GOULD ELECTRONICS INC.
34929 CURTIS BLVD.
EASTLAKE, OHIO 44095-4001
440-953-5124
FAX: 440-953-5014

THOMAS N. RICH
VICE PRESIDENT - FINANCE, SECRETARY AND TREASURER

MAR 1 5 2002

SDMS DocID 2001287

March 14, 2002

VIA FEDERAL EXPRESS

United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Attention: Henry J. Sokolowski

Re: Required Submission of Information
Lower Darby Creek Area Superfund Site – Clearview Landfill,
Folcroft Landfill and Folcroft Landfill Annex

Dear Mr. Sokolowski:

This letter and response is submitted on behalf of Gould Electronics Inc. ("GEI") to your letter of February 10, 2002 requesting information on the Lower Darby Creek Area Superfund Site – Clearview Landfill, Folcroft Landfill, and Folcroft Landfill Annex. GEI received the request on or about February 22, 2002.

Nothing in this response shall constitute an admission of liability by GEI for the Site and GEI reserves its rights to contest any allegations made against it with regard to this Site by any person or entity. By responding to this request, GEI does not intend to waive any applicable privilege, including but not limited to the attorney-client privilege and the attorney work product privilege.

The requests seek information regarding ITE Imperial Corporation's ("ITE") business activities in the Philadelphia, PA area between 1958 and 1976. ITE was acquired by Gould Inc. (now Gould Electronics Inc.) in April 1976. ITE's businesses were divided into operating groups and divisions; Gould began selling ITE's operating groups and divisions in 1980 to various entities. All of the ITE operating groups and divisions

have since been sold. ITE's business records remained with the entity that acquired the business. With the exception of documents evidencing the sale by Gould of these operating groups and divisions, Gould has no business records of ITE. The purchase and sale documents are enclosed.

Should you have any questions or wish to discuss this matter, please contact me at 440-953-5124.

Sincerely,

Thomas N. Rich

Thomas N. Rich

TNR:jk

1. **State the name of your company, its mailing address, and telephone number.**
Gould Electronics Inc.
34929 Curtis Boulevard
Eastlake, OH 44095-4001
Phone: 440-953-5000

1a. **The dates and states of incorporation:**
October 1, 1993; Ohio

1b. **The date and original state of incorporation**:
October 15, 1928, National Battery Company was incorporated in the state of Delaware; on August 2, 1950, the company changed its name to Gould-National Batteries, Inc.; on June 26, 1969, the company changed its name to Gould Inc. On January 31, 1994, Gould Inc. transferred its assets and liabilities to Gould Electronics Inc. and on February 1, 1994, Gould Inc. was dissolved.

1c. **The parent corporation of your company and all subsidiaries or other affiliated entities.**
Gould Electronics Inc. is a wholly owned subsidiary of Japan Energy Corporation. There are no subsidiaries or affiliated entities relevant to the Lower Darby Creek Area Superfund Site.

2. **Describe in detail your relationship with ITE. Please submit any and all documents relating to the sale, merger or other transaction by which Gould acquired any assets, liabilities, property, or possessions of ITE, including, but not limited to all documents pertaining to all agreements, express or implied, for the purchasing corporation to assume the liabilities of the selling corporation.**
In April 1976, ITE Imperial Corporation was acquired by Gould Inc. ITE operated as a wholly owned subsidiary of Gould until it merged into Gould in December 1981. Documents evidencing these transactions are attached hereto as Attachment A.

3. **Describe in detail the corporate histories of ITE and Gould. Identify any and all mergers, incorporations, corporate name changes, or changes in ownership which resulted in the current organization of Gould. Please provide dates of such mergers, incorporations, corporate name changes and changes in ownership.**

The history of ITE and Gould as it relates to ITE's business activities in the Philadelphia, PA area is as follows:

1905	Imperial Brass Company was founded.
1914[1]	Eastman Manufacturing Company was founded.
1928	National Battery Company, Inc. was incorporated in Delaware.
1939[2]	ITE Circuit Breaker Company, a manufacturer of electrical equipment, was incorporated in Pennsylvania.
1950	National Battery Company, Inc. changed its name to Gould-National Batteries, Inc. Gould's principal products were industrial and automotive batteries.
1960	Imperial Brass Manufacturing Company and Eastman Manufacturing Company merged; the surviving corporation was Imperial Eastman Corporation. Imperial Eastman Corporation was a supplier of components for hydraulic and pneumatic power systems.
1968	ITE Imperial Corporation was incorporated in Delaware.
1968	ITE Circuit Breaker Company merged with Imperial Eastman Corporation. The surviving corporation was ITE Imperial Corporation.
1969	Gould-National Batteries, Inc. changed its name to Gould Inc.
1976	ITE Imperial Corporation was acquired by Gould Inc. and operated as a wholly owned subsidiary.
1979	ITE, Gould, and Brown Boveri entered into a partnership to manufacture high voltage electrical distribution equipment. This business was Gould's Electrical Systems Group ("ESG") business acquired through the acquisition of ITE.
1980	Gould sold its interest in the partnership to Brown Boveri.
1981	ITE merged into Gould Inc. and was dissolved.
1983	Gould sold its Distribution and Controls Division (that manufactured low to medium voltage electrical distribution equipment) to Siemens-Allis Inc.
1987	Gould sold its Systems Protection Division (that manufactured large and small air circuit breakers used by the U.S. Navy) to SPD Technologies, Inc.
1988	Gould Inc. was acquired by Nippon Mining Inc. (now Japan Energy Corporation).
1993	Gould Electronics Inc. was incorporated in Ohio
1/31/1994	Gould Inc. transferred its assets and liabilities to Gould Electronics Inc.
2/1/94	Gould Inc. was dissolved.

[1] Source not located

[2] See 2/23/68 Agreement of Merger of ITE Circuit Breaker Company and Imperial Eastman Corporation.

3a. For each merger, provide a copy of the merger document.

3b. For each incorporation, provide all documents reflecting the incorporation or the change;

3c. For each change in ownership, provide all documents reflecting the incorporation or change. Provide the names and addresses of all subsequent owners;

3d. For each corporate name change, provide all documents reflecting such changes.
Documents evidencing the above transactions are attached hereto as Attachment B.

ITE's headquarters were located in Spring House, PA.
Until July 1989, Gould Inc. was located in Rolling Meadows, IL.
Since July 1989, Gould has been located in Eastlake, Ohio.
Japan Energy's address is: 10-1 Toranomon 2-Chome, Minato-ku, Tokyo, 105-8407 Japan.

4. **What is the current nature of the business or activity conducted by Gould? What was the nature of ITE's business or activity in the Philadelphia area between 1958 and 1976? If the nature of ITE's/Gould's business activity changed from 1958 – 1976 to the present, please provide a detailed explanation of the changes to date.**
Gould currently manufactures and sells copper foil for printed circuit boards. ITE Circuit Breaker Company manufactured electrical distribution equipment for residential, industrial and commercial applications. See response to #3.

5. **Provide a copy of any and all agreements of sale, merger, and/or transfer between ITE and Gould as well as all attachments and amendments to any such agreement including related agreements such as exclusive service contracts, not to compete agreements or consulting agreements, and any agreement, schedule or other document that documents each asset, liability, property or possession sold as well as the consideration paid for each.**
See Attachment B. We know of no other agreements between ITE and Gould.

6. **Identify all consideration paid by Gould for any and all assets, liabilities, property or possessions of ITE. In identifying the consideration, provide the amount paid in cash, the amount paid in promissory notes or other form of**

debenture payable to the entity and/or officers, directors and/or shareholders of entity selling the assets, the value associated with the assumption of liabilities (if assumption of liabilities is involved, identify the types of liabilities assumed.
See Attachment B.

7. **For all promissory notes or other form of debenture identified in Question 6 above, has there been a renegotiation of the terms and conditions relating to this debt? If there has, describe the changes made and provide documentation that substantiates these changes. Furthermore, if any payment was late, reduced or is in arrears identify the amount of the payment, the original due date of the payment, and the number of days in arrears.**
N/A

8. **Identify if any lawsuit has been filed against the current owner of any and/or all assets or former assets of ITE for activities conducted prior to the acquisition of any and/or all of these assets by Gould or other entity. In your response, identify the plaintiff(s), defendant(s), the type of action, the document number of the case, the court that the case was filed in and the present status of the case.**
This request is extremely broad and we reserve the right to supplement our response upon clarification of the request. At the time of the ITE merger into Gould, there was no pending or threatened litigation per Article III, paragraph 3.9 of the Agreement of Merger. The entire document was produced as part of Exhibit B. Since the merger of ITE into Gould in 1976, and the subsequent divestitures of the ITE businesses, there have been numerous lawsuits of various natures. Additionally, Gould does not know if any corporate successors to the ITE businesses were or are involved in any litigation. Notwithstanding the above objection, Gould is a defendant in a case entitled Pennsauken Solid Waste Management Authority, et al. v. Quick-way, Inc., et al., v. Gould Inc. pending in Superior Court, Camden County, New Jersey; Case Number L-13345-91.

9. **Are there any indemnification agreements between ITE and Gould associated with the sale of assets? If yes, provide a copy of any such agreement. Also has there been any attempt to activate these agreements? Describe the circumstances surrounding each attempt to activate the indemnification agreement, the current status of each attempt and if the attempt was resolved, describe the final resolution of each attempt.**
Article 1, paragraph 1.1 of the ITE Merger Agreement states that Gould assumed all liabilities and obligations of ITE.

Section 3, paragraph 3.1(b) of the Partnership Agreement between Gould and Brown Boveri states that "... the partnership agrees to indemnify and hold Gould harmless against any and all claims, damages ... and liabilities arising therefrom."

Section 3, paragraph 3.2.1(b) of the Agreement of Purchase and Sale between Gould and Brown Boveri states that "BBC shall assume and agree to pay, perform, defend ... all of ITE's liabilities and obligations as a general partner ..."

These documents are produced in their entirety as part of Attachment B.

Gould and Brown Boveri (now ABB, Inc.) recently arbitrated liability for pre-partnership products. It is Gould's position that ABB assumed all liabilities associated with Gould's former Electrical Systems Group businesses, some of which were ITE operations in the Philadelphia area. Attachment C is a copy of the arbitration award.

10. **Provide copies of any appraisals and all documents that support the appraisal's findings for each appraisal that was relied upon for any sale of assets or liabilities from ITE to Gould as well as any and all appraisals that were conducted during a four year period that begins two years prior to any sale and concludes two years after the sale.**
N/A

11. **List the addresses where ITE had conducted business prior to any sale or other transaction referred to in this information request and where Gould conducted business prior to and following any such sale or other transaction.**
ITE's headquarters were located in Spring House, PA. ITE had manufacturing facilities at 19th & Shamokin Streets, Philadelphia, PA; 19th & Hamilton Streets, Philadelphia, PA; G Street and Erie Avenue, Philadelphia, PA; Castor and Sedgely Avenues, Philadelphia, PA; Bridgeport, PA; Chalfont, PA; Colmar, PA; Folcroft, PA; Greensburg, PA; Horsham, PA; and Roosevelt Boulevard, Philadelphia, PA;

Gould's divisions were located throughout the United States in the 1970's and 1980's. The majority of these divisions have been sold and are not relevant to this site. Gould's headquarters were located in Rolling Meadows, IL until July1989; Gould is now located in Eastlake, OH.

12. **Identify all persons currently or formerly employed by Gould who have or may have personal knowledge of ITE's operations and waste disposal practices between 1958 and 1976 at its facilities in the Philadelphia,**

Pennsylvania area. For each person, state that person's employer, job title, dates of employment, current address, and telephone number. If the current telephone number is not available, provide the last known telephone number or last known address of such person.
To the best of our knowledge, there is no one currently or formerly employed by Gould who would have personal knowledge of ITE's operations and waste disposal practices from 1958 through 1976 in the Philadelphia, PA area.

13. **Describe the types of documents generated or maintained by ITE in the Philadelphia, Pennsylvania area concerning the handling and/or generation, storage, treatment, transportation, recycling, formulation, or disposal of any hazardous substance, hazardous waste, pollutant, contaminant or other waste between 1958 and 1976.**
Unknown. Gould sold the ITE businesses to various entities. The ITE business records remained with the ITE businesses sold.

    a. **Provide a description of the information included in each type of document and identify the person who was/is the custodian of the documents.**
    Unknown. Gould sold the ITE businesses to various entities. The ITE business records remained with the ITE businesses sold.

    b. **Describe any permits or permit applications and any correspondence between your company and/or establishment(s), and any regulatory agencies regarding the transportation and disposal of such wastes; and**
    Unknown. Gould sold the ITE businesses to various entities. The ITE business records remained with the ITE businesses sold.

    c. **Describe any contracts or correspondence between your company and the establishment(s) and any other company or entity regarding the transportation and disposal of such wastes.**
    Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

14. **Identify every hazardous substance used, generated, purchased, stored, or otherwise handled at ITE in the Philadelphia, Pennsylvania area between 1958 and 1976. Provide chemical analyses and Material Safety Data Sheets ("MSDS"). With respect to each such hazardous substance, further identify:**

a. **The process(es) in which each hazardous substance was used, generated, purchased, stored, or otherwise handled;**

Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

b. **The chemical composition, characteristics, and physical state (solid, liquid, or gas) of each such hazardous substance;**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

c. **The annual quantity of each hazardous substance used, generated, purchased, stored, or otherwise handled;**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

d. **The beginning and ending dates of the period(s) during which such hazardous substance was used, generated, purchased, stored, or otherwise handled;**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

e. **The types and sizes of containers in which these substances were transported and stored; and**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

f. **The persons or companies that supplied each such hazardous substance to your company.**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

15. **Identify all by-products and wastes generated, stored, transported, treated, disposed of, released, or otherwise handled by ITE in the Philadelphia, Pennsylvania area between 1958 and 1976. With respect to each such by-product and waste identified, further provide:**

a. **The process(es) in which each such by-product and waste was generated, stored, transported, treated, disposed of, released, or otherwise handled;**

Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

b. **The chemical composition, characteristics, and physical state (solid, liquid, or gas) of each such by-product or waste;**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

c. **The annual quantities of each such by-product and waste generated, stored, transported, treated, disposed of, released, or otherwise handled;**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

d. **The types, sizes, and numbers of containers used to treat, store, or dispose of each such by-product or waste;**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

e. **The name of the individual(s) and/or company(ies) that disposed of or treated each such by-product or waste; and**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

f. **The location and method of treatment and/or disposal of each such by-product or waste.**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

16. **Did ITE ever contract with, or make arrangements with Clearview, Flocroft, Folcroft Annex, Eastern Industrial, Tri-County Hauling, S. Buckly Trash Hauling, Barratt Rupurt, McCloskey Engineering, AMB Disposal Services, marvin Jonas, Jonas Waste Removal, Paolino Company, Shiavo Bros. Inc., Gene Banta Trash Removal, and/or any other company or municipality to remove or transport material from ITE in the Philadelphia, Pennsylvania area between 1958 and 1976 for disposal? If so, for each transaction identified above, please identify:**

a. **The person with whom you made such a contract or arrangement;**

Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

b. **The date(s) on which or time period during which such material was removed or transported for disposal;**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

c. **The nature of such material, including the chemical content, characteristics, and physical state (i.e., liquid, solid, or gas);**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

d. **The annual quantity (number of loads, gallons, drums) of such materials;**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

e. **The manner in which such material was containerized for shipment or disposal;**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

f. **The location to which such material was transported for disposal;**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

g. **The person(s) who selected the location to which such material was transported for disposal;**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

h. **The individuals employed with any transporter identified (including truck drivers, dispatchers, managers, etc.) with whom your establishment dealt concerning removal or transportation of such material; and**

Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

i. **Any billing information and documents (invoices, trip tickets, manifests, etc.) in your possession regarding arrangements made to remove or transport such material.**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

17. **Provide the names, titles, areas of responsibility, addresses, and telephone numbers of all persons who, between 1958 and 1976, may have:**

a. **Disposed of or treated materials at Clearview, Folcroft and Folcroft Annex or other areas of the site;**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

b. **Arranged for the disposal or treatment of materials at Clearview, Folcroft, and Folcroft Annex or other areas of the Site; and/or**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

c. **Arranged for the transportation of materials to Clearview, Folcroft and Folcroft Annex or other areas of the Site (either directly or through transshipment points) for disposal or treatment.**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

18. **For every instance in which ITE disposed of or treated material at Clearview, Folcroft, Folcroft Annex or other areas of the Site, or arranged for the disposal or treatment of material at the Site, identify,**

a. **The date(s) on which such material was disposed of or treated at the Site;**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

b. **The nature of such material, including the chemical content, characteristics, and physical state, i.e., liquid, solid, or gas;**

Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

c. **The annual quantity (number of loads, gallons, drums) of such material;**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

d. **The specific location on the Site where such material was disposed of or treated; and**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

e. **Any billing information and documents (invoices, trip tickets, manifests, etc.) in your company's or establishment's(s') possession regarding arrangements made to dispose of or treat such material at the site.**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

19. **Did ITE, or any other company or individual ever spill or cause a release of any chemicals, hazardous substances, and/or hazardous waste, and/or non-hazardous solid waste on any portion of Clearview, Folcroft and Folcroft Annex or any other portion of the Site? If so, identify the following?**

a. **The date(s) the spill(s) release(s) occurred;**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

b. **The response made by you or on your behalf with respect to the spill(s)/release(s); and**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

c. **The packaging, transportation, and final disposition of the materials which were spilled/released.**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

20. **Please identify individuals employed by ITE who were responsible for arranging for the removal and disposal of wastes, and individuals who were responsible for payments, payment approvals, and record keeping concerning such waste removal transactions at your Philadelphia, Pennsylvania establishment(s) between 1958 and 1976. Provide current or last known addresses and telephone numbers where they may be reached. if these individuals are the same persons identified by your answer to question 12, so indicate.**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

21. **Did you or any person or entity on your behalf ever conduct any environmental assessments or investigations relating to contamination at Clearview, Folcroft and Folcroft Annex or any areas of the site? If so, please provide all documents pertaining to such assessments or investigations.**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold. To the best of our knowledge, neither Gould nor anyone on behalf of Gould ever conducted environmental assessments or investigations relating to contamination at the Site. It is not known if ITE nor anyone on behalf of ITE ever conducted such assessments or investigations relating to contamination at the Site.

22. **If you have any information about other parties who may have information which may assist the EPA in its investigation of the Site, including Clearview, Folcroft and Folcroft Annex, or who may be responsible for the generation of, transportation to, or release of contamination at the Site, please provide such information. The information you provide in response to this request should include the party's name, address, telephone number, type of business, and the reasons why you believe the party may have contributed to the contamination at the Site or may have information regarding the Site.**
Other than the information provided in response number 3, Gould has no such information.

23. **Representatives of your establishment(s):**

    a. **Identify the person(s) answering these questions on behalf of your establishment(s), including full name, mailing address, business telephone number and relationship to the company.**

Michael C. Veysey
22239 Shaker Boulevard
Shaker Hts., OH 44122
440-476-0998
Former General Counsel of Gould Electronics Inc.

Thomas N. Rich
Gould Electronics Inc.
34929 Curtis Boulevard
Eastlake, OH 44095
440-953-5124
Vice President of Finance, Secretary and Treasurer

Judy Kokal
Gould Electronics Inc.
34929 Curtis Boulevard
Eastlake, OH 44095
440-953-5123
Assistant Corporate Secretary

b. Provide the name, title, current address, and telephone number of the individual representing your establishment(s) to whom future correspondence or telephone calls should be directed:

See response to 23a. Additionally:
James F. Cronmiller
Gould Electronics Inc.
34929 Curtis Boulevard
Eastlake, OH 44095
440-953-5044
Director, Corporate Environmental Affairs

24. If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide us with the following:

a. Your document retention policy.
Gould's document retention policy is not applicable. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

b. **A description of how the records were/are destroyed (burned, archived, trashed, etc.) and the approximate date of destruction;**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

c. **A description of the type of information that would have been contained in the documents; and**
Unknown/not applicable. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

d. **The name, job title, and most current address known to you of the person(s) who would have produced these documents; the person(s) who would have been responsible for the retention of these documents; and the person(s) who would have been responsible for the destruction of these documents.**
Unknown. Gould sold the ITE business to various entities. The ITE business records remained with the ITE businesses sold.

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ATTACHMENT A – Responsive to Request for Information No. 2

AGREEMENT OF MERGER

This Agreement of Merger (hereinafter called the "Agreement") is made and entered into as of the 9th day of February 1976, by and among Gould Inc., a Delaware corporation (hereinafter called "Gould"), Gite Corporation, a Delaware corporation (hereinafter called "Newco") and I-T-E Imperial Corporation, a Delaware corporation (hereinafter called "I-T-E").

In consideration of the mutual covenants, agreements and warranties herein contained, it is agreed that I-T-E shall be merged into Newco and that the terms and conditions of the merger, the mode of carrying the merger into effect and certain other provisions relating thereto shall be as hereinafter set forth:

ARTICLE I

MERGER

1.1 *Surviving Corporation.* On the Merger Date, as defined in Paragraph 1.6, I-T-E shall be merged into Newco, which shall be the surviving corporation (hereinafter sometimes called the "Surviving Corporation") and which shall continue its corporate existence under the laws of the State of Delaware and as part of said merger shall change its name to "I-T-E Imperial Corporation". The separate existence and corporate organization of I-T-E shall cease on the Merger Date, and the Surviving Corporation shall succeed to and possess all the properties, rights, privileges, powers, franchises and immunities, as well of a public as of a private nature, and be subject to all the debts, liabilities, obligations, restrictions, disabilities and duties of I-T-E, all without further act or deed, as provided in Section 259 of the Delaware General Corporation Law. Gould shall not become subject to any debts, liabilities, obligations, restrictions, disabilities and duties of I-T-E or Newco except as provided in Section 2.7.

1.2 *Further Documents.* From time to time, after the Merger Date, as and when requested by the Surviving Corporation or its successors or assigns, the proper officers and directors of I-T-E as of the Merger Date shall, for and on behalf and in the name of I-T-E or otherwise, execute and deliver all such deeds and other instruments and shall take or cause to be taken such further or other actions as the Surviving Corporation or its successors or assigns may deem necessary or desirable in order to confirm of record or otherwise to the Surviving Corporation title to and possession of all of the aforesaid properties, rights, privileges, powers, franchises and immunities and otherwise to carry out fully the provisions and purposes of this Agreement.

1.3. *Certificate of Incorporation.* From and after the Merger Date, and until thereafter amended as provided by law, the Certificate of Incorporation of Newco, as in effect immediately prior to the Merger Date, shall be the Certificate of Incorporation of the Surviving Corporation; provided that Article I of such Certificate shall be amended upon the effectiveness of the merger, and without further action of the stockholders, to read as follows: "The name of the corporation is I-T-E Imperial Corporation".

1.4. *By-Laws.* From and after the Merger Date, the by-laws of Newco as in effect immediately prior to the Merger Date shall be and, until amended as therein provided, shall continue to be the by-laws of the Surviving Corporation.

1.5. *Directors and Officers.* From and after the Merger Date, the directors of Newco in office immediately prior to the Merger Date shall be the directors of the Surviving Corporation. From and after the Merger Date, the officers of I-T-E in office immediately prior to the Merger Date shall become the officers of the Surviving Corporation. Said directors and officers of the Surviving Corporation shall hold office for the term, and subject to the provisions, set forth in the by-laws of the Surviving Corporation.

