

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

DANA CORPORATION

By: Daniel E Fischer

Name: Daniel E Fischer

Title: Group Controller

COLFAX CORPORATION

By: J. A. Young

Name: John A. Young

Title: Vice President