1.6. *Merger Date.* The merger shall become effective, after all necessary corporate action has been taken to approve this Agreement and all other necessary action has been taken to effectuate the transaction contemplated herein, including the filing of this Agreement in accordance with the laws of the State of Delaware, as of the close of business of Newco on April 30, 1976 or as soon thereafter as practicable, unless otherwise agreed by the parties hereto (hereinafter called the "Merger Date").

ARTICLE II

Conversion of Shares and Other Securities

2.1. *Conversion of I-T-E Stock Into Gould Stock.* (a) Upon the merger becoming effective, each share of common stock of I-T-E ("I-T-E Common Stock") issued and outstanding (other than the shares owned by Gould) shall, by reason of the merger and without any action on the part of the holders thereof, be converted into 0.83 of a share of common stock of Gould ("Gould Common Stock"). Each certificate representing, immediately prior to the Merger Date, outstanding shares of I-T-E Common Stock shall thereupon be deemed for corporate purposes (subject to Section 2.4 below) to evidence ownership of the number of shares of Gould Common Stock into which such shares of I-T-E have been converted. Effective upon the consummation of the merger, any shares of I-T-E Common Stock held in the treasury of I-T-E and all shares of I-T-E Common Stock owned by Gould shall automatically be cancelled.

(b) *Combining Fractional Interests.* No fractional shares of Gould Common Stock and no scrip certificates therefor shall be issued to represent less than a single share to which I-T-E stockholders may be entitled; and such fractional share interests shall not entitle the owners thereof to vote, receive dividends or to exercise any other right of stockholders. Each such stockholder shall be afforded an opportunity during the period of thirty (30) days following the Merger Date, through an agent for all such stockholders (appointed and compensated by Gould), either to consolidate his fractional interest into one full share of Gould Common Stock by purchasing the additional fractional interest required or to sell his fractional interest and obtain the proceeds of such sale. All fractional interests which are not consolidated or sold pursuant to such arrangements will be consolidated by such agent and be sold following the expiration of such thirty (30) day period, and the proceeds thereof (net of any brokerage commissions or transfer taxes) remitted to the stockholders entitled thereto (and the single fractional interest, if any, remaining thereafter shall be purchased by Gould at the average per share price represented by such proceeds and shall be cancelled). Any such amount not claimed within six (6) months after the date of such consolidation or sale shall be repaid to Gould, after which the stockholders entitled thereto shall look only to Gould for the payment thereof without interest. Purchases and sales of fractional interests will be effected periodically on the basis of quoted market prices for Gould Common Stock on the New York Stock Exchange, and the agent may offset purchase and sell orders.

2.2. *Gould to Make Shares Available.* Gould shall make available, by transferring to Newco or by transferring directly to the stockholders of I-T-E, such number of shares of Gould Common Stock as shall be required for conversion in accordance with Section 2.1.

2.3. *Outstanding Shares of Newco.* Each of the 1,000 shares of Common Stock of Newco issued and outstanding on the Merger Date (all of which shall be on said date owned by Gould) shall continue to be a share of Common Stock of the Surviving Corporation and the certificates for such stock then issued and outstanding shall continue to be valid certificates therefor.

2.4. *Exchange of Certificates.* Following the Merger Date, Gould or its agent shall act as exchange agent in effecting the exchange of certificates which, prior to the merger, represented shares of I-T-E Common Stock for certificates representing shares of Gould Common Stock. Subsequent to the Merger Date, no dividends or distributions of any kind shall be paid by Gould in respect of shares of Gould Common Stock for which new Gould certificates have not been issued in exchange for the

I-T-E certificates. Upon the subsequent surrender and exchange of certificates, the holder shall be paid the amount of any dividends or distributions, without interest, which theretofore became payable with respect to the shares of Gould evidenced by such certificates. If any certificate for Gould Common Stock is to be issued in a name other than that in which the certificate for I-T-E Common Stock surrendered for exchange is registered, it shall be a condition of such exchange that the certificate so surrendered shall be properly endorsed or otherwise in proper form for transfer and that the person requesting such exchange shall pay any transfer or other taxes required by reason of the issuance of certificates for such Gould Common Stock in a name other than that of the registered holder of the certificate surrendered. Gould may impose such other reasonable conditions upon the exchange of certificates as may be necessary or desirable and are consistent with the provisions of this agreement.

2.5. *Cancellation of I-T-E Certificates.* Upon the submission to Gould of certificates which prior to the merger represented shares of I-T-E, the same shall forthwith be cancelled.

2.6. *Return of Unused Gould Common Stock.* Any shares of Gould Common Stock made available pursuant to Section 2.2 above and not exchanged for I-T-E Common Stock shall be returned to Gould following the Merger Date.

2.7. *Obligations of Gould to Fulfill I-T-E's Obligations Under Stock Options.*

(a) Gould agrees to assume I-T-E's obligations pursuant to stock options to the extent outstanding on the Merger Date. Such obligations shall be fulfilled upon exercise of such options, by the issuance of a number of shares of Gould Common Stock equal to the product of (i) 0.83 and (ii) the number of shares of I-T-E Common Stock issuable pursuant to any such option. Any resulting fraction of a share shall be rounded to the nearest whole number. The exercise price for any such outstanding option shall be the product of (i) the reciprocal of 0.83 and (ii) the present exercise price for such option.

(b) The shares of Gould Common Stock issuable under this Section 2.7, and the exercise price for such options, shall be subject to adjustment for stock dividends, stock splits and other similar events in accordance with the provisions of the instruments governing the above mentioned commitments of I-T-E to issue stock.

ARTICLE III

Representations and Warranties of I-T-E

I-T-E represents and warrants to Gould and Newco as follows:

3.1. *Due Incorporation, etc.* I-T-E and each of its subsidiaries listed in Form 10-K for the year ended December 31, 1974 is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of incorporation, with all requisite corporate power and authority to own, operate and lease its properties and to carry on its business as now being conducted, and I-T-E and each such subsidiary is duly qualified or licensed and in good standing in each jurisdiction in which the property owned, leased or operated by it or the nature of the business conducted by it makes such qualification or licensing necessary.

3.2. *Capitalization and Compliance with Securities Laws.* The authorized capital stock of I-T-E consists of 20,000,000 shares of voting Common Stock, $1.00 per share par value, of which 8,331,299 shares were issued and outstanding as of February 3, 1976, and 20,000 shares of I-T-E Preferred Stock, $50.00 per share par value, of which none is issued and outstanding. All of such outstanding shares have been validly issued and are fully paid and nonassessable and the issuance and sale of all such shares has been in full compliance with all applicable Federal and state securities laws.

3.3. *Options and Obligations to Register.* Neither I-T-E nor any subsidiary has outstanding any option, warrant or other right to purchase, or convert any obligation into, any shares of capital stock,

except for (i) stock options granted to employees to purchase as of February 3, 1976 an aggregate of 576,134 shares of I-T-E Common Stock and (ii) warrants to purchase stock of Nucleonic Data Systems, all of which warrants are owned by I-TE. Neither I-T-E nor any subsidiary has otherwise agreed to issue or sell any securities. Neither I-T-E nor any subsidiary has any obligation to register any securities under the Securities Act of 1933 or any other statute except for obligations which have been disclosed to Gould prior to the date hereof.

3.4. *Financial Statements.* I-T-E has delivered to Gould and Newco a consolidated balance sheet of I-T-E and subsidiaries as of December 31, 1975 and consolidated statements of income, common shareholders' equity and changes in financial position for the year then ended, in each case examined and reported on by Arthur Andersen & Co. Such financial statements present fairly the financial position of I-T-E and subsidiaries and the results of their operations and changes in financial position as of the date and for the period indicated, in conformity with generally accepted accounting principles, consistently applied, except as otherwise stated in such financial statements and the notes thereto. The consolidated balance sheet as of December 31, 1975, including footnotes thereto, makes full and adequate disclosure of, and provision for, all material obligations and liabilities (including contingent obligations and liabilities) of I-T-E and its subsidiaries as of such date. Neither such balance sheet nor such income statement, including the footnotes thereto, contain any untrue statements of a material fact or omit any material fact necessary in order to make the statements contained in this paragraph or therein not misleading.

3.5. *Corporate Authority of I-T-E.* I-T-E has full corporate power and authority to enter into this Agreement and (subject to the requisite approval of the I-T-E stockholders referred to in Section 5.1 below) to carry out the transactions contemplated hereby. On February 9, 1976, the Board of Directors of I-T-E duly authorized this transaction. The execution and delivery hereof, and (subject to such requisite approval of I-T-E stockholders and the consent of certain lenders and others) the consummation of the transactions contemplated hereby, will not violate any provision of I-T-E's Certificate of Incorporation or by-laws, or violate any provision of, or result in the acceleration of any obligation or the creation of any lien or security interest under, any agreement, indenture, instrument, lease, security, mortgage, lien, order, arbitration award, judgment or decree to which I-T-E or any of its subsidiaries is a party or by which any of such companies or any of their property is bound and will not violate any other restriction of any character to which I-T-E or any such subsidiary is subject; and this Agreement is valid and enforceable against I-T-E in accordance with its terms.

3.6. *No Adverse Change.* Since December 31, 1975 there has not been (i) any material adverse change in the consolidated financial condition, business, properties, assets, or results of operations of I-T-E and its subsidiaries or (ii) any loss or damage (whether or not covered by insurance) to any of the property or assets of I-T-E or its subsidiaries which materially affects or impairs their ability to conduct their business, or any other event or condition of any character which has materially and adversely affected the business of I-T-E or its subsidiaries.

3.7. *Title to Properties.* I-T-E and its subsidiaries have good and marketable title to all of the properties they purport to own, including that reflected in the consolidated balance sheet as of December 31, 1975, other than property disposed of in the ordinary course of business subsequent to December 31, 1975, free and clear of any mortgage, lien, pledge, charge, claim or encumbrance, except (i) as shown on said consolidated balance sheet or as specified in the notes thereto, (ii) the lien of taxes not yet due or payable or being contested in good faith by appropriate proceedings and (iii) such imperfections of title and encumbrances, if any, as do not materially detract from the value or interfere with the use of the properties subject thereto or affected thereby, or otherwise materially impair business operations.

3.8. *Patents and Licenses.* I-T-E and its subsidiaries own or possess substantially adequate licenses or other rights to use all patents, trademarks, trade names and copyrights used in their respec-

tive businesses, and the same are sufficient to conduct their respective businesses substantially as now conducted. To the best of the knowledge of its officers, its operations and those of its subsidiaries do not infringe, and no one has asserted to it that such operations do infringe, the patents, trademarks, trade secrets or other rights of anyone in such a manner as would materially affect its business as presently conducted.

3.9. *Litigation and Other Matters.* There are no actions, suits, labor disputes or other litigation, proceedings or governmental investigations of a material nature pending or, to the knowledge of I-T-E, threatened against or affecting I-T-E or any of its subsidiaries, and no material default exists in the performance of any obligation of I-T-E or any of its subsidiaries under the terms of any material lease, contract, commitment, agreement, instrument, plan or license to which any of them is a party or by which any of them is bound.

3.10. *Taxes.* I-T-E and its subsidiaries have filed all tax returns and reports required to be filed, including, without limitation, returns with respect to Federal, state, Dominion, provincial, foreign and local taxes, and have paid in full all taxes shown due thereon (together with all interest, penalties, assessments and deficiencies assessed in connection therewith due through the date hereof). To the best knowledge of I-T-E, such tax returns and reports are correct in all material respects. Federal tax returns of I-T-E and its subsidiaries have been audited by the Internal Revenue Service or otherwise closed through the year ended December 31, 1970 and the results of such audits are duly reflected in the financial statements described in Section 3.4 above except for those portions of deficiencies being contested by I-T-E. Appropriate provision has been made in the financial statements for the ultimate liability anticipated upon resolution of such deficiencies.

3.11. *Products and Product Liability.* No present material product or process of I-T-E has, to I-T-E's knowledge, suffered prior to the date hereof an extraordinary degree of obsolescence. I-T-E has no knowledge of any state of facts or the occurrence of any event forming the basis for any present claim against I-T-E or any of its subsidiaries, not fully covered to the extent of I-T-E's product liability insurance, for product liability on account of negligence or on account of any express or implied warranty except as heretofore disclosed to Gould.

3.12. *Accuracy of Statements.* Neither this Agreement nor any statement, lists, certificate or other information furnished or to be furnished to Gould or Newco in connection with this Agreement or any of the transactions contemplated hereby (including, without limitation, any information regarding I-T-E provided for inclusion in a Registration Statement on Form S-14 (the "Registration Statement") relating to the securities of Gould being issued hereunder) contains or will contain an untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements contained herein or therein, in light of the circumstances in which they are made, not misleading.

3.13. *Information Complete.* All information related to I-T-E's business, its subsidiaries, its prospects and affairs known or which would on reasonable inquiry be known to I-T-E or to its officers and directors, which might affect the willingness of a prudent purchaser for value of the business to complete its purchase or the amount of consideration which such purchaser would be prepared to pay for the business, has been disclosed by I-T-E to Gould.

ARTICLE IV

Representations and Warranties of Gould and Newco

Gould and Newco represent and warrant to I-T-E as follows:

4.1. *Due Incorporation, etc.* Gould, Newco and each of Gould subsidiaries listed in Form 10-K for the year ended June 30, 1975 are corporations duly organized, validly existing and in good standing under the laws of the jurisdiction of incorporation, with all requisite corporate power and authority to own, operate and lease their respective properties and to carry on their respective businesses as now

being conducted and they are duly qualified or licensed and in good standing in each jurisdiction in which the property owned, leased or operated by them or the nature of the business conducted by them makes such qualification or licensing necessary.

4.2. *Capitalization and Compliance with Securities Laws.* The authorized capital stock of Gould consists of 40,000,000 shares of voting Common Stock, $4.00 per share par value, of which 8,841,836 shares were issued and outstanding as of January 31, 1976 and 6,000,000 shares of preferred stock, $1.00 per share par value, of which 200,000 shares of $7.50 Cumulative Preferred Stock and 1,954,890 shares (exclusive of 100,000 shares owned by a subsidiary of Gould) of $1.35 Cumulative Convertible Preferred Stock were issued and outstanding as of January 31, 1976. All such outstanding shares have been validly issued and are fully paid and nonassessable and the issuance and sale of all of such shares has been in full compliance with all applicable Federal and state securities laws.

4.3. *Options and Obligations to Register.* Neither Gould nor any subsidiary has outstanding any option, warrant or other right to purchase or convert any obligation into any shares of capital stock, except for (i) stock options granted to employees to purchase as of January 31, 1976 an aggregate of 525,081 shares of Gould Common Stock, and an aggregate of 2,500 shares of $1.35 Cumulative Convertible Preferred Stock, (ii) the right of holders of $1.35 Cumulative Convertible Preferred Stock to convert into a maximum of 1,335,695 shares of Gould Common Stock, (iii) the right of holders of 5% Convertible Subordinated Debentures to convert into a maximum of 548,511 shares of Gould Common Stock and (iv) the right of holders of Common Stock Purchase Warrants to purchase a maximum of 854,037 shares of Gould Common Stock. Neither Gould nor any subsidiary has any obligation to register any securities under the Securities Act of 1933 or any other statute except for obligations which have been disclosed to I-T-E prior to the date hereof.

4.4. *Financial Statements.* Gould has delivered to I-T-E the consolidated statements of financial position of Gould and subsidiaries as of June 30, 1975 and consolidated statements of earnings, stockholders' equity and changes in financial position for the year then ended, in each case examined and reported on by Ernst & Ernst. Such financial statements present fairly the financial position of Gould and subsidiaries and the results of their operations and changes in financial position as of the date and for the period indicated, in conformity with generally accepted accounting principles, consistently applied, except as otherwise stated in such financial statements and the notes thereto. The consolidated balance sheet as of June 30, 1975, including the footnotes thereto, makes full and adequate disclosure of, and provision for, all material obligations and liabilities (including contingent obligations and liabilities) of Gould and its subsidiaries as of such date. Neither such balance sheet nor such income statement, including the footnotes thereto, contain any untrue statements of a material fact or omit any material fact necessary in order to make the statements contained in this paragraph or therein not misleading.

4.5. *Corporate Authority.* Gould and Newco have full corporate power and authority to enter into this Agreement and (subject to the requisite approval of the Gould stockholders referred to in Section 6.1 below) to carry out the transactions contemplated hereby. On February 9, 1976, the Board of Directors of Gould duly authorized this transaction. The execution and delivery hereof, and (subject to such requisite approval of Gould stockholders) the consummation of the transactions contemplated hereby, will not violate any provisions of the Certificates of Incorporation or by-laws of Gould or Newco, or violate any provision of, or result in the acceleration of any obligation or the creation of any lien or security interest under, any agreement, debenture, installment, lease, securities, mortgage, lien, order, arbitration award, judgment or decree to which Gould or Newco is a party or by which either of them or any of their property is bound and will not violate any other restriction of any character to which they are subject; and this Agreement is valid and enforceable against Gould and Newco in accordance with its terms. The shares of Gould Common Stock to be issued pursuant to Article II will be validly issued and fully paid and nonassessable shares of Common Stock of Gould. Gould owns all of the outstanding securities of Newco.

4.6. *No Adverse Change.* Since June 30, 1975 there has not been (i) any material adverse change in the consolidated financial condition, business, properties, assets or results of operations of Gould

and its subsidiaries or (ii) any loss or damage (whether or not covered by insurance) to any of the property or assets of Gould or its subsidiaries which materially affects or impairs its ability to conduct its business, or any other event or condition of any character which has materially and adversely affected the business of Gould or its subsidiaries.

4.7. *Title to Properties.* Gould and its subsidiaries have good and marketable title to all of the properties they purport to own, including that reflected in the consolidated balance sheet as of June 30, 1975, other than property disposed of in the ordinary course of business and three divisions sold subsequent to June 30, 1975, free and clear of any mortgage, lien, pledge, charge, claim or encumbrance, except (i) as shown on said consolidated balance sheet or as specified in the notes thereto, (ii) the lien of taxes not yet due or payable or being contested in good faith by appropriate proceedings and (iii) such imperfections of title and encumbrances, if any, as do not materially detract from the value or interfere with the use of the properties subject thereto or effected thereby, or otherwise materially impair business operations.

4.8. *Patents and Licenses.* Gould and its subsidiaries own or possess substantially adequate licenses or other rights to use all patents, trademarks, trade names and copyrights used in their respective businesses, and the same are sufficient to conduct their respective businesses substantially as now conducted. To the best of the knowledge of its officers, its operations and those of its subsidiaries do not infringe and no one has asserted to it that such operations do infringe, the patents, trademarks, trade secrets or other rights of anyone in such a manner as would materially affect its business as presently conducted.

4.9. *Litigation and Other Matters.* There are no actions, suits, labor disputes or other litigation proceedings or governmental investigations of a material nature pending or, to the knowledge of Gould, threatened against or affecting Gould or any of its subsidiaries, and no material default exists in the performance of any obligation of Gould or any of its subsidiaries under the terms of any material lease, contract, commitment, agreement, instrument, plan or license to which any of them is a party or by which any of them is bound.

4.10. *Taxes.* Gould and its subsidiaries have filed all tax returns and reports required to be filed, including, without limitation, returns with respect to Federal, state, Dominion, provincial, foreign and local taxes, and have paid in full all taxes shown due thereon (together with all interest, penalties, assessments and deficiencies assessed in connection therewith due through the date hereof). To the best knowledge of Gould such tax returns and reports are correct in all material respects. Federal tax returns of Gould have been audited by the Internal Revenue Service or otherwise closed through the year ended June 30, 1973 and the results of such audits are duly reflected in the financial statements described in Section 4.4 above except for those portions of deficiencies being contested by Gould. Appropriate provision has been made in the financial statements for the ultimate liabilities anticipated upon resolution of such deficiencies.

4.11. *Products and Product Liability.* No present material product or process of Gould has, to Gould's knowledge, suffered prior to the date hereof an extraordinary degree of obsolescence. Gould has no knowledge of any state of facts or the occurrence of any event forming the basis for any present claim against Gould or any of its subsidiaries, not fully covered to the extent of Gould's product liability insurance, for product liability on account of negligence or on account of any express or implied warranty except as heretofore disclosed to I-T-E.

4.12. *Accuracy of Statements.* Neither this Agreement nor any statement, list, certificate or other information furnished or to be furnished to I-T-E by Gould or Newco in connection with this Agreement or any of the transactions contemplated hereby (including without limitation any information regarding Gould provided for inclusion in the proxy material of I-T-E for the special meeting of stockholders described in Section 5.1) contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements contained herein or therein, in light of the circumstances in which they are made, not misleading.

4.13. *Information Complete.* All information related to Gould's business, its subsidiaries, its prospects and affairs known or which would on reasonable inquiry be known to Gould or to its officers and directors, which might affect the willingness of a prudent purchaser for value of the business to complete its purchase or the amount of consideration which such purchaser would be prepared to pay for the business, has been disclosed to I-T-E by Gould.

ARTICLE V

Covenants of I-T-E

I-T-E agrees that from the date hereof to the Merger Date:

5.1. *I-T-E Stockholders Meeting; Other Action.* I-T-E will duly convene and hold a special meeting of its common stockholders for the purpose of approving and adopting this Agreement and authorizing the transactions contemplated hereby and will take all other action required by it to carry out the transactions contemplated in this Agreement.

5.2. *Access to Information.* I-T-E will furnish Gould all information concerning I-T-E and its subsidiaries which Gould reasonably requests for inclusion in its proxy statement, in a Registration Statement on Form S-14 under the Securities Act of 1933 and in any listing application to be filed by Gould with the New York Stock Exchange respecting any shares of Gould Common Stock to be issued hereunder. I-T-E will give to Gould and to Gould's accountants, counsel and other representatives full access, without unreasonable interference with business operations, and subject to government security regulations, to all of the properties, books, contracts, commitments and records of I-T-E and its subsidiaries, will furnish to Gould all such documents and copies of documents and records and information relating to I-T-E and its subsidiaries, and will make its officers and employees available to Gould as Gould shall from time to time reasonably request.

5.3. *Preservation of Business.* I-T-E will use its best efforts to (i) preserve intact the present business organization and personnel of I-T-E and its subsidiaries, (ii) preserve the present good will and advantageous relationships of I-T-E and its subsidiaries with investors and all other persons having business dealings with I-T-E and its subsidiaries and (iii) preserve and maintain in force all licenses, registrations, franchises, patents, trademarks, copyrights, bonds and other similar rights of I-T-E and its subsidiaries. I-T-E and its subsidiaries will not enter into any employment agreements with any of their officers or management personnel. I-T-E and its subsidiaries will maintain in force all property, casualty, crime, directors and officers and other forms of insurance which they are presently carrying and no cancellation of existing insurance coverage shall be effected by I-T-E and its subsidiaries.

5.4. *Ordinary Course.* I-T-E and its subsidiaries shall operate their business only in the usual, regular and ordinary course and manner, and, except with the written consent of Gould, shall not encumber or mortgage any property or assets, and shall not, except in the ordinary course of business, incur any obligation (contingent or otherwise) or purchase or acquire, or transfer or convey, any material assets or property or enter into any transaction or make or enter into any contract or commitment and shall not, except with the written consent of Gould, acquire any stock or other equity interest in any corporation, trust or other entity.

5.5. *Books and Records.* I-T-E and its subsidiaries shall maintain their books, accounts and records in the usual, regular and ordinary manner, and on a basis consistent with prior years, and shall comply with all laws applicable to them or to the conduct of their business.

5.6. *No Organic Change.* No amendment shall be made to the Certificate of Incorporation or the by-laws of I-T-E or its subsidiaries, no change shall be made in their capital stock by reclassification, subdivision, reorganization or otherwise, and neither I-T-E nor any subsidiary shall, except with the written consent of Gould, merge or consolidate with any other corporation, trust or entity or change the character of their business.

5.7. *No Issuance by I-T-E of Shares, Options, etc.* No change shall be made in the number of shares of I-T-E Common Stock issued and outstanding (except for the issuance of any shares of I-T-E

Common Stock referred to in Section 3.3); and no option, warrant or other right to purchase or to convert any obligation into shares of I-T-E Common Stock shall, except with the written consent of Gould, be granted or made.

5.8. *Compensation.* No increase shall be made in compensation payable to any elected officer of I-T-E or to other management personnel from the amount payable as of January 1, 1976 except in accordance with I-T-E's normal and customary practice or with the consent of Gould; no pension or profit sharing plan, or any other employee benefit arrangement, shall be introduced or changed except as a result of collective bargaining negotiations.

5.9. *No Dividends, etc.* I-T-E may declare and pay a regular quarterly dividend of 20¢ per share on March 10, 1976. Except for such dividend, no dividend or other distribution or payment shall be declared, paid or made by I-T-E with respect to I-T-E Common Stock and no purchase, redemption or other acquisition shall be made by I-T-E of any I-T-E Common Stock.

5.10. *Consents and Approvals.* I-T-E shall use its best efforts to obtain all necessary consents and approvals of other persons and governmental authorities to the performance by I-T-E of the transactions contemplated by this Agreement. I-T-E shall make all filings, applications, statements and reports to all Federal or state government agencies or entities which are required to be made prior to the Merger Date by or on behalf of I-T-E or its subsidiaries pursuant to any statute, rule or regulation in connection with the transactions contemplated by this Agreement.

ARTICLE VI

Covenants of Newco and Gould

Gould and Newco agree that from the date hereof to the Merger Date:

6.1. *Stockholders Meetings; Other Action.* Gould and Newco will duly convene and hold special meetings of their stockholders for the purpose of approving and adopting this Agreement and authorizing the transactions contemplated hereby and will take all other action required of them to carry out the transactions contemplated in this Agreement.

6.2. *Access to Information.* Gould will furnish to I-T-E all information concerning Gould and its subsidiaries which I-T-E reasonably requests for inclusion in the proxy solicitation material to be transmitted by I-T-E to its stockholders in connection with the special meeting referred to in Section 5.1. Gould will give to I-T-E and to I-T-E's accountants, counsel and other representatives full access, without unreasonable interference with business operations, and subject to government security regulations, to all of the properties, books, contracts, commitments and records of Gould, will furnish to I-T-E all such documents and copies of documents and records and information relating to Gould, and will make its officers and employees available to I-T-E as I-T-E shall from time to time reasonably request.

6.3. *Registration and Listing.* Gould will use its best efforts to effect (a) the registration under the Securities Act of 1933 of all securities of Gould to be issued pursuant to this Agreement and (b) authorization of listing on the New York Stock Exchange, subject to official notice of issuance, of the shares of Gould Common Stock to be issued pursuant to this Agreement.

6.4. *Books and Records.* Gould and its subsidiaries shall maintain their books, accounts and records in the usual, regular and ordinary manner, and on a basis consistent with prior years, and shall comply with all laws applicable to them or to the conduct of their business.

6.5. *No Organic Change.* No amendment shall be made to the Certificate of Incorporation or the by-laws of Gould or Newco, no change shall be made in their capital stock by reclassification, subdivision, reorganization or otherwise, and neither Gould nor Newco shall merge or consolidate with any other corporation, trust or entity or change the character of their business.

6.6. *No Issuance by Gould of Shares, Options, etc.* No change shall be made in the number of shares of Gould Common Stock issued and outstanding (except for the issuance of any shares of

Gould Common Stock referred to in Section 4.3); and no option, warrant or other right to purchase or to convert any obligation into shares of Gould Common Stock shall be granted or made except for grants of options under Gould Stock Option Plans.

6.7. *Consents and Approvals.* Gould and Newco shall use their best efforts to obtain all necessary consents and approvals of other persons and governmental authorities to the performance by Gould and Newco of the transactions contemplated by this Agreement. Gould and Newco shall make all filings, applications, statements and reports to all Federal or state government agencies or entities which are required to be made prior to the Merger Date by or on behalf of Gould or Newco pursuant to any statute, rule or regulation, in connection with the transactions contemplated by this Agreement.

ARTICLE VII

Conditions Precedent to Obligations of Gould and Newco

The obligations of Gould and Newco under this Agreement are, at the option of Gould and Newco, subject to satisfaction of the following conditions precedent on or before the Merger Date:

7.1. *Warranties True as of Both Present Date and Merger Date.* The representations and warranties of I-T-E and its subsidiaries contained herein shall be true in all material respects on and as of the date of this Agreement, and shall also be true in all material respects (except for such changes as are permitted by the terms of this Agreement) on and as of the Merger Date with the same force and effect as though made by I-T-E on and as of such Date.

7.2. *Compliance with Covenants; Certificate.* I-T-E and its subsidiaries shall have performed all obligations and agreements and complied with all covenants contained in this Agreement, to be performed and complied with by them on or prior to the Merger Date; and I-T-E shall have delivered to Newco a certificate dated as of the Merger Date of its President and its Vice President—Finance, certifying to the correctness of all warranties and representations of I-T-E and its subsidiaries as of such Date and as to compliance with Section 7.1 and this Section 7.2.

7.3. *Opinion of I-T-E Counsel.* Newco and Gould shall have received an opinion, dated the Merger Date, of Franklyn S. Judson, Esq., general counsel of I-T-E, to the effect that

(a) I-T-E is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and each of its subsidiaries is a corporation duly organized, validly existing and in good standing under the laws pursuant to which it is incorporated, with all requisite corporate power and authority to own, operate and lease their properties and to carry on their business as now being conducted, and are duly qualified or licensed and in good standing in each jurisdiction in which the property owned, leased or operated by them or the nature of the business conducted by them makes such qualification or licensing necessary;

(b) All of the outstanding shares of I-T-E Common Stock have been duly and validly authorized and issued and are fully paid and nonassessable;

(c) The execution, delivery and performance of this Agreement have been duly and validly authorized and approved by the board of directors and the common stockholders of I-T-E, all in the manner required by any applicable law, charter or by-law provision or agreement, and this Agreement constitutes the valid and binding obligation of I-T-E in accordance with its terms;

(d) All actions and proceedings required by law or by this Agreement to be taken by I-T-E at or prior to the Merger Date in connection with this Agreement and the transactions contemplated herein, including, without limitation, the obtaining of all necessary consents and approvals, have been duly and validly taken and completed;

(e) Except as specified by such counsel, such counsel does not know of any action, suit, labor dispute or other litigation, proceeding or governmental investigation of a material nature pending or threatened against or affecting I-T-E or any of its subsidiaries, or any officers, directors or em-

ployees thereof in their capacity as such, or any of the properties or businesses thereof, or relating to the transactions contemplated by this Agreement;

(f) To the knowledge of such counsel, neither I-T-E nor any of its subsidiaries has breached any provision of, or is in default under the terms of, any material lease, contract, commitment, agreement, instrument, plan or license to which such concern is a party, under which it has any rights or by which it is bound, nor is I-T-E or any subsidiary in material violation or default of or with respect to any law, governmental regulation or rule or order of any court or governmental authority or under any applicable regulation or provision of any charter, by-law or other restriction.

Such opinion shall also cover such other matters incident to the transactions herein contemplated as Gould and Newco may reasonably request.

7.4. *Proceedings Satisfactory to Counsel.* All proceedings taken by I-T-E and all instruments executed and delivered by I-T-E on or prior to the Merger Date in connection with the transactions herein contemplated shall be satisfactory in form and substance to counsel for Gould and Newco.

7.5. *Registration Under Securities Act of 1933 and Listing on New York Stock Exchange.* All of the securities of Gould to be issued hereunder shall have been registered under the Securities Act of 1933 and the shares of Gould Common Stock to be issued hereunder shall have been authorized for listing, subject to official notice of issuance, on the New York Stock Exchange.

7.6. *Litigation.* No action or proceeding by any governmental agency shall have been instituted or threatened which would enjoin, restrain or prohibit, or might result in substantial damages in respect of, this Agreement or consummation of the transaction contemplated by this Agreement, and would in the reasonable judgment of Gould and Newco make it inadvisable to consummate such transaction, and no court order shall have been entered in any action or proceeding instituted by any other party which enjoins, restrains or prohibits this Agreement or consummation of the transaction contemplated by this Agreement.

7.7. *Arthur Andersen & Co. Letters With Respect to I-T-E.* Gould shall have received two letters from Arthur Andersen & Co., one dated the effective date of the Registration Statement and the other dated the Merger Date, stating that:

(i) They are independent accountants within the meaning of the Securities Act and the applicable published rules and regulations thereunder and the statement in the Registration Statement in answer to Item 3 of Form S-14 is accurate insofar as it relates to themselves;

(ii) In their opinion, the financial statements of I-T-E and its consolidated subsidiaries included in the Registration Statement and examined by them comply as to form in all material respects with the applicable accounting requirements of the Securities Act and of the published rules and regulations thereunder with respect to registration statements on Form S-14; and

(iii) On the basis of procedures (but not an examination in accordance with generally accepted auditing standards) consisting of:

(a) Reading the minutes of meetings of the stockholders and the Board of Directors of I-T-E and its consolidated subsidiaries since December 31, 1975, as set forth in the minute books through a specified date not more than five days prior to the date of delivery of such letter;

(b) Reading the unaudited interim financial statements of I-T-E and its consolidated subsidiaries for the period from December 31, 1975 to the date of the latest available financial statements and for the comparable period of the prior year; and

(c) Making inquiries of certain officials of I-T-E who have responsibility for financial and accounting matters regarding the specific items for which representations are requested below, and such other procedures as Gould may reasonably request;

nothing has come to their attention as a result of the foregoing procedures that caused them to believe that (x) the unaudited financial statements of I-T-E and its consolidated subsidiaries were not prepared in accordance with generally accepted accounting principles and practices applied on a basis consistent in all material respects with those followed in the preparation of the financial statements referred to in the preceding clause (ii) of this Section 7.7, or do not present fairly the information purported to be shown, or (y) at the date of the latest available interim financial statements and at a specified date not more than five days prior to the date of delivery of each such letter, there was any change in the capital stock or long-term debt of I-T-E and its consolidated subsidiaries or any decrease in consolidated net current assets or stockholders' equity as compared with the amounts shown in the latest balance sheet included in the Registration Statement and the related Prospectus ("Prospectus") or (z) for the period from the date of the latest financial statements included in the Registration Statement and the Prospectus to a specified date not more than five days prior to delivery of each such letter, there were any decreases, as compared with the corresponding period in the preceding year, in consolidated net sales or in the total or per-share amounts of net income, except in all instances for such changes or decreases which the Registration Statement and Prospectus discloses have occurred or may occur, or they shall state any specific changes or decreases. Such letters shall also state that, as requested by Gould, they have performed certain specified procedures, including the comparison to certain specified accounting records of I-T-E and its consolidated subsidiaries, of certain items of information appearing in the Registration Statement and Prospectus, and found such items to be in agreement with such records.

7.8. *Results of Examination.* Such examination of the books and affairs of I-T-E and its subsidiaries as may be conducted by Gould or its auditors shall have disclosed no breach of the representations, warranties, or covenants of I-T-E and no material adverse developments in the business or affairs of I-T-E or its subsidiaries.

7.9. *Approval of Gould Stockholders.* This Agreement shall have been approved by the stockholders of Gould in accordance with the Delaware General Corporation Law.

ARTICLE VIII

Conditions Precedent to Obligations of I-T-E

The obligations of I-T-E under this Agreement are, at the option of I-T-E, subject to the satisfaction of the following conditions precedent on or before the Merger Date:

8.1. *Warranties True as of Merger Date.* The representations and warranties of Gould and Newco contained herein shall be true in all material respects on and as of the date of this Agreement, and shall also be true in all material respects (except for such changes as are permitted by the terms of this Agreement) on and as of the Merger Date with the same force and effect as though made by Gould and Newco on and as of such Date.

8.2. *Compliance with Covenants; Certificate.* Gould and Newco shall have performed all obligations and agreements and complied with all covenants contained in this Agreement, to be performed and complied with by them on or prior to the Merger Date; and Gould and Newco shall have delivered to I-T-E certificates, dated as of the Merger Date, of the President or a Vice President of Gould and of the President or a Vice President of Newco, certifying as to the correctness of all warranties and representations of Gould and Newco as of such Date and as to compliance with Section 8.1 and this Section 8.2.

8.3. *Opinion of Gould's Counsel.* I-T-E shall have received an opinion, dated the Merger Date, of Winston & Strawn to the effect that:

(a) Gould is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and each of its subsidiaries is a corporation duly organized, validly existing and in good standing under the laws pursuant to which it is incorporated, with all requisite corporate power and authority to own, operate and lease their properties and to carry on their

business as now being conducted, and are duly qualified or licensed and in good standing in each jurisdiction in which the property owned, leased or operated by them or the nature of the business conducted by them makes such qualification or licensing necessary;

(b) All of the shares of Gould Common Stock to be issued pursuant to Article II of this Agreement will, when issued as provided in this Agreement, be duly and validly authorized and issued and be fully paid and nonassessable;

(c) The execution, delivery and performance of this Agreement have been duly and validly authorized and approved by the board of directors and the stockholders of Gould, all in the manner required by any applicable law, charter or by-law provision or agreement, and this Agreement constitutes the valid and binding obligation of Gould in accordance with its terms;

(d) All actions and proceedings required by law or by this Agreement to be taken by Gould at or prior to the Merger Date in connection with this Agreement and the transactions contemplated herein, including, without limitation, the obtaining of all necessary consents and approvals, have been duly and validly taken and completed;

(e) Except as specified by such counsel, such counsel does not know of any action, suit, labor dispute or other litigation, proceeding or governmental investigation of a material nature pending or threatened against or affecting Gould or any of its subsidiaries, or any officers, directors or employees thereof in their capacity as such, or any of the properties or business thereof, or relating to the transactions contemplated by this Agreement;

(f) To the knowledge of such counsel, neither Gould nor any of its subsidiaries has breached any provision of, or is in default under the terms of any material lease, contract, commitment, agreement, instrument, plan or license to which such concern is a party, under which it has any rights or by which it is bound, nor is Gould or any subsidiary in material violation or default of or with respect to any law, government regulation or rule or order of any court or governmental authority or under any applicable regulation or provision of any charter, by-law or other restriction.

Such opinion shall also cover such other matters incident to the transactions herein contemplated as I-T-E may reasonably request.

8.4. *Proceedings Satisfactory to Counsel.* All proceedings taken by Gould and Newco and all instruments executed and delivered by Gould and Newco on or prior to the Merger Date in connection with the transactions herein contemplated shall be satisfactory in form and substance to counsel for I-T-E.

8.5. *Registration Under Securities Act of 1933 and Listing on New York Stock Exchange.* All of the securities of Gould to be issued hereunder shall have been registered under the Securities Act of 1933 and the shares of Gould Common Stock to be issued hereunder shall have been authorized for listing, subject to official notice of issuance, on the New York Stock Exchange.

8.6. *Litigation.* No action or proceeding by any governmental agency shall have been instituted or threatened which would enjoin, restrain or prohibit or might result in substantial damages in respect of, this Agreement or consummation of the transaction contemplated by this Agreement, and would in the reasonable judgment of I-T-E make it inadvisable to consummate such transaction, and no court order shall have been entered in any action or proceeding instituted by any other party which enjoins, restrains or prohibits this Agreement or consummation of the transaction contemplated by this Agreement.

8.7. *Ernst & Ernst Letters with Respect to Gould.* I-T-E shall have received two letters from Ernst & Ernst one dated the effective date of the Registration Statement and the other dated the Merger Date stating that:

(i) They are independent accountants within the meaning of the Securities Act and the applicable published rules and regulations thereunder and the statement in the Registration Statement in answer to Item 3 of Form S-14 is accurate insofar as it relates to themselves;

(ii) In their opinion, the financial statements of Gould and its consolidated subsidiaries included in the Registration Statement and examined by them comply as to form in all material respects with the applicable accounting requirements of the Securities Act and of the published rules and regulations thereunder with respect to registration statements on Form S-14; and

(iii) On the basis of procedures (but not an examination in accordance with generally accepted auditing standards) consisting of:

(a) Reading the minutes of meetings of the stockholders and the Board of Directors of Gould and its consolidated subsidiaries since June 30, 1975, as set forth in the minute books through a specified date not more than five days prior to the date of delivery of such letter;

(b) Reading the unaudited interim financial statements of Gould and its consolidated subsidiaries for the period from June 30, 1975 to the date of the latest available financial statements and for the comparable period of the prior year; and

(c) Making inquiries of certain officials of Gould who have responsibility for financial and accounting matters regarding the specific items for which representations are requested below, and such other procedures as I-T-E may reasonably request;

nothing has come to their attention as a result of the foregoing procedures that caused them to believe that (x) the unaudited financial statements of Gould and its consolidated subsidiaries contained in the Registration Statement or the Prospectus do not comply as to form in all material respects with the applicable accounting requirements of the Securities Act and the published rules and regulations thereunder with respect to registration statements on Form S-14 or were not prepared in accordance with generally accepted accounting principles and practices applied on a basis consistent in all material respects with those followed in the preparation of the financial statements referred to in the preceding clause (ii) of this Section 8.7 or do not present fairly the information purported to be shown, or (y) at the date of the latest available interim financial statements and at a specified date not more than five days prior to the date of delivery of each such letter, there was any change in the capital stock or long-term debt of Gould and its consolidated subsidiaries or any decrease in consolidated net current assets or stockholders' equity as compared with the amounts shown in the latest balance sheet included in the Registration Statement and the Prospectus or (z) for the period from the date of the latest financial statements included in the Registration Statement and the Prospectus to a specified date not more than five days prior to delivery of each such letter, there were any decreases, as compared with the corresponding period in the preceding year, in consolidated net sales or in the total or per-share amounts of net income, except in all instances for such changes or decreases which the Registration Statement and Prospectus discloses have occurred or may occur, or they shall state any specific changes or decreases. Such letters shall also state that, as requested by I-T-E, they have performed certain specified procedures, including the comparison to certain specified accounting records of Gould and its consolidated subsidiaries, of certain items of information appearing in the Registration Statement and Prospectus, and found such items to be in agreement with such records.

8.8. *Results of Examination.* Such examination of the books and affairs of Gould as may be conducted by I-T-E or its auditors shall have disclosed no breach of the representations, warranties, or covenants of Gould and no material adverse developments in the business or affairs of Gould.

8.9. *Approval of I-T-E Stockholders.* This Agreement shall have been approved by the holders of I-T-E Common Stock in accordance with the Delaware General Corporation Law.

8.10. *Tax Ruling.* I-T-E shall have received a favorable ruling from the Internal Revenue Service to the effect that for federal income tax purposes no gain or loss will be recognized by I-T-E upon consummation of the transaction pursuant to this Agreement, or to those holders of I-T-E Common Stock who did not sell any shares of I-T-E Common Stock to Gould pursuant to Gould's Offer to Purchase dated January 5, 1976 and who exchange their I-T-E shares for Gould shares pursuant to this Agreement, except with respect to any cash received by such holders for fractional shares of Gould Common Stock. I-T-E shall diligently seek such a favorable ruling to said effect from the Internal Revenue Service and shall permit Gould to participate in the effort to obtain such a ruling.

ARTICLE IX

MISCELLANEOUS

9.1. *Termination.* This Agreement may be terminated (notwithstanding that approval hereof by stockholders of I-T-E, Gould and Newco, or of any thereof, may have been obtained) any time prior to the Merger Date:

(a) With the mutual consent of the boards of directors of I-T-E and Newco and Gould; or

(b) If any of the conditions provided in Article VII shall not have been satisfied, complied with or performed in any material respect, and Newco and Gould shall not have waived such failure of satisfaction, noncompliance or nonperformance, by the boards of directors of Newco and Gould; or

(c) If any of the conditions provided in Article VIII shall not have been satisfied, complied with or performed in any material respect, and I-T-E shall not have waived such failure of satisfaction, noncompliance or nonperformance, by the board of directors of I-T-E; or

(d) At the option of Gould, if in the judgment of its Board of Directors the financial condition, earnings or prospects of I-T-E and its subsidiaries, taken as a single enterprise, at any time prior to the Merger Date make the merger undesirable to Gould and its subsidiaries; or

(e) At the option of I-T-E, if in the judgment of its Board of Directors the financial condition, earnings or prospects of Gould and its subsidiaries, taken as a single enterprise, at any time prior to the Merger Date make the merger undesirable to I-T-E and its subsidiaries.

In the event of any termination pursuant to this Section 9.1 (other than pursuant to subparagraph (a) hereof), written notice setting forth the reasons thereof shall forthwith be given by I-T-E, if it is the terminating party, to Newco and Gould, or by Newco and Gould, if they are the terminating parties, to I-T-E. This Agreement shall terminate automatically if the Merger Date shall not have occurred on or before August 31, 1976, or such later date as shall have been agreed to by the parties hereto under Section 1.6 hereof.

9.2. *Expenses.* In the event this Agreement is terminated as provided in Section 9.1, none of I-T-E, Newco and Gould, or any officer, director or stockholder thereof, shall have any liability to any of the others or to any third party (including, without limitation, any officer, employee or stockholder) for damages, costs, expenses (including, without limitation, legal and accounting fees and expenses), loss of anticipated profits or otherwise; it being understood that in the event of such termination each party shall bear its own legal, accounting and other fees, costs, losses and expenses. If the transaction contemplated hereby is consummated, Gould will, upon receipt of proper statements, reimburse and reasonably compensate the officers and directors of I-T-E for reasonable costs and expenses incurred by them and for time and effort expended by them, following the Merger Date, in carrying out any obligations imposed on them (whether or not arising out of litigation) in connection with the merger.

9.3. *Amendment.* I-T-E, Gould and Newco, with the approval of their respective boards of directors, but only in writing signed by I-T-E, Newco and Gould, may amend, modify or supplement this Agreement at any time before or after approval hereof by the stockholders of I-T-E, Newco or Gould (or of any thereof); provided, however, that no such amendment, modification or supplement after such approval by the stockholders of either Gould or I-T-E shall affect the rights of such stockholders in a manner which is materially adverse to such stockholders in the judgment of the board of directors of such corporation.

9.4. *Brokers.* I-T-E represents that no broker or finder has acted for it in connection with this Agreement or the transactions contemplated hereby and that no broker or finder is entitled to any brokerage or finder's fee or other commission based on agreements, arrangements or understandings made by it. Gould represents that no broker or finder has acted for it in connection with this Agreement or the transactions contemplated hereby and that no broker or finder is entitled to any brokerage or finder's fee or other commission based on agreements, arrangements or understandings made by it.

9.5. *Non-Survival of Warranties, etc.* Warranties, representations, covenants and agreements contained herein with respect to I-T-E, Gould or Newco shall not survive the Merger Date, except for Gould's obligations under Sections 2.7, 9.2 and 9.6.

9.6. *Employee Benefit Plans.* All retirement, group insurance and disability plans for salaried and hourly paid employees of I-T-E in force on the Merger Date shall be assumed by the Surviving Corporation, to the extent I-T-E may be bound thereby, and the Surviving Corporation shall thereafter have all the rights and obligations of I-T-E thereunder, including the right to amend or terminate any of such plans which right shall not be exercised (except for technical modifications or as required by changes in governing law or regulations thereunder or by similar matters) to change the benefits available thereunder unless the Surviving Corporation or its successor makes adequate provision so that the participants in such amended or terminated plan continue to have benefits available to them which, in the aggregate, are at least substantially equivalent (on an actuarial basis) to those available to them prior to any such amendment or termination. Prior to the Merger Date, I-T-E shall amend such plans insofar as necessary to permit the assumption and adoption of such plans by the Surviving Corporation without termination thereof or any adverse effect on the continued qualification of such of said plans as are qualified under Section 401(a) of the Internal Revenue Code of 1954, as amended ("Code"). Any merger or consolidation of any plan qualified under Section 401(a) of the Code with, or any transfer of the assets and liabilities of any such plan to, any other plan after the Merger Date shall be made in accordance with Section 401(a)(12) of the Code.

9.7. *Notices.* Any notice, request, instruction or other document to be given hereunder by either party hereto shall be in writing and shall be deemed to have been given, when received, or when deposited in the U.S. mail, certified or registered mail, postage prepaid:

(a) If to I-T-E, addressed as follows:
I-T-E Imperial Corporation
Spring House, Pennsylvania, 19477
Attention: William C. Musham, Chairman and President

with a copy to
Franklyn S. Judson, Esq.
General Counsel
I-T-E Imperial Corporation
Spring House, Pennsylvania 19477

(b) If to Newco and Gould, addressed as follows:
Gould Inc.
Gould Center
Rolling Meadows, Illinois 60008
Attention: William T. Ylvisaker, Chairman

with a copy to
Thomas A. Reynolds, Jr., Esq.
Winston & Strawn
One First National Plaza
Chicago, Illinois 60603

or to such other address as any party hereto may designate for itself by notice given as herein provided.

9.8. *Place of Closing.* The closing of the transactions to be completed on the Merger Date shall take place at the offices of Winston & Strawn, One First National Plaza, Chicago, Illinois, at 10:00 A.M. on the Merger Date or at such other time or place as the parties may agree.

9.9. *Entire Understanding.* This Agreement sets forth the entire agreement and understanding of the parties in respect of the transactions contemplated hereby and supersedes all prior agreements, arrangements and understandings relating to the subject matter hereof.

9.10. *Waivers.* The failure of any party at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by any party of any condition or of any breach of any term, covenant, representation or warranty contained in this Agreement shall be effective unless in writing, and no waiver in any one or more instances shall be deemed to be a further or continuing waiver of any such condition or breach in other instances or a waiver of any other condition or any breach of any other term, covenant, representation or warranty.

9.11. *Counterparts.* This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

9.12. *Headings.* The headings preceding the text of Sections of this Agreement are for convenience only and shall not be deemed part of this Agreement.

9.13. *Applicable Law.* This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware.

In Witness Whereof, the parties hereto, pursuant to authority given by their respective boards of directors have caused this Agreement of Merger to be entered into and signed by their respective officers thereunto duly authorized, and their corporate seals to be hereunto affixed and to be attested by their respective secretaries or assistant secretaries, all as of the date and year first above written.

I-T-E Imperial Corporation

By .....
Chairman and President

Attest: .....
Secretary

[Corporate Seal]

Gite Corporation

By .....
President

Attest: .....
Secretary

[Corporate Seal]

Gould Inc.

By .....
Chairman

Attest: .....
Assistant Secretary

[Corporate Seal]

FILED
DEC 4 1981 3P.M.
SECRETARY OF STATE

CERTIFICATE OF OWNERSHIP AND MERGER

MERGING

I-T-E Imperial Corporation

INTO

Gould Inc.

* * * * * *

Gould Inc., a corporation organized and existing under the laws of Delaware,

DOES HEREBY CERTIFY:

FIRST: That this corporation was incorporated on the 15th day of October, 1928, pursuant to the General Corporation Law of the State of Delaware.

SECOND: That this corporation owns all of the outstanding shares of the stock of I-T-E Imperial Corporation, a corporation incorporated on the 19th day of January, 1976, pursuant to the General Corporation Law of the State of Delaware.

THIRD: That this corporation, by the following resolutions of its Board of Directors, duly adopted at a meeting held on the 22nd day of September, 1981, determined to and did merge into itself said I-T-E Imperial Corporation:

RESOLVED, that Gould Inc. merge, and it hereby does merge into itself said I-T-E Imperial Corporation, and assumes all of its obligations;

FURTHER RESOLVED, that the merger shall become effective on December 31, 1981; and

FURTHER RESOLVED, that the proper officers of this corporation be and they hereby are directed to make and execute a Certificate of Ownership and Merger setting forth a copy of the resolutions to merge said I-T-E Imperial Corporation and assume its liabilities and obligations, and the date of adoption thereof, and to cause the same to be filed with the Secretary of State and a certified copy recorded in the office of the Recorder of Deeds of New Castle County and to do all acts and things whatsoever, whether within or without the State of Delaware, which may be necessary or proper to effect said merger.

IN WITNESS WHEREOF, said Gould Inc. has caused this certificate to be signed by Richard L. Williams III, its Senior Vice President-Administration, and attested by Nancy R. Jack, its Secretary, this 1st day of December, 1981.

Gould Inc.

By Richard L. Williams III
Senior Vice President-Administration

ATTEST:

By Nancy R. Jack
Secretary

RECEIVED FOR RECORD

DEC 4 1981

LEO J. DUGAN, Jr., Recorder

R138 PAGE 957

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FILED
DEC 4 1981
3P.M
SECRETARY OF STATE

CERTIFICATE OF OWNERSHIP AND MERGER

MERGING

I-T-E Imperial Corporation

INTO

Gould Inc.

* * * * * *

Gould Inc., a corporation organized and existing under the laws of Delaware,

DOES HEREBY CERTIFY:

FIRST: That this corporation was incorporated on the 15th day of October, 1928, pursuant to the General Corporation Law of the State of Delaware.

SECOND: That this corporation owns all of the outstanding shares of the stock of I-T-E Imperial Corporation, a corporation incorporated on the 19th day of January, 1976, pursuant to the General Corporation Law of the State of Delaware.

THIRD: That this corporation, by the following resolutions of its Board of Directors, duly adopted at a meeting held on the 22nd day of September, 1981, determined to and did merge into itself said I-T-E Imperial Corporation:

RESOLVED, that Gould Inc. merge, and it hereby does merge into itself said I-T-E Imperial Corporation, and assumes all of its obligations;

FURTHER RESOLVED, that the merger shall become effective on December 31, 1981; and

ORIGINAL (Red)

FURTHER RESOLVED, that the proper officers of this corporation be and they hereby are directed to make and execute a Certificate of Ownership and Merger setting forth a copy of the resolutions to merge said I-T-E Imperial Corporation and assume its liabilities and obligations, and the date of adoption thereof, and to cause the same to be filed with the Secretary of State and a certified copy recorded in the office of the Recorder of Deeds of New Castle County and to do all acts and things whatsoever, whether within or without the State of Delaware, which may be necessary or proper to effect said merger.

IN WITNESS WHEREOF, said Gould Inc. has caused this certificate to be signed by Richard L. Williams III, its Senior Vice President-Administration, and attested by Nancy R. Jack, its Secretary, this 1st day of December, 1981.

Gould Inc.

By Richard L. Williams III
Senior Vice President-Administration

ATTEST:

By Nancy R. Jack
Secretary

RECEIVED FOR RECORD

DEC 4 1981

LEO J. DUGAN, Jr., Recorder

ORIGINAL
(Red)

AGREEMENT OF PURCHASE AND SALE

This Agreement, made as of the 18th day of December, 1980, is by and among BBC Brown, Boveri & Company, Limited, a Swiss corporation ("BBC"); Brown Boveri Power Delivery, Inc., a Delaware corporation ("BBPD") and an indirect subsidiary of BBC; Gould Inc., a Delaware corporation ("Gould"); I-T-E Imperial Corporation, a Delaware corporation ("ITE") and a subsidiary of Gould; and Gould-Brown Boveri, a New York partnership (the "Partnership") established by and existing between BBPD and ITE:

WHEREAS, BBC and Gould entered into the Parents' Agreement (as defined, together with other terms used herein, in Section 1 below) and the other 1979 Agreements for the purpose of establishing and regulating certain joint venture operations relating to the business of ESG conducted in and from the United States and Canada;

WHEREAS, in accordance with the Parents' Agreement, the Partnership was organized to conduct the joint venture operations relating to the business of ESG conducted in and from the United States;

WHEREAS, the Canadian Venture relating to the business of ESG conducted in and from Canada was never

organized although certain interim arrangements were established by the parties hereto and Gould Canada;

WHEREAS, BBPD now desires to purchase, and ITE now desires to sell, ITE's interest in the Partnership and BBC and Gould now desire to establish new arrangements with respect to the business of ESG in and from Canada and otherwise to modify or terminate certain of the provisions of the 1979 Agreements, all pursuant to this Agreement and the other 1980 Agreements;

NOW, THEREFORE, the parties hereto hereby agree as follows:

SECTION 1. DEFINITIONS

1.1 Parents' Agreement Definitions. Parents' Agreement means the Agreement listed as Item 1 on Exhibit A. Unless otherwise herein provided, all of the capitalized terms used herein which are defined in the Parents' Agreement shall have the meanings set forth or used in the Parents' Agreement.

1.2 Additional Definitions. When used in this Agreement, the following terms shall have the meanings set forth below.

ESG Canada means the Electrical Systems Group division of Gould in Canada and Australia.

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ESG Intangibles means the licenses and other rights to the intangible assets relating to the assets of the Partnership and of ESG Canada.

Gould Service Agreement means the agreement listed as Item 7 on Exhibit A.

1979 Agreements means the Parents' Agreement and various other agreements entered into by BBC and Gould, or by Wholly-owned Subsidiaries thereof, all of which are listed on Exhibit A hereto, dated as of January 31, 1979.

1980 Agreements means this Agreement and various other agreements listed on Exhibit B hereto and, as at the Canada Closing Date, shall include the Employee Benefit Agremeent in the form attached as Exhibit B to the Option Agreement.

Navy Agreement means the agreement listed as Item 3 on Exhibit B.

Navy Business has the meaning assigned to it in the Navy Agreement.

Navy-Related Assets has the meaning assigned to it in the Navy Agreement.

Navy-Related Liabilities has the meaning assigned to it in the Navy Agreement.

Option Agreement means the agreement listed as Item 2 on Exhibit B.

Partnership Agreement means the agreement listed as Item 2 on Exhibit A.

Partnership Product means each and every article (including each and every component thereof) which is included within one or more of the product categories enumerated in Section 2.3 of the Partnership Agreement, provided, however, that such product categories shall be limited to (a) those products rated for use in an electric system having a voltage rating of 1,000 volts alternating current ("A.C.") root-mean-square and above or having a voltage rating of 500 volts direct current ("D.C.") and above, and (b) the following additional products with voltage ratings less than those described in the foregoing clause (a):

(i) power circuit breakers;

(ii) metal enclosed and metal-clad switchgear:

(iii) capacitors;

(iv) instrument transformers;

(v) electrical porcelain and polymer insulators; and

(vi) lightning arrestors;

provided, however, that the products listed in the foregoing clause (b) shall be further limited to those products designed for use in electrical power transmission and generating systems associated with electrical power transmission and generation.

items, and Gould and ITE shall each execute and deliver to each of the Partnership and Newco an appropriate power of attorney to effectuate the foregoing. Gould and ITE shall each transfer and deliver to the Partnership and Newco, as the case may be, from time to time after the date hereof, any cash or other property which either of them may respectively receive and which is intended to be transferred to the Partnership and Newco pursuant to the 1980 Agreements.

SECTION 3. TRANSFER OF PARTNERSHIP INTEREST AND RELATED TRANSACTIONS

3.1 Transfer to BBPD. On the Closing Date, and on the terms and subject to the conditions hereinafter set forth:

3.1.1 ITE shall, sell, transfer, assign, convey and deliver to BBPD, and BBPD shall purchase and acquire from ITE, all of ITE's right, title and interest as a general partner in the properties and business of the Partnership as the same are then constituted; and

3.1.2 Gould shall license or assign, or cause to be licensed or assigned, to BBC or its assignees the ESG Intangibles, as provided in the Technology Agreements.

3.2 Purchase Price. As consideration for the transfers described in Section 3.1 hereof, BBPD shall:

3.2.1 On the Closing Date:

(a) pay or cause to be paid to ITE $24,000,000 in Federal funds; and

(b) subject to the provisions of Section 11 hereof, assume and agree to pay, perform, defend and discharge if and when due, to the extent not paid, performed or discharged prior to the Closing Date, all of ITE's liabilities and obligations as a general partner of the Partnership and the liabilities and obligations of Gould and ITE listed in Exhibit H hereto, exclusive of any liabilities based upon ITE's status as a corporation, although arising from its interest in the Partnership (e.g., liabilities under tax laws applicable to corporations and under state laws applicable to foreign corporations).

3.3 Settlement of Advances and Commercial Transactions

3.3.1 Advances.

(a) On the Closing Date, BBPD shall pay or cause to be paid to Gould in Federal funds the amount necessary to reimburse Gould in respect of advances by Gould to the Partnership as at November 30, 1980 for the items and in the amounts set forth on Exhibit C hereto which remain unpaid at

Technology Agreements means the agreements listed as Items 5, 6 and 7 on Exhibit B and the assignments delivered in connection therewith.

SECTION 2. ASSIGNMENT AND TRANSFER TO NEWCO

2.1 Transfer by the Partnership. Immediately prior to the Closing Date (as defined in Section 4 hereof), the Partnership will take the following actions in the following order which are necessary to:

2.1.1 Transfer to ITE. Transfer, convey and assign to ITE all of the Navy-Related Assets subject to the Navy-Related Liabilities, all in accordance with the Navy Agreement.

2.1.2 Organize Newco. Organize a Delaware corporation under the name Brown Boveri Electric, Inc. ("Newco") for the purpose of consummating the transactions contemplated by Section 2.1.3 hereof; and

2.1.3 Transfer to Newco. Transfer, convey and assign to Newco, pursuant to a Transfer Agreement substantially in the form of Annex I hereto, all of the Partnership's properties and business, except the Navy-Related Assets, in exchange for 1,000 shares of Common Stock, par value $1.00 per share, of Newco, then constituting all of the outstanding shares of stock of Newco, and the assumption

by Newco of all of the liabilities and obligations of the Partnership except the Navy-Related Liabilities.

2.2 Further Assurance. For purposes of the 1980 Agreements, Gould and ITE hereby agree as follows:

(a) If the assignment of any contract, order, lease or agreement to the Partnership or Newco by the Partnership, ITE (whether directly or as a general partner of the Partnership) or Gould pursuant to the 1980 Agreements requires the consent of any third party, in order for such assignment to be lawful or not in breach of a contractual obligation of the assignor, ITE and Gould each agrees to use its best efforts to obtain such consent on or before the Closing Date. If any consent sought pursuant to this Section 2.2 has not been or cannot be obtained by the Closing Date, ITE or Gould, as the case may be, each agrees to hold the contract, order, lease or agreement proposed to be assigned for the use and benefit of the Partnership or Newco, as the case may be, and in that connection, to do any and all things, including the execution of any and all documents in respect thereof which BBC, BBPD, the Partnership or Newco may request (except that neither Gould nor ITE shall be required to pay any consideration or assume any liabilities in connection therewith), so that the beneficial use thereof and rights thereunder shall accrue to the Partnership or Newco, as the case

may be. However, under no circumstances shall Gould or ITE be liable to BBC, BBPD, the Partnership or Newco if it is unable to obtain such consents or for any costs or expenses arising from the failure to obtain same.

(b) Except as may be otherwise set forth in the 1980 Agreements, all transfers of business or properties to the Partnership or Newco by Gould or ITE shall be in such form as to effectively transfer all right, title and interest therein owned by Gould or ITE, to the Partnership or Newco.

(c) The transfer to BBPD by ITE of its interest in the Partnership pursuant to Section 3.1 hereof shall be by instrument of assignment and bill of sale. Such transfer shall convey good and marketable title to the interest transferred, free and clear of all liens and encumbrances.

2.3 Reduction to Possession of Accounts Receivable and Other Assets. From and after the Closing Date, the Partnership and Newco, as the case may be, shall have the right and authority to collect for their respective accounts all accounts receivable transferred to each of them pursuant to the 1980 Agreements and to collect or reduce to possession all other assets transferred to each of them as provided in the 1980 Agreements, and to endorse with the name of Gould or ITE, as the case may be, without recourse, any remittance received on account of any such accounts receivable or other

the Closing Date, together with interest thereon calculated in the manner set forth on Exhibit C.

(b) Thirty days after the Closing Date, BBPD shall pay or cause to be paid to Gould in Federal funds any additional amount necessary to reimburse Gould for advances, if any, as at the Closing Date for the items listed on Exhibit C hereto in and amounts in excess of those set forth on such Exhibit which then remain unpaid, together with interest thereon calculated in the manner set forth on Exhibit C.

3.3.2 Commercial Transactions. Settlement for all commercial transactions between the Partnership and Gould, except for advances referred to in Section 3.3.1 above, and including amounts payable under the Venture-Gould Sales Agency Agreement and the Gould Service Agreement shall be made in the ordinary course of business in accordance with the terms and conditions governing such transactions.

SECTION 4. THE CLOSING

Consummation of the transactions contemplated by Section 3 hereof (the "Closing") shall take place at 10:00 A.M., New York City time, on December 18, 1980, at the offices of Shearman & Sterling, 53 Wall Street, New York, New York. The time and date of the Closing are herein called the "Closing Date".

SECTION 5. MODIFICATION AND TERMINATION OF THE 1979 AGREEMENTS

5.1 Termination of the 1979 Agreements. BBC, BBPD, Gould, ITE and the Partnership hereby agree to terminate all of the provisions of the 1979 Agreements effective as of the Closing Date, except to the extent that any such Agreements or any of the provisions thereof are declared in the 1980 Agreements to remain effective, provided, however, that unless amended by the provisions of the 1980 Agreements, such termination shall not affect any rights or obligations of the parties that may have accrued under the 1979 Agreements prior to the Closing Date.

5.2 Representations and Warranties in the Parents' Agreement. The representations, warranties and indemnities of Gould and BBC, respectively, contained in Section 13 of the Parents' Agreement, except for those in Section 13.3(c) relating to the valuation of inventories, shall remain effective in accordance with and on the terms and for the periods set forth therein. BBC and Gould hereby agree that all questions relating to such valuation of inventories have been resolved by the establishment of the purchase price set forth in Section 3.2.1 hereof.

5.3 Employee Benefits Obligations. The parties hereto agree that the following shall remain effective after the Closing Date:

5.3.1 Employee Benefits Agreement. The obligations of Gould (except as agent for the Plan Administrator which obligation shall terminate as of the Closing Date), ITE and the Partnership set forth in the provisions of Sections 3.1 (a), (b) and (d), Section 3.2(b) and the second sentence of Section 4.1 of the Employee Benefits Agreement.

5.3.2 Transfers of Employees. The parties hereto agree that, to the extent that transfers of employees between Gould, ITE, Newco and the Partnership are governed by collective bargaining agreements previously entered into by Gould or ITE or the Partnership, Section 6.3 of each of the ITE Imperial Retirement Plan, the Gould Brown Boveri Retirement Plan and the Gould Brown Boveri Pension Plan shall be amended effective as of the Closing Date to provide (i) that such a transferred employee shall be considered a participant in the pension plan of his new employer only from the date that such transfer occurs and that his transfer will be considered to occur on the day that his employment with the new employer actually commences; and (ii) that such employee's pension benefits accrued for the year of transfer shall be computed on the basis of his total compensation received from all employers during the year of transfer and shall be allocated to each pension plan in the same proportion that his number

of days of service as a participant under such plan during such year bears to his total number of days of service as a participant under all such plans during such year. The parties shall exchange copies of the amendments to their respective pension plans and such employee data as is required to facilitate carrying out these arrangements.

SECTION 6. GUARANTIES OF BBC AND GOULD

6.1 Guaranties of BBC. BBC guarantees to Gould and ITE the prompt payment when due of all amounts payable by, and the prompt performance of all obligations and the satisfaction of all conditions required to be performed or satisfied by:

6.1.1 BBPD (a) as a general partner of the Partnership and (b) under the 1980 Agreements; and

6.1.2 Newco, under the Transfer Agreement and otherwise, as the successor to the Partnership after the Closing Date.

6.2 Guaranties of Gould. Gould hereby guarantees to BBC and BBPD the prompt payment when due of all amounts payable by, and the prompt performance of all obligations and the satisfaction of all conditions required to be performed or satisfied by:

6.2.1 ITE (a) as a general partner of the Partnership and (b) under the 1980 Agreements; and

6.2.2 Gould Canada under the 1980 Agreements.

6.3 Effect of Guaranties. Nothing in this Section 6 is intended to relieve either Gould or BBC of any liability it may have for breach of its representations and warranties contained in the Parents' Agreement or in the 1980 Agreements.

SECTION 7. REPRESENTATIONS AND WARRANTIES OF GOULD

Gould hereby represents and warrants to BBC as follows:

7.1 Organization of Gould and ITE. Gould and ITE each is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, with full corporate power to own and lease its properties and to conduct its business and the business contemplated to be conducted by it under the 1980 Agreements. Gould and ITE each has the corporate power to execute and deliver each of the 1980 Agreements signed by each of them, respectively, and to consummate the transactions and perform their respective obligations as contemplated by the 1980 Agreements.

7.2 Authority of Gould and ITE. The execution, delivery and performance of the 1980 Agreements by Gould and ITE, the execution and delivery of any other instruments required to be executed and delivered by either of them pursuant thereto and the consummation by them of the trans-

actions contemplated thereby have been duly and validly authorized by all necessary corporate actions applicable to each of them. Except as set forth on Exhibit D hereto, such execution, delivery and consummation by Gould and ITE do not and will not on the Closing Date and (with respect to Gould) will not on the Canada Closing Date (as defined in the Option Agreement) (a) conflict with, result in a breach of, or constitute a default under (i) the charter or by-laws of Gould or ITE, respectively, or any indenture, mortgage, deed of trust or instrument relating to borrowed money to which either of them is a party or by which their respective properties are bound, or (ii) any contract or lease to which either of them is a party or by which either of them is bound except, in the case of any contract or lease, any conflict, breach or default occurring by reason of a failure to obtain the consent of the other parties thereto to (A) the assignment thereof to Newco or (B) the transfer thereof pursuant to the Navy Agreement, or (b) result in the creation of any lien, charge or encumbrance upon the properties or assets of either of them or any part thereof, or (c) constitute a violation by either of them of any law, ordinance, rule or regulation of any governmental authority or jurisdiction as such law, ordinance, rule or regulation relates to the transfer of the interest of ITE in the Partnership or of

the ESG Canadian Assets (as defined in the Option Agreement). Except as set forth on Exhibit D hereto, there is not in effect any order, judgment, injunction, decree or award of any court, arbitrator, government or governmental agency or instrumentality against or binding upon either Gould or ITE, or by which their respective properties or assets are bound which may be applicable to the execution and delivery of the 1980 Agreements or the consummation of the transactions contemplated thereby. Each of the 1980 Agreements and the instruments required to be executed and delivered by either Gould or ITE pursuant thereto will be their respective valid and legally binding obligations, enforceable against each of them (with respect to each of the 1980 Agreements, to which either of them is a party) in accordance with their respective terms. All persons who have executed this Agreement on behalf of Gould or ITE have been, and all persons who will execute each of the 1980 Agreements and such instruments will be, duly authorized to do so by all necessary corporate action by Gould or ITE as the case may be.

7.3 Ownership of ITE and Gould Canada and ITE Partnership Interest. ITE and Gould Canada each is a Wholly-owned Subsidiary of Gould and all of the outstanding shares of capital stock of each of them are owned by Gould free and clear of any lien, pledge, mortgage or other encumbrance.

ITE owns a 50% interest in the Partnership free and clear of any lien, pledge, mortgage or other encumbrance.

7.4 No Commitments. Except for the Partnership Liabilities or as provided in or permitted by the Partnership Agreement, neither Gould nor ITE has taken, without the prior written consent of BBC, any action to commit to bind the Partnership or BBPD to any act, agreement, contract or undertaking of any kind or nature whatsoever.

7.5 Governmental and Other Consents and Approvals. Except for the governmental and other consents set forth on Exhibit E hereto, no consent of any person not a party thereto is necessary in order for Gould or ITE respectively to enter into the 1980 Agreements or to consummate the transactions contemplated thereby.

7.6 Employee Benefit Plans. During the period from January 31, 1979 to the Closing Date, as long as Gould provided or continues to provide services with regard to the administration of the "employee plans" (as such term is defined in Section (3) of the Employee Retirement Income Security Act of 1974 ("ERISA")) which were assumed and maintained by the Partnership, or to which the Partnership was obligated to make contributions, at any time during the period from January 1, 1979 to the Closing Date (the "Employee Plans"), or during which assets attributable to the

benefits provided by any such Employee Plans were held in trust administered together with assets of other similar plans maintained by Gould or its Subsidiaries:

7.6.1 Gould and its Subsidiaries in all material respects have performed all obligations required to be performed by them under or pursuant to the Gould Service Agreement;

7.6.2 Except for summary annual reports for plan years ending December 31, 1978 and summary plan descriptions during 1980, responsibility for which was assumed by the Partnership and the filing but not the preparation of the Form 5500 for the Welfare Plans, all material reports and disclosures relating to the Employee Plans required to be filed or distributed during such period have been or will have been filed or distributed prior to the Closing Date in accordance with applicable law;

7.6.3 So far as is known to the senior management of Gould and any other employees of Gould responsible for employee benefit matters, none of the Employee Plans engaged (on or prior to the earlier of the Closing Date or the date on which assets are transferred from the ITE Pension Plan with respect to the Partnership employees in accordance with Section 3.1(a) of the Employee Benefits Agreement) in any "prohibited transaction", as such term is defined in Section

4975 of the Code or Section 406 of ERISA, which could subject the Partnership, BBC, BBPD, or Newco to the tax or penalty imposed under Section 4975 of the Internal Revenue Code of 1954, as amended (the "Code") or Section 501(i) of ERISA;

7.6.4 No Employee Plan which is subject to Title IV of ERISA has been terminated nor have any proceedings been initiated to terminate any such Employee Plan, nor, so far as is known to the senior management of Gould and any other employees of Gould responsible for employee benefit matters, did any "reportable event", as that term is defined in Section 4043 of ERISA occur with respect to any such Employee Plan except to the extent that such "reportable event" might result from the transactions contemplated hereunder or as a result of a reduction of the number of Partnership employees, or as a result of the application of the minimum funding standards of Section 412(d) of the Code (or Section 302(d) of ERISA) to any Employee Plan subject thereto;

7.6.5 Neither any of the senior management of Gould nor any other employees of Gould responsible for employee benefit matters have any knowledge which would lead them to expect the Partnership, BBC, BBPD or Newco to incur any liability to the Pension Benefit Guaranty Corporation (other than for the payment of premiums) with regard to any Employee Plan as a result of any events which have happened between

January 1, 1979 and the earlier of the Closing Date or the date on which assets are transferred from the ITE Pension Plan with respect to the Partnership employees in accordance with Section 3.1(a) of the Employee Benefits Agreement, except to the extent that such liability might result from a reduction of the number of Partnership employees or as a result of the application of the minimum funding standards of Section 412 of the Code (or Section 302 of ERISA) to any Employee Plan subject thereto; and

7.6.6 As of the earlier of the Closing Date or the date on which assets are transferred from the ITE Pension Plan with respect to the Partnership employees in accordance with Section 3.1(a) of the Employee Benefit Agreement, no Employee Plan or any related trust owns any securities or property in violation of Section 407 of ERISA.

7.7 Legal Proceedings. Except as set forth on Exhibit F hereto, (a) there are no legal or governmental proceedings or governmental investigations pending or threatened seeking to restrain, prevent, challenge or undo, or to recover damages as a result of the 1979 Agreements or the 1980 Agreements or the transactions contemplated thereby, or (b) there have been no material actions, suits or claims pending (other than routine claims for benefits) and, to the knowledge of Gould and ITE, threatened against any Employee

Plan or against the assets of any Employee Plan or against the Partnership (to the best of Gould's knowledge), Gould or ITE with respect to such Employee Plan.

7.8 Product Liability Insurance. From January 31, 1979 through the Closing Date, Gould has maintained insurance for the benefit of the Partnership for liabilities to purchasers or users of Partnership products or services pursuant to policies in the forms previously supplied to the Partnership for liabilities in excess of $2,000,000 up to $98,000,000. In the event any claim with respect to such liabilities for such period is asserted after the Closing Date, Gould agrees, in addition to any obligation it may have pursuant to Section 11.1.4 hereof, to refer such claim to its insurer or insurers for appropriate processing and to take any other reasonable actions requested by Newco, at Newco's expense, to enable Newco as the successor of the Partnership to receive the benefits of such insurance.

7.9 Transfers by Gould and ITE. Subject to the provisions of Section 2.2 hereof, Gould and ITE have taken all actions necessary to transfer all material ESG Assets to the Partnership, in the manner contemplated and to the extent required by the 1979 Agreements.

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SECTION 8. REPRESENTATIONS AND WARRANTIES OF BBC

BBC hereby represents and warrants to Gould as follows:

8.1 Organization of BBC and BBPD. BBC is a company duly organized and validly existing under the laws of Switzerland with full corporate power and authority to conduct its business and the business contemplated to be conducted under the 1980 Agreements. BBPD is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has full corporate power and authority to conduct its business and the business contemplated to be conducted under the 1980 Agreements. BBC and BBPD each has the corporate power to execute and deliver each of the 1980 Agreements signed by each of them, respectively, and to consummate the transactions and perform their respective obligations as contemplated by the 1980 Agreements.

8.2 Authority of BBC and BBPD. The execution, delivery and performance of the 1980 Agreements by BBC and BBPD, the execution and delivery of any other instruments required to be executed and delivered by either of them pursuant thereto and the consummation by them of the transactions contemplated thereby have been duly and validly authorized by all necessary corporate actions applicable

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to either of them. Except as set forth on Exhibit G hereto, such execution, delivery and consummation by BBC and BBPD do not and (with respect to BBC and BBPD) will not on the Closing Date and (with respect to BBC) will not on the Canada Closing Date (a) conflict with, result in a breach of, or constitute a default under (i) the charter or by-laws of either BBC or BBPD, or any indenture, mortgage, deed of trust or instrument relating to borrowed money to which either of them is a party or by which their respective properties are bound, or (ii) any contract or lease to which either of them is a party or by which either of them is bound except, in the case of any contract or lease, any conflict, breach or default occurring by reason of a failure to obtain the consent of the other parties thereto to (A) the assignment thereof to Newco or (B) the transfer thereof pursuant to the Navy Agreement, or (b) result in the creation of any lien, charge or encumbrance upon the properties or assets of either of them or any part thereof, or (c) constitute a violation by either of them of any law, ordinance, rule or regulation of any governmental authority or jurisdiction as such law, ordinance, rule or regulation relates to the acquisition by BBPD of ITE's interest in the Partnership or the acquisition by BBC of the ESG Canadian Assets. Except as set forth on Exhibit G hereto, there is not in

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effect any order, judgment, injunction, decree or award of any court, arbitrator, government or governmental agency or instrumentality against or binding upon BBC or BBPD or by which their respective properties or assets are bound which may be applicable to the execution and delivery of the 1980 Agreements or the consummation of the transactions contemplated thereby. Each of the 1980 Agreements and the instruments required to be executed and delivered by either BBC or BBPD pursuant thereto will be their respective valid and legally binding obligations, enforceable against each of them (with respect to each of the 1980 Agreements, to which either of them is a party) in accordance with their respective terms. All persons who have executed this Agreement on behalf of BBC or BBPD have been, and all persons who will execute each of the 1980 Agreements and such instruments will be, duly authorized to do so by all necessary corporate action by BBC or BBPD, as the case may be.

8.3 Ownership of BBPD and BBPD Partnership Interest. BBPD is a Wholly-owned Subsidiary of BBC and all of the outstanding shares of capital stock of BBPD are owned by BBC free and clear of any lien, pledge, mortgage or other encumbrance. BBPD owns a 50% interest in the Partnership free and clear of any lien, pledge, mortgage or other encumbrance.

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8.4 No Commitments. Except for Partnership Liabilities or as provided in or permitted by the Partnership Agreement, neither BBC nor BBPD has taken, without the prior written consent of Gould, any action to commit or bind the Partnership or ITE to any act, agreement, contract or undertaking of any kind or nature whatsoever.

8.5 Governmental and Other Consents and Approvals. Except for the governmental and other consents set forth in Exhibit G hereto, no consent of any person not a party thereto is necessary in order for BBC or BBPD, respectively, to enter into the 1980 Agreements or to consummate the transactions contemplated thereby.

8.6 Legal Proceedings. Except as set forth on Exhibit F hereto, there are no legal or governmental proceedings or governmental investigations pending or threatened seeking to restrain, prevent, challenge or undo, or to recover damages as a result of 1979 Agreements or the 1980 Agreements or the transactions contemplated thereby.

SECTION 9. GOULD AND ITE CONDITIONS TO THE CLOSING

The obligations of Gould and ITE hereunder which are to be performed on the Closing Date shall be subject to the satisfaction on or before the Closing Date of the following conditions, any of which may be waived by Gould:

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9.1 Representations and Warranties. The representations and warranties made herein by BBC, shall be true in all material respects at and as of the Closing Date, and the representations and warranties made by BBC in Section 13 of the Parents' Agreement shall have been true in all material respects at and as of January 31, 1979, and BBC and BBPD shall have performed all agreements required to have been performed by them on or prior to the Closing Date pursuant to the 1980 Agreements; and BBC and BBPD shall each have delivered to Gould and ITE its respective certificate, dated the Closing Date, to such effect.

9.2 Execution of the 1980 Agreements. BBC and BBPD (individually and, where applicable, on behalf of the Partnership) shall have executed and delivered the respective 1980 Agreements to which they are parties and shall have entered into and delivered all other agreements or releases required to be entered into and delivered by each of them on or prior to the Closing Date pursuant to the 1980 Agreements.

9.3 Litigation. There shall be no legal or governmental proceedings or governmental investigations pending, threatened or reasonably believed by Gould to be threatened seeking to restrain, prevent, challenge or undo or to recover substantial damages as a result of the 1979

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Agreements or the 1980 Agreements or the transactions contemplated thereby.

9.4 Governmental Approvals. All approvals of any governmental agencies, courts, boards or other governmental entities, if any, necessary for Gould and ITE to complete the transactions contemplated by this Agreement shall have been obtained, except any with respect to the transfer to any third party of existing contracts between Gould, ITE, the Partnership and any governmental entity.

9.5 Opinions of Counsel. Gould shall have received from Shearman & Sterling, United States counsel to BBC, and from Gottfried Buetikofer, General Counsel to BBC, their respective opinions in the forms set forth in Exhibit I hereto.

9.6 Documents of Transfer. BBPD (either directly or as a general partner of the Partnership) shall have delivered such deeds, bills of sale, assignments and other documents of transfer as are required to transfer to ITE all right, title and interest (where required by the Navy Agreement) of BBPD and the Partnership in and to the assets required to be transferred pursuant to Section 2.1 of the Navy Agreement subject, however, to the provisions of Section 2.3 thereof.

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SECTION 10. BBC AND BBPD CONDITIONS TO THE CLOSING

The obligations of BBC and BBPD hereunder which are to be performed on the Closing Date shall be subject to the satisfaction on or before the Closing Date of the following conditions, any of which may be waived by BBC:

10.1 Representations and Warranties. The representations and warranties made herein by Gould shall be true in all material respects at and as of the Closing Date, and the representations and warranties made by Gould in Section 13 of the Parents' Agreement (except for those in Section 13.3 (c) relating to the valuation of inventories) shall have been true in all material respects at and as of January 31, 1979, and Gould, ITE and Gould Canada shall have performed all agreements required to have been performed by them on or prior to the Closing Date pursuant to the 1980 Agreements; and Gould, ITE and Gould Canada shall each have delivered to BBC and BBPD its respective certificate, dated the Closing Date, to such effect.

10.2 Execution of the 1980 Agreements. Gould, ITE (individually and, where applicable, on behalf of the Partnership) and Gould Canada shall have executed and delivered the respective 1980 Agreements to which they are parties and shall have entered into and delivered all other agreements or releases required to be entered into and

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delivered by each of them on or prior to the Closing Date pursuant to the 1980 Agreements.

10.3 Litigation. There shall be no legal or governmental proceedings or governmental investigations pending, threatened or reasonably believed by BBC to be threatened seeking to restrain, prevent, challenge or undo or to recover substantial damages as a result of the 1979 Agreements or the 1980 Agreements or the transactions contemplated thereby or which materially adversely affect or may materially adversely affect the Partnership or Newco or any Employee Plan or the assets of any Employee Plan, other than as listed on Exhibits F and G delivered as of the date of this Agreement, and as to the legal or governmental proceedings or governmental investigations therein described or disclosed there shall have been no change which materially adversely affects or may materially adversely affect the Partnership or Newco.

10.4 Governmental and Other Consents and Approvals. All approvals of any governmental agencies, courts, boards or other governmental entities, if any, necessary to complete the transactions contemplated by this Agreement shall have been obtained, except any with respect to the transfer to any third party of existing contracts between Gould, ITE and the Partnership and any governmental entity.

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10.5 Opinions of Counsel. BBC shall have received from Winston & Strawn, United States counsel to Gould, and from Osler, Hoskin & Harcourt, Canadian counsel to Gould, their respective opinions in the forms set forth in Exhibit H hereto.

10.6 Documents of Transfer. Gould or ITE (either directly or as a general partner of the Partnership) shall have delivered such deeds, bills of sale, assignments and other documents of transfer as are required to transfer to the Partnership, or Newco, as the case may be, all right, title and interest (where required by this Agreement) of Gould, ITE and the Partnership in and to the assets required to be transferred pursuant to Section 2.1 hereof subject, however, to the provisions of Section 2.2 hereof.

10.7 Title Insurance. There shall have been received from Chicago Title Insurance Company title insurance policies, or commitments to issue same, with respect to each of the real properties owned by the Partnership listed on Exhibit K hereto. Such title insurance policies shall name Newco as the insured party, shall be in such amounts as the Partnership shall previously have obtained for such properties, and shall be furnished at the insurer's regular premium rates for insurance (that is, without additional premium for special risk or for affirma-

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tive insurance). Such title insurance policies shall not set forth any exception which would (i) render unmarketable any title or leasehold estate to which such exception relates, or (ii) prohibit the property to which such exception relates from being used by Newco in the same manner as such property now is being used by the Partnership as owner thereof.

10.8 Pension Plan Contribution. Gould shall have transferred to the Gould-Brown Boveri Pension Plan the amount of $251,915, in cash which amount would have been required to be contributed to such Plan with respect to the "plan year" ended December 31, 1979 for such Plan by Section 302 of ERISA and Section 412 of the Code had such Plan been subject to the provisions of such sections for the entire such year.

SECTION 11. INDEMNIFICATION

11.1 Indemnification by Gould. Gould shall indemnify, defend and hold harmless BBC, BBPD, the Partnership and Newco against and in respect of the following, provided that neither BBC, BBPD, the Partnership nor Newco shall have any claim hereunder in respect of any Item (as defined in Section 11.4 hereof) unless the Damages (as defined in Section 11.1.1 hereof) sustained by them in respect of any such Item shall exceed $100,000 and unless any claim with respect to such Item (other than claims based upon tax

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liabilities) is asserted by written notice to Gould within six years after the Closing Date:

11.1.1 Subject to the provisions of Section 11.3 hereof, any and all damages, claims, losses, liabilities, expenses (including, without limitation, legal and other expenses) ("Damages") which may arise out of or in respect of the falsity or breach in any material respect of any representation, warranty, covenant or undertaking made by Gould, ITE or Gould Canada, as the case may be, contained or incorporated in the 1980 Agreements, and any ancillary certificates or other documents delivered pursuant thereto;

11.1.2 Any and all Damages which may arise out of or in respect of the failure of ITE to pay or perform any Navy-Related Liability, except where such failure results from Newco's failure to perform its obligations to ITE under the Navy Agreement;

11.1.3 Fifty percent of the Damages for (i) all liabilities to purchasers or users of Partnership products or services except liabilities chargeable to the reserve referred to in clause (ii) below, whether such liabilities are accrued, absolute, contingent or otherwise on the Closing Date, and whether or not reflected or reserved against on the financial statements

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of the Partnership or on the books of account or other records of the Partnership and whether or not claims with respect to such liabilities have been asserted on or prior to the Closing Date, provided, that such liabilities relate to products manufactured or invoiced (for the sale of products manufactured by parties other than BBC) by, or services performed by, the Partnership prior to the Closing Date or to products the manufacture of which is in progress at the Closing Date and is completed (i.e. all major components for such products are completed for delivery to the customer) within four months thereafter; (ii) all liabilities to purchasers or users of Partnership products or services chargeable to the reserve referred to below, whether such liabilities are accrued, absolute, contingent or otherwise on the Closing Date, and whether or not reflected or reserved against on the financial statements of the Partnership or on the books of account or other records of the Partnership and whether or not claims with respect to such liabilities have been asserted on or prior to the Closing Date, provided, that such liabilties relate to products manufactured or invoiced (for the sale of products manufactured by parties other than BBC) by, or services

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performed by, the Partnership prior to the Closing Date or to products the manufacture of which is in progress at the Closing Date and is completed (i.e. all major components for such products are completed for delivery to the customer) within four months thereafter and, provided, further, that liabilities of the Partnership in the aggregate amount of $2,630,576, as shown on Schedule J hereto, which are hereby agreed by the parties hereto to be allocable as a reserve for accrued contract and warranty expenses shall not be subject to this Section 11.1.3(ii), but only to the extent of the amount so reserved for; and (iii) other liabilities of the Partnership (except for liabilities arising in the ordinary course of business from executory contracts as at the Closing Date for the purchase, sale or lease of personal property or of services) which (x) originated, were incurred or were assumed by the Partnership (except under the 1979 Agreements which shall control the indemnification obligations of the parties hereto with respect thereto) prior to the Closing Date, and (y) are not listed on Exhibit J hereto or were incurred subsequent to September 30, 1980 otherwise than in the ordinary course of business of the Partnership;

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11.1.4 Any and all Damages arising as a result of the non-compliance with any "bulk transfer" or similar law of Canada or Australia or any political subdivision thereof with respect to the consummation of the Canada Closing (as defined in the Option Agreement);

11.1.5 Any and all Damages arising or resulting from the breach by ITE of Section 10 of the Partnership Agreement prior to the Closing Date;

11.1.6 Fifty percent of any and all Damages which may arise from any claim by the Pennsylvania Industrial Development Authority relating to the premises located at Chalfont, Pennsylvania occupied by the Partnership that rent in excess of $10,522.38 per month for any period prior to the Closing Date is owing by the Partnership to said Authority; and

11.1.7 With respect to any income or gain incurred by the Partnership under section 751(b) of the Internal Revenue Code of 1954, as amended, as a result of the distribution of the Navy-Related Assets to ITE pursuant to the Navy Agreement and Section 2.1.3 hereof, an amount equal to the greater of (A) the amount of all taxes imposed on BBPD on the income, if any, resulting from (i) the Partnership's distribution of the Navy-Related Assets to ITE, with respect to the taxable

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year of BBPD in which such transfer occurred or any subsequent year, and (ii) the payment under this Section 11.1.7, or (B) the amount of any and all taxes which would have been imposed if the income, if any, resulting from the Partnership's distribution of the Navy-Related Assets to ITE and the payment under this Section 11.1.7 was the only income of BBPD for the taxable year in which such transfer and such payment occurs and BBPD filed a separate tax return.

11.2 Indemnification by BBC. BBC shall indemnify, defend and hold harmless Gould and ITE against and in respect of the following, provided that neither Gould nor ITE shall have any claim hereunder in respect of any Item unless the Damages sustained by them shall in respect of any such Item shall exceed $100,000 and unless any claim with respect to such Item (other than claims based upon tax liabilities) is asserted by written notice to BBC within six years after the Closing Date:

11.2.1 Subject to the provisions of Section 11.3 hereof, any and all Damages which may arise out of or in respect of the falsity or breach in any material respect of any representation, warranty, covenant or undertaking made by BBC or BBPD contained or incorporated in the 1980 Agreements and any ancillary certificates or other documents delivered pursuant thereto;

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11.2.2 Any and all Damages which may arise out of or in respect of the failure of BBPD to pay or perform any liability or obligation of Gould or ITE assumed by BBPD pursuant to the 1980 Agreements; and

11.2.3 Fifty percent of the Damages for (i) all liabilities to purchasers or users of products or services, except liabilities properly chargeable to the reserve referred to in clause (ii) of Section 11.1.3 above, of the Navy Business, whether such liabilities are accrued, absolute, contingent or otherwise on the Closing Date, and whether or not reflected or reserved against on the financial statements of the Partnership or on the books of account or other records of the Partnership and whether or not claims with respect to such liabilities have been asserted on or prior to the Closing Date, provided, that such liabilities relate to products manufactured, or invoiced (for the sale of products manufactured by parties other than Gould, ITE or Gould Canada) by, or services performed by, the Partnership relating to the Navy Business prior to the Closing Date, or products of the Navy Business the manufacture of which is in progress at the Closing and is completed (i.e. all major components for such products are completed for delivery to the customer) within four months thereafter; (ii) all liabilities to purchasers or users of products or services of the Navy Business properly chargeable to the reserve referred to in Section 11.1.3 above, whether such liabilities are accrued, absolute, contingent or otherwise on the Closing Date, and

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whether or not reflected or reserved against on the financial statements of the Partnership or on the books of account or other records of the Partnership and whether or not claims with respect to such liabilities have been asserted on or prior to the Closing Date, provided, that such liabilties relate to products manufactured or invoiced (for the sale of products manufactured by parties other than Gould, ITE or Gould Canada) by, or services performed by, the Partnership relating to the Navy Business prior to the Closing Date or to products of the Navy Business the manufacture of which is in progress at the Closing Date and is completed (i.e. all major components for such products are completed for delivery to the customer) within four months thereafter and, provided, further, that in such case BBC shall also pay to ITE an amount equal to 50% of the amount properly chargeable to such reserve; and (iii) other liabilities of the Partnership or ITE related to the Navy Business (except for liabilities arising in the ordinary course of business form executory contracts as at the Closing date for the purchase and sale of personal property or of services) which (x) originated, were incurred or were assumed by the Partnership or ITE (except under the 1979 Agreements which shall control the indemnification obligations of the parties hereto with

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respect thereto) prior to the Closing Date and (y) are not assumed by ITE under the Navy Agreement as a Navy-Related Liability.

11.3 1979 Agreements. All of the provisions of the 1979 Agreements relating to indemnification (except for Section 12.2 of the Parents' Agreement) shall govern the rights and obligations of the parties thereto with respect to matters arising thereunder or under any certificate delivered pursuant to Section 9.1 or 10.1 hereof to the extent any such certificate relates to representations and warranties in the Parents' Agreement.

11.4 Item Defined. For purposes of this Section 11, a single Item shall mean:

11.4.1 With respect to Sections 11.1.1, 11.2.1 and 11.2.2 hereof, each and every separate circumstance or related set of circumstances the existence of which results in the falsity of any representation or warranty and all breaches of any and every separate covenant or undertaking by Gould or BBC, as the case may be;

11.4.2 With respect to Section 11.1.2 hereof, the failure by ITE to pay or perform the obligations assumed by it under any single contract constituting a Navy-Related Liability;

11.4.3 With respect to each of Sections 11.1.4, 11.1.5, 11.1.6 and 11.1.7 hereof, any Damages incurred by BBC under each such single Section;

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11.4.4 With respect to clauses (i) and (ii) of Sections 11.1.3 and 11.2.3 hereof, any liability to a single purchaser or user of a Partnership product or service under a single contract or commitment (which may be represented by one or more invoices from the Partnership) or any liability to a group or class of purchasers or users of Partnership products or services asserted on a joint or collective basis with respect to a single product or service or a related group of products or services; and

11.4.5 With respect to clause (iii) of Sections 11.1.3 and 11.2.3 hereof, any liability of the Partnership (a) under a single contract or commitment (which may be represented by one or more invoices from the Partnership), (b) for any accrued expenses arising out of any accrual for a separate category of expenses (as such categories are listed on the schedule to Exhibit J entitled "Accrued Expenses"), or (c) resulting from a claim, whether or not asserted on a joint or collective basis, arising from a particular event or set of circumstances.

11.5 Pension Liabilities. With respect to the assumption by the Partnership of the liabilities referred to in Section 12.2 of the Parents' Agreement, the following shall apply:

As of January 31, 1979, there existed under the then existing pension plans covering the employees of the Partnership who were employed by ESG prior to the formation

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of the Partnership (the "Transferred Employees"), an unfunded past service liability with respect to the vested interest in such plans on January 31, 1979 held by certain Transferred Employees and those former ESG employees who retired or terminated with vested benefits after December 31, 1978 (such liability for vested interest, in the amount of $9,926,067, being hereinafter referred to as the "Unfunded Vested Liability"). In consideration of the assumption by the Partnership of liabilities of Gould and its Subsidiaries under such pension plans as provided in the Employee Benefits Agreement, Gould agrees to indemnify and hold harmless BBC, BBPD, the Partnership and Newco against and from any Damages arising from liabilities assessed against BBC, BBPD, the Partnership or Newco which arise, directly or indirectly, as a result of the Unfunded Vested Liability and against and from any expenses incurred by BBC, BBPD, the Partnership or Newco by reason of such liabilities; provided, however, that (i) the foregoing indemnity shall apply only with respect to liabilities of the type indemnified against which are assessed against BBC, BBPD, the Partnership or Newco at or after, and which arise as a result of, the termination, or partial termination, with respect to at least 75% of Partnership employees at any time prior to the fifth anniversary of January 31, 1979, of any pension plan covering Partnership employees by reason of the discontinuance or other shut-down of all or a substantial part of the operations of a business

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then being conducted by the Partnership or any successor thereto, and (b) the maximum amount payable by Gould under such indemnity shall not exceed the amount of the Unfunded Vested Liability, as reduced yearly in accordance with the following amortization schedule:

Years Following January 31, 1979 in Which Plan Termination Occurs	Percentage to be Applied to Unfunded Vested Liability to Obtain Maximum Amount Payable by Gould Under Indemnity
1st	50.00%
2nd	46.67
3rd	43.33
4th	40.00
5th	36.66

11.6 Notice and Defense of Claims. If any indemnitee learns of any facts that may give rise to a claim against any indemnitor, other than one that has theretofore been asserted by a third party, the indemnitee shall give notice to the indemnitor of the existence of such claim.

11.6.1 Upon the assertion by any third party of any claim against any indemnitee that may give rise to liability of the indemnitor, the indemnitee shall promptly notify the indemnitor of the existence of such claim and the basis upon which indemnity is claimed and shall give the indemnitor reasonable opportunity to defend and/or settle such claim at its own expense and with counsel of its own selection; provided, that the indemnitee shall at all times

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have the right fully to participate in such defense at its own expense.

11.6.2 If the indemnitor shall, within a reasonable time after such notice, fail to defend, the indemnitee shall have the right, but not the obligation, to undertake the defense, compromise or settlement of such claim on behalf of, for the account of, and at the risk of the indemnitor.

11.6.3 If the claim is one that cannot by its nature be solely defended by the indemnitor (including, without limitation, any tax proceeding), then the indemnitee shall make available all such information and assistance as may reasonably be requested by the indemnitor.

SECTION 12. MISCELLANEOUS

12.1 Covenant Not to Compete. As a covenant ancillary to BBPD's purchase of ITE's interest in the Partnership and continuation through Newco of the business heretofore carried on by the Partnership, Gould agrees that it will not, and will not permit any of its Subsidiaries to, engage, during the period commencing on the Closing Date and ending on the sixth anniversary of the Closing Date, in the business of making, selling or leasing to others in the United States any Partnership Product (hereinafter sometimes referred to as a "Competing Business"); provided, however, that nothing contained in this Section 12.1 shall prevent or preclude Gould or any of its Subsidiaries:

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(i) From doing or continuing to do anything which it is permitted to do under the terms of any license, purchase or other agreement, whether or not specifically referred to herein, existing between BBC or any of its Subsidiaries and Gould or any of its Subsidiaries;

(ii) From making, selling or leasing to others (A) fuses, (B) molded case circuit breakers, (C) isolators (spacer-dampers) and (D) switchboards and other switchgear assemblies utilizing molded case circuit breakers;

(iii) From making, selling or leasing to others any product heretofore at any time regularly manufactured and sold by Gould or any of its present Subsidiaries (which for this purpose shall not include the Partnership or ESG), or any improvement or modification thereof, which contains as an integral part thereof one or more articles constituting Partnership Products, provided that such articles constituting Partnership Products were not manufactured by Gould or any Subsidiary thereof;

(iv) From making, selling or leasing to others any product which contains as an integral part thereof one or more articles constituting a Partnership Product, provided that (A) less than 10% of the cost of such end product is attributable to the cost of such Partnership Products, and (B) such end product is not competitive with a Partnership Product, and (C) any such Partnership

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Product was not manufactured by Gould or any Subsidiary thereof;

(v) From making for and selling or leasing to, or for end use by, the United States Navy or foreign navies Partnership Products of the kind covered by the ITE Contracts or Existing Contracts referred to in the Navy Agreement; or

(vi) From acquiring substantially all of the assets of or a controlling stock interest in, any corporation which is engaged in a Competing Business, provided that during each of such corporation's last three fiscal years ended before the acquisition date, and, in the case of an acquisition taking place after the first quarter of a fiscal year, during the period from the beginning of such fiscal year to the end of the fiscal quarter next preceding the acquisition date, (A) the net book value of such corporation exceeded $10 million, as shown on the balance sheet of such corporation for each of such last three fiscal years, and, if such acquisition takes place after the first quarter of a fiscal year, for each fiscal quarter of that year ending prior to the acquisition date, and (B) less than 5% of such corporation's operating revenues were derived from a Competing Business (or Competing Businesses, if it engages in more than one).

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12.1.1 Gould agrees that a violation of the foregoing covenant will cause irreparable injury to BBC and BBPD and that BBC and BBPD shall be entitled, in addition to any other rights and remedies they may have, at law or in equity, to an injunction enjoining and restraining Gould or any of its Subsidiaries from doing or continuing to do any such act and any other violations or threatened violations of such covenants.

12.1.2 If any provisions of this Section 12.1 as applied to any party or to any circumstance shall be adjudged by a court to be invalid or unenforceable, the same shall in no way affect any other provision of this Section 12.1, the application of such provision in any other circumstances, or the validity or enforceability of this Section 12.1. The parties intend this Section 12.1 to be enforced as written. If any provision, or part thereof, however, is held to be unenforceable because of the duration thereof or the area covered thereby, Gould and BBC agree that the court making such determination shall have the power to reduce the duration and/or area of such provision, and/or to delete specific words or phrases ("blue-pencilling") and in its reduced or blue-pencilled form such provision shall then be enforceable and shall be enforced.

12.1.3 BBC, BBPD and Gould intend to, and do hereby, confer jurisdiction to enforce the covenants contained herein upon the courts of any state of the United

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States and any other governmental jurisdiction within the geographical scope of such covenants. If the courts of any one or more or such states or jurisdictions shall hold such covenants wholly unenforceable by reason of the breadth of such scope or otherwise, it is the intention of the parties hereto that such determination shall not bar or in any way affect BBC's or BBPD's right to the relief provided above in the courts of any other state or jurisdiction within the geographical scope of such covenants, as to breaches of such covenants in such other respective states or jurisdictions, the above covenants as they relate to each state or jurisdiction being, for this purpose, severable into diverse and independent covenants.

12.2 Access to Certain Books and Records. Upon reasonable advance notice made to it or Newco at any time or times after the Closing Date, BBC shall cause Newco to make available to Gould or ITE at Newco's premises during normal business hours, for inspection and copying, those books and records of the Partnership that the requesting party needs to refer to for its tax or internal accounting purposes, and upon like request made to it or ITE at any time or times after the Closing Date, Gould shall make available or cause to be made available to BBPD and Newco at Gould's or ITE's premises during normal business hours, for inspection and copying, those books and records of Gould and ITE that the requesting party needs to refer to for its tax or in-

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ternal accounting purposes, provided that any copying shall be made at the expense of the party wishing copies and that nothing herein shall be deemed to require retention by Newco or Gould or ITE of books and records beyond the date that it normally would dispose of same. Not later than 90 days after the Closing Date, BBC shall cause Newco to adopt a written records retention plan which covers Partnership books and records in its possession. BBC shall further cause Newco to provide to Gould and Gould and ITE shall each provide to Newco a copy of its respective records retention plan promptly after its adoption (with respect to Newco) or after the Closing Date (with respect to Gould and ITE). Newco shall give Gould and ITE and they shall each give Newco written notice of any change in such plan which is applicable to Partnership books and records at least 14 days before such change is to take effect. If, notwithstanding the existence of such plan, any Partnership book or record is lost or destroyed during the retention period applicable to it, by reason of human error, none of the parties shall have any liability to any of the other parties hereto because of the unavailability of the book or record for inspection and copying. If so requested by one of the other parties prior to the date any books or records are scheduled to be destroyed under its record retention plan, Newco, Gould or ITE, as the case may be, shall deliver to the requesting party such books or records in lieu of actually disposing of same.

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12.3 Future Employment.

12.3.1 Gould and ITE agree that they will not approach present employees of the Partnership, except for employees whose work is principally related to the Navy Business, during the period preceding the Closing Date and for 24 months thereafter with the intention to employ them in the Gould organization (including its Subsidiaries).

12.3.2 BBC, BBPD and the Partnership agree that they will not approach present employees of the Partnership or ITE whose work is principally related to the Navy Business and who become or remain employees of Gould or ITE after the Closing Date during the period preceding the Closing Date and for 24 months thereafter with the intention to employ them in the BBC organization (including its Subsidiaries).

12.4 Capitalized and Operating Leases. Except for the lease in Spartanburg, South Carolina, from and after the Closing Date, BBC shall use its best efforts (which shall include but not be limited to the agreement of BBC, if required by the lessor, to obligate itself in the same manner as Gould or ITE is obligated) to have Gould and ITE released as soon as practicable from their future obligations under the capitalized and operating leases or guarantees in respect thereof, as the case may be, listed on Exhibit H hereto, provided, however, that nothing herein shall require BBC or any of its Subsidiaries to undertake any obligation, pay any money, or agree to any term or condition except those obliga-

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tions, payments, terms and conditions applicable to Gould or ITE as at the Closing Date under such capitalized and operating leases or guarantees in respect thereof. Gould and ITE agree to cooperate in good faith with BBC and its Subsidiaries to obtain such releases. The parties hereto acknowledge that the granting of such releases is within the discretion of others not party to the 1980 Agreements and that none of the parties hereto may require the granting of such releases.

SECTION 13. 1980 UNDERTAKINGS

13.1 Survival. The representations, warranties, covenants and agreements of each party hereto contained in this Agreement and the other 1980 Agreements shall survive the Closing and any investigations made by such party.

13.2 Expenses. Each party to the 1980 Agreements agrees that:

13.2.1 Except as hereinafter set forth, and whether or not the transactions contemplated hereby are consummated, it will pay its own out-of-pocket expenses, including legal and accounting fees and expenses, incurred in connection with such transactions.

13.2.2 The Partnership agrees to reimburse Gould for its out-of-pocket costs, not in excess of $27,000, to be paid to a software licensor to permit Gould to

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continue to provide data processing services to Newco under the 1980 Service Agreement.

13.3 Notices. Any notice, election or consent required or contemplated under the terms of this Agreement or the other 1980 Agreements shall be in writing and shall be effective (and the date of such notice as used herein shall be deemed to be the date such notice shall be effective) (i) when personally delivered during normal business hours to the party to be given such notice, election or consent at the address designated by it for such delivery, (ii) fourteen days after such notice, election or consent shall have been deposited in the mail, certified or registered, with return receipt requested, and with air mail postage thereon fully prepaid, addressed to such address, or (iii) on the business day next following the day that such notice, election or consent shall have been sent by telex or telegram fully prepaid at straight rates sent to such address, whichever shall first occur. Until otherwise specified by notice, the addresses for such notice, election or consent shall be:

Gould: Gould Inc.
10 Gould Center
Rolling Meadows, Illinois 60008
Attn: Secretary
Telex: 28-2473

BBC: BBC Brown, Boveri & Company, Limited
CH 5400 Baden
Switzerland
Attn: General Counsel, Department KLJ
Telex: 52921 bbc ch,
53203 bbc ch

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ITE:	I-T-E Imperial Corporation c/o Gould Inc. 10 Gould Center Rolling Meadows, Illinois 60008 Attn: Secretary Telex: 28-2473
Gould Canada:	I-T-E Industries, Limited c/o Gould, Inc. 10 Gould Center Rolling Meadows, Illinois 60008 Attention: Secretary Telex: 28-2473
BBPD:	Brown Boveri Power Delivery, Inc. c/o Brown Boveri Corporation 1460 Livingston Avenue North Brunswick, New Jersey 08902 Attn: President Telex: WU 84464, 84465
Partnership:	Gould-Brown Boveri c/o Brown Boveri Corporation North Brunswick, New Jersey 08902 Attn: President Telex: WU 84464, 84465
Newco:	Brown Boveri Electric, Inc. 60 Gould Center Rolling Meadows, Illinois 60008 Attn: Secretary Telex: 9102221780

or to such other address as the person to whom notice is to be given may have furnished to the others in writing in accordance herewith.

13.4 Assignment; Third Parties. Each of the 1980 Agreements shall be binding upon and inure to the benefit of Gould, ITE, BBC, BBPD, the Partnership and Newco to which each or any of them is a party and their respective succes-

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sors and permitted assigns, but, except with respect to the assignments delivered in connection with the Technology Agreements or as otherwise provided therein, none of the 1980 Agreements nor any of the rights, interests or obligations thereunder may be assigned by any party without the written consent of BBC and Gould. No person, other than a Subsidiary of BBC or Gould, not a party to the 1980 Agreements (including any employee of Gould, BBC, BBPD, ITE, the Partnership and Newco) shall have or acquire any rights by reason of the 1980 Agreements.

13.5 Governing Law. Except as otherwise provided in any of the 1980 Agreements, this Agreement and the other 1980 Agreements shall be governed by and construed in accordance with the internal laws of the State of New York without giving effect to the New York conflict of laws principles.

13.6 Headings. The Section and other headings contained in this Agreement and the other 1980 Agreements are for convenience only and are not a part of this Agreement or the other 1980 Agreements.

13.7 Entire Agreement; Modification. The 1980 Agreements, the exhibits, schedules, and the annexes thereto, as the case may be, represent the entire understanding and agreement between the respective parties thereto with respect

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to the subject matter thereof and supersede all prior negotiations and writings between the parties. Each of the 1980 Agreements may not be amended except by a written instrument executed by all of the parties thereto.

13.8 Counterparts. Each of the 1980 Agreements may be executed in any number of separate counterparts by the separate parties thereto, each of which shall be an original but all of which taken together shall constitute but one and the same instrument. It shall not be necessary that all of the parties sign any one counterpart.

13.9 Exhibits. All of the exhibits and annexes referred to herein have been delivered simultaneously herewith and have been initialled by the parties for identification.

13.10 Settlement of Disputes. Except as otherwise provided in Section 12.1 hereof:

13.10.1 Any controversy or claim arising out of or relating to this Agreement or the transactions contemplated hereby, or the breach of this Agreement or the other 1980 Agreements, shall be settled by arbitration before three Arbitrators in accordance with the Rules (the "Rules") of the American Arbitration Association (the "Association") and the provisions of this Section 13.10, and judgment upon the award rendered by

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the Arbitrators may be entered in any court having jurisdiction thereof.

13.10.2 All such arbitration proceedings shall be conducted in the English language in New York, New York.

13.10.3 The Arbitrators shall have the qualifications set forth in Section 13.10.4 below and shall be selected in accordance with the following procedure: the party initiating the arbitration proceeding shall, in its notice initiating such proceeding, name one Arbitrator who is willing to serve; within 20 days after the date of such notice, the other party shall name one Arbitrator who is willing to serve, and notify the initiating party thereof; and within 30 days after the date of such notice by the responding party, such two Arbitrators shall together select a third Arbitrator who is willing to serve. If within such period the Arbitrators selected by the parties are unable to agree on a third Arbitrator with the requisite qualifications who is willing to serve, such third Arbitrator shall be selected by the Association in accordance with the Rules.

13.10.4 Each Arbitrator shall have the following qualifications: such Arbitrator shall have earned a degree awarded for the study of law from an accredited

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law school in the United States of America, and shall have practiced law in the United States of America, or been employed in the United States of America as an associate or other legal assistant by an attorney or law firm engaged in the practice of law, for at least 12 months. The Arbitrator selected by the Arbitrators named by the parties or by the Association shall, in addition to the foregoing, have the following qualifications: (i) such Arbitrator shall be a partner in a firm of attorneys in the United States having at least 30 partners and shall have at least 10 years' experience in the field of corporation, business or commercial law; or (ii) such Arbitrator shall be a regular member of the faculty (that is, a faculty member serving other than on a visiting or other temporary basis) at the law school of one of the following universities: University of California at Berkeley, University of Chicago, Columbia University, Cornell University, Harvard University, University of Michigan, Pennsylvania University, Stanford University, University of Virginia, or Yale University.

13.11 Further Assurances. BBC, BBPD, Gould, ITE and the Partnership shall execute, in addition to instruments of transfer to be delivered on the Closing Date, such

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deeds, assignments, endorsements and other instruments and evidences of transfer, shall give such further assurances and shall perform such acts which are or may become necessary or appropriate fully to effectuate and carry out the provisions of the 1980 Agreements. All such additional deeds, assignments, endorsements and other instruments and evidences of transfer and all such other acts of any kind shall be delivered or taken on or as soon as possible following the Closing Date.

13.12 Best Efforts to Obtain Satisfaction of Conditions. Gould and ITE agree to use their best efforts to obtain the satisfaction of the conditions specified in Section 10 hereof, and BBC and BBPD agree to use their best efforts to obtain the satisfaction of the conditions specified in Section 9 hereof.

13.13 Waiver. Any party may, at its option, waive in writing any and all of the conditions contained in any of the 1980 Agreements to which its obligations thereunder are subject.

13.14 Exclusion of Consequential Damages. Anything contained in the 1980 Agreements to the contrary notwithstanding, none of the parties shall in any event be liable to any of the other parties thereto for special, incidental or consequential damages of such party, such as,

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but not limited to, loss of revenue or profit, cost of replacement power, by reason of anything done or omitted to be done by any of the parties under or in connection with, or by reason of anything contained in, the 1980 Agreements.

13.15 Force Majeure. Anything contained in the 1980 Agreements to the contrary notwithstanding, each of the parties thereto shall be excused from its obligations (other than an obligation to pay money) for any failure or delay in performing its obligations under the 1980 Agreements to the extent that such failure or delay results from circumstances beyond its reasonable control, including but not limited to, fire, storm, flood, other acts of God, strike, lockout or other labor disturbance, war, riot, civil commotion, embargoes, governmental acts and regulations, inability to obtain raw materials, unavailability of transportation, and delays by shippers, or results from its subcontractors' failure or delay in performing their obligations to such party resulting from circumstances beyond its reasonable control, such as those described. The requirement that circumstances shall be beyond its reasonable control shall not require the settlement of strikes, lockouts or other labor disturbances in terms, or the meeting of any claims or demands by any government or terms, contrary to the wishes of the party affected.

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13.16 Certain Warranty Claims. Anything in this Agreement to the contrary notwithstanding, the parties hereto agree that any warranty claim with respect to products sold and services rendered before January 31, 1979 shall be governed by the 1979 Agreements if BBC can establish to Gould's satisfaction that such claim gives rise to a right of indemnification in BBC's favor under the 1979 Agreements. If BBC is unable to so satisfy Gould within 60 days after such claim has been asserted against Gould, then such claim shall be charged against the unused portion, if any, of the warranty reserve which was set up on the Partnership's books at January 31, 1979 and which amounts to approximately $521,000 on the date hereof (subject, however, to the audit of such amount by Gould and BBC or their representatives), and, to the extent that it cannot be charged against such reserve because the reserve has been exhausted by warranty claims, shall be shared equally by BBC and Gould.

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

BBC BROWN, BOVERI &
COMPANY, LIMITED

By: _____

By: _____

GOULD INC.

By: _____

I-T-E IMPERIAL CORPORATION

By: _____

BROWN BOVERI POWER
DELIVERY, INC.

By: _____

GOULD-BROWN BOVERI

By I-T-E Imperial Corporation
A General Partner

By: _____

By Brown Boveri Power Delivery,
Inc.
A General Partner

By: _____

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GOULD-BROWN BOVERI

PARENTS' AGREEMENT

between

GOULD INC.

and

BBC BROWN, BOVERI & COMPANY, LIMITED

January 31, 1979

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PARENTS' AGREEMENT

THIS AGREEMENT, dated as of January 31, 1979, by and between GOULD INC., a Delaware corporation, and BBC BROWN, BOVERI & COMPANY, LIMITED, a Swiss corporation,

WITNESSETH:

WHEREAS, Gould and BBC wish to establish certain joint venture operations to carry on the business currently being conducted by Gould's Electrical Systems Group on the terms and subject to the provisions set forth in this Agreement and in the Exhibits hereto;

NOW, THEREFORE, Gould and BBC hereby agree as follows:

Section 1. Definitions

1.1 When used in this Agreement, the following terms shall have the meanings set forth below. Any terms not defined herein but defined in the Partnership Agreement or the Stockholders' Agreement have the same meanings when used herein as in the Partnership Agreement or the Stockholders' Agreement.

BBC means BBC Brown, Boveri & Company, Limited, a Swiss corporation.

BBC Canada means Castor Investments Limited, a Canada corporation and Wholly-owned Subsidiary of BBC, which is to be a Stockholder.

BBC Konzern means the affiliated group of which BBC is the parent company.

BBC Sales Agency Agreements means the respective agreements between BBC and the Partnership and BBC and the Canadian Venture, each in the form of Exhibit B to the Index.

BBC Technology License Agreements means the respective agreements between BBC and the Partnership and BBC and the Canadian Venture, each in the form of Exhibit C to the Index.

BBC Tradename and Trademark License Agreements means the respective agreements between BBC and the Partnership and BBC and the Canadian Venture, each in the form of Exhibit A to the Index.

BBC-US means Brown Boveri Power Delivery, Inc., a Delaware corporation and an indirect Wholly-owned Subsidiary of BBC, which is to be a Partner.

Canadian Venture means Gould-Brown Boveri, Inc., the Canadian corporation to be formed pursuant to the Stockholders' Agreement.

Canadian Venture Liabilities means the liabilities and obligations of ESG relating to its Canadian operations which are to be assumed by the Canadian Venture pursuant to the Stockholders' Agreement.

Closing and *Closing Date* have the meanings assigned to them in Section 5 hereof.

Employee Benefit Agreements means the respective agreements between Gould and the Partnership and Gould and the Canadian Venture, each in the form of Exhibit D to the Index.

ESG means the Electrical Systems Group division of Gould, which is generally described in Exhibit A hereto.

ESG Assets means the assets, including intangible assets, owned by Gould and its Subsidiaries employed in the business of ESG and which are to be transferred to the Ventures pursuant to the Partnership Agreement and the Stockholders' Agreement.

ESG Balance Sheet means the balance sheet of ESG as at September 30, 1978 attached as Schedule 1 to the Index.

ESG Balance Sheet Principles means the statement of accounting principles and practices used in preparing the ESG Balance Sheet and attached as Schedule 2 to the Index.

Gould means Gould Inc., a Delaware corporation.

Gould Canada means I-T-E Industries Limited, a Canadian corporation and an indirect Wholly-owned Subsidiary of Gould, which is to be a Stockholder.

Gould Service Agreements means the respective agreements between Gould and the Partnership and Gould and the Canadian Venture, each in the form of Exhibit E to the Index.

Gould Technology License Agreement means the agreement between ITE, Gould, and the Partnership in the form of Exhibit G to the Index.

Gould Tradename and Trademark License Agreements means the respective agreements between Gould and the Partnership and Gould and the Canadian Venture, each in the form of Exhibit F to the Index.

Index means the Index of Agreements and Schedules, dated as of the date hereof and signed by Gould and BBC for identification, to which are attached the forms of various agreements, and certain schedules, referred to herein and in the Partnership Agreement and the Stockholders' Agreement.

ITE means I-T-E Imperial Corporation, a Delaware corporation and a Wholly-owned Subsidiary of Gould, which is to be a Partner.

ITE Tradename and Trademark License Agreements means the respective agreements between ITE and the Partnership and ITE and the Canadian Venture, each in the form of Exhibit H to the Index.

Parent means Gould or BBC and their respective successors and permitted assigns hereunder.

Partner means ITE or BBC-US, or any successor to either permitted under the Partnership Agreement.

Partnership means the partnership established by the Partnership Agreement.

Partnership Agreement means the agreement between ITE and BBC-US in the form of Exhibit B hereto.

Partnership Liabilities means the liabilities and obligations of Gould and its Subsidiaries relating to the business of ESG which are to be assumed by the Partnership pursuant to the Partnership Agreement.

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Restricted Subsidiary means, as to any Parent, a Subsidiary which is, or is to be, a Partner or a Stockholder.

Stockholder means Gould Canada or BBC Canada, or any permitted transferee under the Stockholders' Agreement of shares of capital stock of the Canadian Venture.

Stockholders' Agreement means the agreement between Gould Canada and BBC Canada in the form of Exhibit C hereto.

Subsidiary of any entity means a corporation in which such entity owns, directly or indirectly through or with one or more intermediaries, more than 50% of the outstanding capital stock having ordinary voting power (other than upon the happening of a contingency) for election of directors.

Venture means the Partnership or the Canadian Venture, and *Ventures* means both such entities.

Venture Agreements means the Partnership Agreement, the Stockholders' Agreement and each agreement attached as an exhibit to the Index.

Venture-BBC Distributor Agreements means the respective agreements between BBC and the Partnership and BBC and the Canadian Venture, each in the form of Exhibit I to the Index.

Venture-Gould Sales Agency Agreements means the respective agreements between Gould and the Partnership and Gould and the Canadian Venture, each in the form of Exhibit J to the Index.

Wholly-owned Subsidiary of any entity means a Subsidiary of such entity all of the outstanding capital stock of which, except for directors' qualifying shares, if any, is owned, directly or indirectly through or with one or more intermediaries, by such entity.

Section 2. Formation of Ventures

2.1 Subject to the terms and conditions hereof, the Parents agree to form or cause to be formed the Partnership to conduct in accordance with the Partnership Agreement the business of ESG currently being conducted

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by ESG in or from the United States, and to form or cause to be formed the Canadian Venture to conduct in accordance with the Stockholders' Agreement the business of ESG currently being conducted by ESG in or from Canada.

2.2 On the Closing Date, each Parent shall execute and deliver, or cause its respective Subsidiaries to execute and deliver, each of the following agreements to which such persons are to be parties:

(a) the Partnership Agreement,

(b) the Stockholders' Agreement,

(c) the BBC Technology License Agreements,

(d) the Gould Technology License Agreement,

(e) the Gould Service Agreements,

(f) the BBC Sales Agency Agreements,

(g) the Venture-BBC Distributor Agreements,

(h) the Venture-Gould Sales Agency Agreements,

(i) the Employee Benefit Agreements,

(j) the Gould Tradename and Trademark License Agreements,

(k) the ITE Tradename and Trademark License Agreements,

(l) the BBC Tradename and Trademark License Agreements.

2.3 On the Closing Date, Gould (a) shall contribute or cause ITE to contribute to the Partnership the capital contributions required to be made

on behalf of ITE to the Partnership in accordance with the Partnership Agreement, and (b) shall transfer or assign or cause Gould Canada to transfer or assign to the Canadian Venture the assets to be transferred to the Canadian Venture, in exchange for the capital stock of the Canadian Venture to be issued to Gould Canada in accordance with the Stockholders' Agreement.

2.4 On the Closing Date, BBC (a) shall contribute or cause to be contributed to the Partnership the amount of $45,000,000 as a part of the capital contribution of BBC-US in accordance with the Partnership Agreement, (b) shall pay or cause to be paid to the Canadian Venture the amount of $5,000,000, in partial payment for the capital stock of the Canadian Venture to be issued to BBC Canada in accordance with the Stockholders' Agreement, and (c) deposit, in a United States bank acceptable to both Parents, the amount of $5,000,000. The funds including interest thereon held by such bank (the "Funds") shall be held for the benefit of the Ventures, and at the time of such deposit such bank shall be irrevocably instructed to hold the Funds in an interest-bearing account and to pay, unless otherwise instructed in writing by both Parents, on the 180th day following the Closing Date, 80% of the total amount then held to the Partnership and 20% of such amount to the Canadian Venture. The Parents agree that the Funds shall be allocated between and paid over to the Partnership and the Canadian Venture in such proportion that the sum of the $45,000,000 contributed to the Partnership and the Partnership's share of the Funds shall bear the same ratio to the sum of the $5,000,000 contributed to the Canadian Venture and the Canadian Venture's share of the Funds as the Net Worth of the Partnership bears to the Net Worth of the Canadian Venture, and for the purpose of determining such allocation of Funds the Net Worth of the Partnership and the Net Worth of the Canadian Venture shall be based upon the Effective Date Balance Sheet (as defined in the Partnership Agreement) and the Effective Date Balance Sheet (as defined in the Stockholders' Agreement), respectively. The parties shall, within 10 days after the date that both of such balance sheets are available, jointly give the Bank written instructions for the payment of the Funds to the Ventures in accordance with the provisions of this paragraph 2.4, provided that the parties may by mutual agreement jointly direct the Bank at an earlier date to make a payment of Funds to either Venture towards the share of the Funds that it ultimately will be entitled to receive.

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2.5 On the Closing Date, the Parents shall cause the Partnership to assume and hold Gould and its Subsidiaries harmless against the Partnership Liabilities and the Canadian Venture to assume and hold Gould and its Subsidiaries harmless against the Canadian Venture Liabilities.

Section 3. Guaranties

3.1 Gould hereby guarantees to BBC and, effective upon their establishment, BBC's Restricted Subsidiaries, (a) the prompt payment when due of all amounts payable by, and the prompt performance of all obligations and the satisfaction of all conditions required to be performed or satisfied by, ITE (or any other Subsidiary of Gould which shall become a Partner) under the Partnership Agreement and the truth of the representation and warranty made by ITE in Section 4.3 of such Agreement, and (b) the prompt payment when due of all amounts payable by, and the prompt performance of all obligations and the satisfaction of all conditions required to be performed or satisfied by, Gould Canada (or any other Subsidiary of Gould which shall become a Stockholder) under the Stockholders' Agreement.

3.2 BBC hereby guarantees to Gould and, effective upon their establishment, Gould's Restricted Subsidiaries, (a) the prompt payment when due of all amounts payable by, and the prompt performance of all obligations and the satisfaction of all conditions required to be performed or satisfied by, BBC-US (or any other Subsidiary of BBC which shall become a Partner) under the Partnership Agreement, and (b) the prompt payment when due of all amounts payable by, and the prompt performance of all obligations and the satisfaction of all conditions required to be performed or satisfied by, BBC Canada (or any other Subsidiary of BBC which shall become a Stockholder) under the Stockholders' Agreement.

3.3 BBC further agrees to indemnify and hold Gould and its Subsidiaries harmless against and in respect of any and all damages, claims, losses, liabilities and expenses (including without limitation legal and other expenses) ("Damages") which may arise out of or be in respect of the failure of either Venture to pay or perform any liability or obligation of Gould or any Subsidiary of Gould assumed by such Venture pursuant to the

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Partnership Agreement or the Stockholders' Agreement, *provided* that the liability of BBC pursuant to this Section 3.3 shall be limited to that percentage of such Damages as shall equal the percentage ownership interest of BBC (direct or indirect) in the Ventures at the time of such failure.

3.4 The agreements of each Parent under this Section 3 shall remain in full force and effect notwithstanding any amendment of the Partnership Agreement or the Stockholders' Agreement, or any extension of time or other indulgence or concession granted to any party thereto or any delay or failure by either Parent, the Partnership or the Canadian Venture in pursuing any other remedies available against such parties. No action need be taken against or notice given to any Partner or any Stockholder, any other guarantor or any other person, firm or corporation before any proceeding against a Parent in connection with the guaranty or indemnity contained in this Section 3.

Section 4. Assignments and Transfers of Assets

4.1 If any contract, order, lease or agreement required to be transferred, assigned or delivered to the Partnership by this Agreement or by the Partnership Agreement or to the Canadian Venture by this Agreement or the Stockholders' Agreement requires the consent of any other party to such transfer, assignment or delivery, the party hereto required to make such transfer, assignment or delivery agrees, insofar as may have been requested by the other party hereto prior to the date hereof, to use its best efforts to obtain such consent on or prior to the Closing Date, but if such consent has not yet been or cannot be obtained the party which is required to obtain such consent agrees to hold such contract, order, lease or agreement for the use and benefit of the Partnership or the Canadian Venture, as the case may be, and subject to the provisions of the Partnership Agreement or the Stockholders' Agreement, and in that connection, to do any and all things, including the execution of any and all documents in respect thereof which the Partnership or the Canadian Venture may request (except that such party shall not be required to pay any consideration or assume any liabilities in connection therewith) so that the beneficial use thereof and rights thereunder shall accrue to the Partnership or the Canadian Venture, as the

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case may be. However, under no circumstances shall the party required to make such transfer, assignment or delivery be liable to the other party hereto or to the Partnership or the Canadian Venture as a result of any failure to obtain such consent or for any costs or expenses arising therefrom.

4.2 Except as may be otherwise set forth in the Partnership Agreement, the Stockholders' Agreement, or the Venture Agreements, all transfers of ESG Assets to the Partnership or Canadian Venture shall be in such form as to transfer all right, title and interest therein owned by Gould, or any Subsidiary thereof, to the Partnership or Canadian Venture.

4.3 All transfers made pursuant to this Agreement, the Partnership Agreement or the Stockholders' Agreement shall be (a) in the case of real property, by deed containing a warranty against grantor's acts, subject to liens and encumbrances enumerated in or of the character described in Section 13.3 (g) below, (b) in the case of tangible personal property, by bill of sale, (c) in the case of intangible property of a proprietary nature, by instrument of assignment or by the Gould Technology License Agreement, (d) in the case of securities, by appropriate endorsement and delivery thereof, and (e) in all other cases, by instrument of assignment, *provided* that where the transfer of certain types of property (e.g., motor vehicles) is governed by law such transfer shall be effected in the manner required by the applicable law.

Section 5. Closing and Termination

The consummation of the transactions referred to herein (the "Closing") shall occur at 10:00 a.m., Chicago time, on January 31, 1979 (the "Closing Date") at the offices of Gould, 10 Gould Center, Rolling Meadows, Illinois, or at such other time, date and place as the parties hereto shall agree upon.

Section 6. Gould Conditions to the Closing

6.1 The obligations of Gould hereunder which are to be performed on the Closing Date shall be subject to the satisfaction on or before the Closing Date of the following conditions, any of which may be waived by Gould:

(a) The representations and warranties made herein by BBC shall be true in all material respects on the Closing Date and would be true in all material respects if made at and as of the Closing Date, and BBC and its Subsidiaries shall have performed all agreements required to have been performed by them on or prior to the Closing Date pursuant to this Agreement or any of the Venture Agreements; and BBC shall have delivered to Gould its certificate, dated the Closing Date, to such effect;

(b) BBC and its Subsidiaries (individually and, where applicable, on behalf of the Ventures) shall have executed and delivered the respective Venture Agreements to which they are parties and shall have entered into and delivered all other agreements or releases required to be entered into and delivered by each of them on or prior to the Closing Date pursuant to this Agreement and the Venture Agreements;

(c) There shall be no legal or governmental proceedings or governmental investigations pending, threatened or reasonably believed by Gould to be threatened seeking to restrain, prevent, challenge or undo this Agreement or the transactions contemplated hereby, or any legal or governmental proceedings or governmental investigations pending or to the knowledge of Gould threatened which materially adversely affect or may materially adversely affect the Ventures other than as described or disclosed in Schedule 11 to the Index, and as to the legal or governmental proceedings or governmental investigations therein described or disclosed there shall have been no change which materially adversely affects or may materially adversely affect the Ventures;

(d) All approvals of any governmental agencies, courts, boards or other governmental entities, if any, necessary to complete the transactions contemplated by this Agreement shall have been obtained, except any with respect to the transfer of existing contracts between ESG and any governmental entity;

(e) Gould shall have received from Barton P. Jenks III, United States counsel to BBC, from Martineau, Walker, Allison, Beaulieu, Markell & Clermont, Canadian counsel to BBC, and from Gottfried Buetikofer, General Counsel to BBC, their respective opinions in the forms set forth in Exhibit D hereto; and

(f) BBC and BBC-US shall have delivered to Gould such additional certificates, instruments and documents as Gould or its counsel may reasonably request.

Section 7. BBC Conditions to the Closing

7.1 The obligations of BBC hereunder which are to be performed on the Closing Date shall be subject to the satisfaction on or before the Closing Date of the following conditions, any of which may be waived by BBC:

(a) The representations and warranties made herein by Gould shall be true in all material respects on the Closing Date and would be true in all material respects if made at and as of the Closing Date, and Gould and its Subsidiaries shall have performed all agreements required to have been performed by them on or prior to the Closing Date pursuant to this Agreement or any of the Venture Agreements; and Gould shall have delivered to BBC its certificate, dated the Closing Date, to such effect;

(b) Gould and its Subsidiaries (individually and, where applicable, on behalf of the Ventures) shall have executed and delivered the respective Venture Agreements to which they are parties and shall have entered into and delivered all other agreements or releases required to be entered into and delivered by each of them on or prior to the Closing Date pursuant to this Agreement and the Venture Agreements;

(c) There shall be no legal or governmental proceedings or governmental investigations pending, threatened or reasonably believed by BBC to be threatened seeking to restrain, prevent, challenge or undo this Agreement or the transactions contemplated hereby, or any legal or governmental proceedings or governmental investigations pending or to the knowledge of BBC threatened which materially adversely affect or may materially adversely affect the Ventures other than as described or disclosed in Schedule 11 to the Index, and as to the legal or governmental proceedings or governmental investigations therein described or disclosed there shall have been no change which materially adversely affects or may materially adversely affect the Venture;

(d) All approvals of any governmental agencies, courts, boards or other governmental entities, if any, necessary to complete the transactions contemplated by this Agreement shall have been obtained, except any with respect to the transfer of existing contracts between ESG and any governmental entity;

(e) Gould or its relevant Subsidiaries shall have delivered such deeds, bills of sale, assignments and other documents of transfer as are required to transfer to the appropriate Venture all right, title and interest (where required by the Venture Agreements) of Gould and its Subsidiaries in and to the ESG Assets, subject, however, to the provisions of Section 4.1 hereof;

(f) BBC shall have received from Winston & Strawn, United States counsel to Gould, and from Osler, Hoskin & Harcourt, Canadian counsel to Gould, their respective opinions in the forms set forth in Exhibit E hereto; and

(g) There shall have been received from Commonwealth Land Title Insurance Company title insurance policies, or commitments to issue same, with respect to such of ESG's real properties situated in the United States, and such of ESG's leasehold interests in real properties situated in the United States, as shall have been requested by BBC. Such title insurance policies shall name the Partnership as the insured party, shall be in such amounts as BBC shall have requested, and shall be furnished at the insurer's regular premium rates for insurance (that is, without additional premium for special risk or for affirmative insurance). There shall also have been received from Canadian counsel acceptable to BBC opinions of title, certifying to the Canadian Venture its title in the Canadian real properties of ESG. Neither such title insurance policies nor such opinions of title shall set forth any exception which would (i) render unmarketable any title or leasehold estate to which such exception relates, or (ii) prohibit the property to which such exception relates from being used by ESG's successor in interest (that is, the Partnership or the Canadian Venture, as the case may be) in the same manner as such property now is being used by ESG as owner or lessee thereof.

(h) Gould and ITE shall have delivered to BBC such additional certificates, instruments and documents as BBC or its counsel may reasonably request.

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Section 8. Special Matters Concerning the Canadian Venture

8.1 The Parents have been advised that certain Canadian aspects of the proposed transaction are subject to the approval of appropriate Canadian governmental authorities under Canada's Foreign Investment Review Act ("FIRA"), and it is the Parents' expectation that such approval will be obtained prior to the Closing Date. Towards that end, the Parents agree to use their mutual best efforts until September 30, 1979 to obtain such approval, including, without limitation, (i) the reaffirmation, where applicable or as revised to consider subsequent changes in the business, of representations previously made to the Canadian authorities by Gould and its Subsidiaries in connection with the acquisition by Gould of the Canadian ESG Assets, (ii) the consideration of an agreement with the Canadian authorities, where consistent with BBC's existing contractual commitments, to add the manufacture of products providing good business opportunity to the anticipated operations of the Canadian Venture, and (iii) if necessary, and to the extent practicable, re-applications to the Canadian authorities (including re-applications following the formation of the Partnership) if such approval is not at first obtained. However, and notwithstanding the specific provisions of Sections 6 and 7 hereof, the Parents agree that, if such FIRA approval has not been obtained by April 30, 1979, or such earlier date as the Parents may agree upon, and if on such date all conditions to Closing not related to the Canadian Venture have been met or waived, they will proceed with the formation of the Partnership in accordance with the terms and provisions of this Agreement and of the Partnership Agreement.

8.2 The Parents recognize that this Agreement, the Venture Agreements and all other documents and agreements prepared in connection herewith and therewith have been prepared on the assumption that the Canadian Venture will be formed simultaneously with the formation of the Partnership. Accordingly, if pursuant to Section 8.1 the Partnership is to be formed prior to the formation of the Canadian Venture, all such documents and agreements shall be deemed to be revised as if the Canadian Venture had not been a part of the original agreements. In such connection, the following is agreed to:

(a) The Stockholders' Agreement shall not be executed, and the Canadian ESG Assets which were to be contributed to the Canadian Venture shall not be contributed;

(b) The guaranties, covenants, representations, warranties and agreements contained herein and in the Venture Agreements relating to Gould Canada, BBC Canada, the Canadian Venture and the ESG Assets employed in the Canadian operations of ESG shall be of no effect;

(c) The Parents shall cause the Partnership, and Gould shall cause Gould Canada, to execute and deliver, on the Closing Date, an "Interface Agreement" substantially in the form of Exhibit K to the Index; and

(d) The total amount contributed to the Partnership by BBC pursuant to Section 2.4 hereof shall be adjusted as soon as practicable after the Closing Date to an amount equal to (i) $55,000,000 less (ii) the book value of the Canadian ESG Assets which were to be contributed less the balance sheet liabilities related thereto which were to be assumed by the Canadian Venture, as per the Effective Date Balance Sheet, without any allocation to the Canadian ESG Assets or inclusion therein of any amounts on account of intangible assets. The instructions to be given to the bank referred to in Section 2.4(c) shall instead provide that, absent other instructions, the amount held by the bank which was to be paid to the Canadian Venture shall be returned to BBC, *provided* that BBC shall remain obligated to contribute to the Partnership the full amount required to be contributed by it to the Partnership hereunder and under the Partnership Agreement.

8.3 In the event that, after the formation of the Partnership, the necessary approvals for the formation of the Canadian Venture are obtained, such transaction shall be consummated upon the same terms and conditions as set forth herein and in the Stockholders' Agreement and all revisions and other agreements made pursuant to Section 8.2 above shall be reversed. The amount required to be paid by or on behalf of BBC for the shares of Capital Stock of the Canadian Venture shall in such case be equal to the difference between (A) $55,000,000 and (B) the amount actually contributed or to be contributed by or on behalf of BBC to the Partnership. The Parents shall in such event cause the Partnership to grant to the

Canadian Venture a sublicense for use in Canada of all of the rights granted to the Partnership under the Gould Technology License Agreement upon the same terms and conditions as set forth in such agreement.

Section 9. Sales Activities of the Ventures

9.1 BBC shall cause its subsidiary, Brown Boveri Corporation, a New York corporation, to transfer to the Partnership all United States orders received by it after the Closing Date for products within the scope of activities of the Ventures and to the Canadian Venture all Canadian orders received by it after the Closing Date within such product range, provided that either Venture shall be free to reject any such orders. BBC shall also appoint the Partnership as exclusive distributor in the United States and the Canadian Venture as exclusive distributor in Canada for all major manufacturing companies of the BBC Konzern of products which are within the scope of activities of the Ventures, *provided* that such distributorship in Canada shall not take effect until 18 months after the date that the Canadian Venture is formed. Such appointment and such activities shall be carried on pursuant to the Venture-BBC Distributor Agreements.

9.2 BBC further agrees that the Ventures will have the opportunity to participate in, and receive the benefits of, the overall sales and marketing organization of BBC. In connection therewith, the Ventures will not be prejudiced by their partial ownership by Gould. Further, all transnational sales of the Ventures conducted through the Ventures' own respective sales organizations will nonetheless have the support of BBC's central export and local sales and service organization. The Ventures shall not, however, make direct sales of products of BBC design in geographic areas outside the United States, Canada and Australia where BBC has granted to others in such areas exclusive sales rights covering such products. Indirect sales may be made as permitted in Section 9.4 pursuant to the BBC Sales Agency Agreements. Transnational sales of the Ventures made through BBC's selling organization will be made pursuant to the BBC Sales Agency Agreements.

9.3 From and after the Closing Date, the Ventures and Gould shall continue to act as sales agents for products of the other, pursuant to the Venture-Gould Sales Agency Agreements.

9.4 The sale of all products, software and services of the Partnership within the United States of America (and in Canada to the extent that such sales are not made by the Canadian Venture) shall take place through the Partnership's own sales organization or pursuant to the Venture-Gould Sales Agency Agreement. Sales in other locations shall also take place through the Partnership's (or the Canadian Venture's) sales organization where such sales involve United States or Canadian original equipment manufacturers, general contractors or consulting engineers, or affiliates of such organizations, or are related to United States or Canadian financed projects or projects for which typical United States or Canadian designs are required. The Ventures may, in addition, enter into agreements with BBC's affiliates in Canada to the effect that such affiliates may act as a sales agent of the Ventures in Canada upon terms and conditions to be determined. Additionally, it is understood that, while sales in Australia of products manufactured by the Partnership or in Canada by the Canadian Venture shall be made pursuant to the BBC Sales Agency Agreements, sales by the Australian subsidiary of the Canadian Venture of products manufactured by such subsidiary (including products utilizing components manufactured by the Partnership or in Canada by the Canadian Venture) shall be made directly by such Australian subsidiary.

9.5 The Parents recognize that Gould and certain of its Subsidiaries have entered into various sales agency agreements within the scope of activities of the Ventures relating to markets outside the United States, Canada and Australia. Insofar as such agreements relate to products and activities of the Ventures, the Ventures will take such steps as are necessary to maintain, or permit Gould to maintain, such agreements, *provided* that, all such agreements (insofar as they relate to Venture products and activities) shall be terminated within two years after the Closing Date except where and so long as it is demonstrated by the Chief Executive Officers of the Ventures that such termination is not in the best business interest of the Ventures.

Section 10. No Commitments

10.1 Each Parent represents and warrants to the other Parent that, except for the Partnership Liabilities or as provided in or permitted by the Partnership Agreement, neither it nor its Subsidiary which is to become a

Partner will take, without the prior written consent of the other Parent, any action which will commit or bind the Partnership or any Partner to any act, agreement, contract or undertaking of any kind or nature whatsoever; and each Parent hereby covenants and agrees that it will indemnify and hold harmless the Partnership, the other Parent and its Subsidiary which is to become a Partner against any and all claims, damages, losses and liabilities to which such party may be or become subject arising or resulting from the breach by such Parent or its Subsidiary which is to become a Partner of this Section 10.1.

10.2 The Parents will, whenever they determine that needed financing is not otherwise available to the Ventures, consult to consider whether each of them should guarantee indebtedness of the Ventures.

Section 11. Continuance of Ownership and Transfer of Interests

11.1 Except as otherwise provided in this Agreement, each Parent agrees that if and so long as it shall have any Subsidiary which is a Restricted Subsidiary, such Restricted Subsidiary shall be and remain its Wholly-owned Subsidiary.

11.2 Each Parent agrees that it will not sell, mortgage, pledge or otherwise encumber the stock of any Restricted Subsidiary except as otherwise permitted by this Agreement.

11.3 Nothing in this Agreement shall be construed to prevent any transaction permitted by Sections 12 or 13 of the Partnership Agreement or Sections 12 or 13 of the Stockholders' Agreement.

11.4 A Parent shall not be in breach of this Section 11 if a Restricted Subsidiary ceases to be its Wholly-owned Subsidiary as a result of a merger or consolidation of such Parent or as a result of a sale of all or substantially all the assets of such Parent, *provided* that the person or corporation surviving such merger or consolidation or purchasing such assets assumes in writing all the obligations of such Parent under and agrees to be bound by this Agreement.

11.5 Except as permitted by Section 11.4 and this Section, neither Parent may sell, encumber, permit the sale or encumbrance of, or otherwise

dispose of any of the stock of a Partner or a Stockholder (the "Stock"). After the third anniversary of the Closing Date, a Parent wishing to sell its Stock (the "Selling Parent") may do so, but only if it sells all of a Partner's Stock, or all of the Stock of all Stockholders owned by it, to a single purchaser and (i) obtains the written consent of the other Parent (the "Non-Selling Parent") to such sale or (ii) receives a bona fide offer (as defined below) from a person not controlling, controlled by or under common control with the Selling Parent and grants the Non-Selling Parent a right of first refusal upon the terms and conditions set forth in Section 11.6, and in either case (iii) causes the prospective purchaser of the Stock and any parent thereof to execute and deliver to the Non-Selling Parent a written agreement, satisfactory to the Non-Selling Parent's counsel, to be bound by this Agreement, including the provisions of Section 3 and this Section 11, as if such prospective purchaser and such parent (if any) were the Selling Parent. However, notwithstanding the foregoing, either Parent may at any time transfer its Stock to any Wholly-Owned Subsidiary of such Parent, provided that such Subsidiary executes and delivers to the other Parent an instrument, satisfactory to such other Parent's counsel, by which the Subsidiary assumes the obligation of its Parent under, and agrees to be bound by, this Agreement. For the purpose of this Agreement a "bona fide offer" is a written offer to purchase all of a Parent's Stock, whether initiated by the would-be purchaser (the "Offeror") or in the form of its acceptance of a proposal made by the Selling Parent, which is made in good faith and satisfies all of the following requirements: (i) it sets forth the price (amount and manner of payment), other terms of the offer, and any conditions to the offer, (ii) neither such price nor terms nor conditions are so uniquely related to the Offeror or its business or its particular circumstances that it would be impossible for the Matching Offer contemplated by Section 11.6 to be made (it being understood that the inclusion in such offer of securities capable of valuation pursuant to Section 11.7 shall not be deemed so related) or, alternatively, impossible for the recipient of such Matching Offer to satisfy the requirements thereof, (iii) any conditions to the offer are only of the kind normally found in agreements covering transactions of this type (which conditions do not include, for example, the availability of financing to the Offeror or a requirement that the Offeror's stock maintain or reach a certain market value), (iv) the offer makes reference to the right of first refusal required by this Section 11.5 and states that it shall remain open throughout the period that such right of first refusal is exercisable and for a further

reasonable period thereafter, (v) the offer states that it has been approved by the Board of Directors or other governing body of the Offeror, subject only to the execution of a definitive agreement between the Offeror and the Selling Parent, and (vi) the offer is signed by the President of the Offeror or, if signed by another officer, states that such officer is duly authorized to sign same.

11.6 The condition of clause (ii) of Section 11.5 that a right of first refusal be offered by the Selling Parent to the Non-Selling Parent shall be deemed satisfied if the Selling Parent delivers to the Non-Selling Parent (i) a copy of the Offeror's bona fide offer certified by an officer of the Selling Parent, and (ii) the Selling Parent's written offer to sell its Stock to the Non-Selling Parent at the price and on the terms and conditions set forth in the Offeror's bona fide offer, subject to the Non-Selling Parent's acceptance of such offer (the "Matching Offer") by giving written notice of such acceptance to the Selling Parent within 120 days after the date of its receipt of such offer. However, if the price is other then wholly for cash, the Non-Selling Parent shall be entitled to have a cash equivalent substituted for the non-cash portion of the price. If the Parents are unable to agree on such cash equivalent within 20 days after the date of the Non-Selling Parent's receipt of the Matching Offer, the property other than cash included in the price shall be appraised in the manner set forth in Section 11.7 and valued in money or money's worth, and the 120 day period for the Non-Selling Parent's acceptance of the Matching Offer shall commence upon the date of its receipt of written notice from the Appraisers or the Third Appraiser (each as defined in Section 11.7) of the value of such property as determined by them or it. If the Non-Selling Parent accepts the Selling Parent's offer to sell its Stock, the sale shall be consummated at such time not earlier than 30 nor later than 90 days after the date of such acceptance as the Parents shall mutually agree upon. If the Non-Selling Parent rejects in writing or fails to accept the Selling Parent's offer to sell its Stock, or having accepted such offer fails through no fault of the Selling Parent to consummate the purchase of the Stock within the period of time allowed above or such extension thereof as the Parents may have mutually agreed upon, then the Selling Parent shall be free to sell its Stock to the Offeror at a price not less and on terms and conditions not more favorable to the Offeror than those contained in the Offeror's bona fide offer, *provided* that (i) such sale to the Offeror shall be consummated within 180 days after the date of the event that makes the

Selling Parent free to carry out such sale (that is, the date of written rejection of its offer to the Non-Selling Parent or the expiration of the period for the latter's acceptance of such offer or the expiration of the period for the latter's consummation of the purchase), and (ii) if the sale is to be at a price and/or on other terms and conditions varying from those contained in the Offeror's bona fide offer, the Selling Parent shall at least 30 days before the sale is to be consummated give the Non-Selling Parent written notice of the change or changes in such price and/or other terms and conditions. If the Selling Parent's Stock is not sold to the Offeror within the period of time allowed by this Section 11.6, any disposition of its Stock shall again be subject to the provisions of Section 11.5 and this Section 11.6.

11.7 If under Section 11.6 an appraisal of the cash value of non-cash consideration (the "Consideration") is necessary, it shall be made as follows: Each Parent shall designate an international investment banking firm having its head office in the United States or a nationally-known (in the United States) certified public accounting firm to participate in the appraisal, *provided* that the firm so designated shall not have performed any material services for such Parent (the "Designating Parent") or any affiliate thereof during the five years immediately preceding its designation and shall certify in writing to the other Parent to such effect and also to the effect that it knows of no other reason why it should not accept its designation by the Designating Parent. The two firms so designated (the "Appraisers") shall then endeavor in good faith to reach agreement within 60 days on the cash value of the Consideration, applying generally accepted principles of valuation for such purpose, and in that connection they may by mutual agreement employ experts to assist them in valuing the Consideration. Upon reaching agreement or determining that they are unable to reach agreement on the value of the Consideration, and in any event no later than 60 days after commencing the appraisal, the Appraisers shall jointly submit a written report to the Parents setting forth the agreed upon value of the Consideration or, if they have been unable to agree, the value that each would assign to the Consideration; and any such agreed upon value shall be binding upon the Parents. In the event that the Appraisers disagree as to the value of the Consideration, the Parents shall consult with a view to determining whether they can reach agreement on the cash value of the Consideration in the light of the Appraisers' report. If they are unable to reach such agreement within 10 days after receiving the Appraisers' report,

the Parents shall so advise the Appraisers in writing and the Appraisers shall within 20 days jointly select a third firm which would have been qualified to be designated an Appraiser by either Parent to determine as soon as practicable but in any event within not more than 60 days after its appointment the value of the Consideration; and the value of the Consideration as so determined by such third firm (the "Third Appraiser") shall be binding upon the Parents. The fees and expenses of the Appraisers, any experts employed by them, and any Third Appraiser shall be borne equally by the Parents.

11.8 Each Parent agrees to cause to be inserted on the face of all certificates representing shares of its Stock a prominent legend to the effect that the shares represented thereby may not be sold, encumbered or otherwise disposed of except as permitted by this Agreement.

Section 12. Employee Matters

12.1 The employees of ESG (and, where agreed by the Parents, any other employees of Gould or its Subsidiaries) except those required to have access to classified information in accordance with United States Department of Defense restrictions or restrictions of other United States government agencies in the course of their employment on the Closing Date shall be offered the opportunity to become employees of the relevant Venture (all such employees who accept such offer being hereinafter referred to as "Transferred Employees"), and each such Venture shall assume certain existing obligations of Gould with respect to the Transferred Employees and those former ESG employees who retired or terminated with vested benefits after December 31, 1978, and shall assume or adopt certain employee benefit plans, all pursuant to the Employee Benefit Agreements.

12.2 The Parents each recognize that, at the Closing Date, there will exist under the existing pension plans covering the Transferred Employees an unfunded past service liability with respect to the vested interest in such plans on the Closing Date held by certain Transferred Employees and those former ESG employees who retired or terminated with vested benefits after December 31, 1978, (such liability for such vested interest, in the amount determined as of such date, being hereinafter referred to as the "Unfunded Vested Liability"). In consideration of the assumption by the Ventures of

liabilities of Gould and its Subsidiaries under such pension plans as provided in the Employee Benefits Agreement, Gould agrees to indemnify and hold harmless BBC and its Restricted Subsidiaries against and from any liabilities assessed against BBC or any such Restricted Subsidiary which arise, directly or indirectly, as a result of the Unfunded Vested Liability and against and from any expenses incurred by BBC or any such Restricted Subsidiary by reason of such liabilities; *provided,* however, that (a) the foregoing indemnity shall apply only with respect to liabilities of the type indemnified against which are assessed against BBC or its Restricted Subsidiaries at or after, and which arise as a result of, the termination, or partial termination with respect to at least 75% of Venture employees, at any time prior to the tenth anniversary of the Closing Date, of any pension plan covering Venture employees by reason of the discontinuance or other shut-down of all or a substantial part of the operations of a business then being conducted by the Ventures or any successor thereto, and (b) the maximum amount payable by Gould under such indemnity shall not exceed the amount of the Unfunded Vested Liability, as reduced yearly in accordance with the following amortization schedule:

Years Following Closing Date in Which Plan Termination Occurs	Percentage to be Applied to Unfunded Vested Liability to Obtain Maximum Amount Payable by Gould Under Indemnity
1st	100.0 %
2nd	93.33
3rd	86.66
4th	79.99
5th	73.32
6th	66.65
7th	59.98
8th	53.31
9th	46.64
10th	40.00

The maximum amount as determined above shall be further reduced by the portion of any pension contribution made by the Venture for the year in which a plan termination occurs which is attributable to amortization of the Unfunded Vested Liability.

12.3 The amount of the Unfunded Vested Liability shall be determined as soon as reasonably practicable after the Closing Date in accordance with the actuarial assumptions and methods specified in the Employee Benefit Agreements.

Section 13. Representations and Warranties

13.1 Each Parent represents and warrants to the other Parent and, effective upon their establishment, the latter's Restricted Subsidiaries, that: (a) each of it and its Restricted Subsidiaries is a corporation duly organized, validly existing and in good standing in its jurisdiction of incorporation, with full corporate power to own and lease its properties and to conduct its business and the business contemplated to be conducted by it under this Agreement; (b) its Restricted Subsidiary which is to be a Partner is duly qualified to do business as a foreign corporation in Illinois; (c) the execution, delivery and performance of this Agreement and each of the Venture Agreements and the consummation of the transactions contemplated herein and therein have been duly and validly authorized by all necessary corporate action on its part (in the case of this Agreement and each of the Venture Agreements to which it is a party) or on the part of its respective Restricted Subsidiaries (in the case of each of the Venture Agreements to which any such Restricted Subsidiary is to be a party) and such execution, delivery and consummation do not and will not on the Closing Date conflict with, result in a breach of, or constitute a default under (i) its charter or by-laws or those of its Restricted Subsidiaries or under any indenture, mortgage, deed of trust or instrument relating to borrowed money to which it or any such Restricted Subsidiary is a party or by which its or such Restricted Subsidiary's properties are bound or (ii) any contract or lease to which Gould or any Subsidiary thereof is a party or by which it is bound, except any conflict, breach or default occurring by reason of a failure to obtain the consent of the other party or parties thereto to the assignment of such contract to a Venture; (d) this Agreement constitutes, and each of the Venture Agreements when executed and delivered will constitute, a valid and legally binding agreement enforceable against it (in the case of this Agreement and each of the Venture Agreements to which it is a party) or its respective Restricted Subsidiaries (in the case of each Venture Agreement to which any such Restricted Subsidiary is to be a party) in accordance with its terms; (e) each of its Restricted Subsidiaries is its Wholly-owned Subsidiary,

and all shares of capital stock of such Restricted Subsidiaries are owned by it free and clear of any lien, pledge, mortgage or other encumbrance; (f) except for the governmental and other consents contemplated to be obtained under this Agreement, no consent of any person not a party hereto is necessary in order for it to enter into this Agreement; (g) except as specified on Schedule 11 to the Index as to Gould, there are not in effect any orders of any court binding upon it or its Restricted Subsidiaries or its or their properties which may be applicable to the execution and delivery of this Agreement; and (h) all negotiations relating to this Agreement and the transactions contemplated hereby have been carried on by such Parent directly with the other Parent in such manner as not to give rise to any valid claim against either Parent for a brokerage commission, finder's fee or other like payment.

13.2 Each Parent represents and warrants to the other that, except as set forth in Schedule 11 to the Index, it does not know of any legal or governmental proceedings or governmental investigations pending or threatened seeking to restrain, prevent, challenge or undo, or to recover damages as a result of, this Agreement, the Partnership Agreement, the Stockholders' Agreement or the transactions contemplated hereby or thereby, and there are no legal or governmental proceedings or governmental investigations pending or to the knowledge of such Parent threatened to which such Parent or a Subsidiary of such Parent is a party which materially adversely affect or may materially adversely affect the Ventures; and that, with respect to any legal or governmental proceedings or government investigations set forth in such Schedule, there will not have been on the Closing Date any material adverse changes since the date hereof in the status or prospects of such proceedings or investigations not previously communicated in writing by the party thereto to the other Parent.

13.3 Gould represents and warrants to BBC that:

(a) Canadian Porcelain Company Limited and I-T-E Industries Australia Pty., Ltd. the stock of which is included in the ESG Assets, are corporations duly organized, validly existing and in good standing under the laws of Canada and New South Wales, Australia, respectively. There are issued and outstanding 15,000 shares of capital stock of

Canadian Porcelain Company Limited and 123,969 shares of capital stock of I-T-E Industries Australia Pty., Ltd. All such shares are duly authorized, fully-paid and non-assessable and, except for directors' qualifying shares and, in the case of I-T-E Industries Australia Pty., Ltd., one share owned by an Australian national, are owned by Gould Canada, free and clear of all liens, charges and encumbrances. Each such corporation has the corporate power to own its properties and to carry on its business as it now is being conducted. Each is duly qualified or licensed to do business in each jurisdiction where such licensing or qualification is required by reason of its activities or property interests therein.

(b) Gould has heretofore delivered to BBC unaudited Statements of Profit and Loss from Operations of ESG for 1977 and the nine months ended September 30, 1978, respectively, and a balance sheet of ESG as of December 31, 1977, each certified by the chief financial officer of Gould. Such statements, together with the ESG Balance Sheet (similarly certified) are hereinafter collectively referred to as "the ESG Financial Statements." The ESG Financial Statements are in accordance with the books and records of Gould and its Subsidiaries (which books and records are complete and correct in all material respects) and present fairly the results of ESG's operations for the periods of time covered and ESG's financial condition as of December 31, 1977 and September 30, 1978, all in conformity with the ESG Balance Sheet Principles applied on a consistent basis during the applicable periods. At September 30, 1978, there were no liabilities of ESG, whether absolute or contingent, required under the ESG Balance Sheet Principles to be included on the ESG Balance Sheet or referred to in notes thereto which are not so included or referred to, or, with respect to matters which are required to be included in such notes, disclosed in a Schedule to the Index to the same extent as would be required in such Balance Sheet or notes thereto; and neither Venture shall have any liability under the performance bonds or performance letters of credit referred to in the ESG Balance Sheet Principles arising from the failure by Gould or any Subsidiary of Gould to perform any obligation of Gould or such Subsidiary required to be performed prior to the Closing Date.

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(c) All inventories of ESG, including inventories of supplies and spare parts, are valued on the ESG Financial Statements at the lower of cost (using the first-in first-out method) or market value on a consistent basis with the prior period, except that items that are obsolete, damaged or otherwise not usable in the normal course of ESG's business and items that are in excess of ESG's known needs are valued at estimated net realizable value. Except for inventory items valued at estimated net realizable value for the purpose of this Agreement and the Partnership Agreement, all inventories of ESG included in the ESG Assets will at the Closing Date be good and usable in the normal course of ESG's business and can at such date reasonably be expected to be used (or, in the case of finished goods and spare parts therefor, sold) within three years after such date. Except for machinery and equipment that has been depreciated or written down in conformity with generally accepted accounting principles applied (except as noted in the ESG Financial Statements) on a consistent basis, and the depreciated or written down value of which is reflected in the value assigned thereto in the ESG Balance Sheet, all machinery and equipment included in the ESG Assets will at the Closing Date be usable in ESG's business as then being conducted (that is, non-obsolete), in good operating condition and in a reasonable state of maintenance and repair, except machinery and equipment undergoing routine maintenance or minor repair without material detriment to ESG's business operations.

(d) Schedule 4 to the Index (i) lists each item of real property that is owned, through Gould or a Subsidiary thereof, by ESG, (ii) sets forth as to each such item of real property its approximate values before and after depreciation, in each case as carried on the books of its owner at September 30, 1978, (iii) lists each item of real property that is leased, by Gould or a Subsidiary thereof, for use by ESG in its business (except any such leased property used by ESG jointly with another division or operation of Gould, as identified in an exhibit to the Gould Services Agreement), and (iv) identifies those properties listed therein, whether owned or leased, that Gould believes to be material to the business of ESG (the "Material Properties"), including without limitation its properties in South Carolina. Gould has heretofore delivered to BBC true and correct copies of all deeds and leases under which the Material

Properties are held and true and correct copies of all abstracts of title, title insurance policies and surveys relating to such properties that it or any of its Subsidiaries possesses. Each Material Property is zoned to permit the use being made thereof (or in the case of the South Carolina properties for manufacturing purposes) by ESG. Except as indicated on Schedule 4, neither Gould nor any Subsidiary thereof has received any notice, written or oral, that any Material Property fails to conform in any material respect to any applicable building code or to any standards required by the company or companies that insure such property against fire and other risks included in extended coverage. Except as indicated on Schedule 4, no lessee of any Material Property is in default in making any payment of rent or taxes required to be paid by it under its lease. Except as indicated on Schedule 4, no such lessee is otherwise in material default under any lease of Material Property, other than a default which (i) has been effectively waived by the lessor, or (ii) is curable and cannot result in termination of the lease under which the default exists unless the lessor gives the lessee written notice of the default and allows it a specified period of time, sufficient in duration, to cure the default. No lessee of any Material Property is threatened with the termination of its lease by reason of having received a written notice of default from its lessor and having failed to cure the default complained of.

(e) Schedule 5 to the Index lists each lease of personal property employed by ESG in its business at September 30, 1978 (except any leases of personal property employed jointly with another division or operation of Gould, which leases are listed as an exhibit to the Gould Service Agreement) providing for an annual rental in excess of $10,000.

(f) The Gould Technology License Agreements and the HTE and Gould Tradename and Trademark License Agreements together grant to the Ventures the rights specified therein in all patents, patent applications, trademarks and service marks, trademark and service mark registrations and applications therefor, copyrights, and copyright registrations and applications therefor owned by or licensed to Gould or any Subsidiary of Gould that are material to the business of ESG. Except as otherwise set forth in Schedule 6 to the Index, no claim has

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been asserted against ESG that it has infringed any patent, trade mark, service mark or copyright of others, and neither the senior management of Gould, its general counsel nor the attorneys in its patent department are aware of any basis for such a claim.

(g) Gould and its Subsidiaries have, between them, good and marketable title to the ESG Assets, whether real or personal and tangible or intangible (including but not limited to the assets and contract rights reflected in Schedules 4 and 5 to the Index and those reflected in the ESG Balance Sheet, except as the assets reflected in said Balance Sheet have since the date thereof been sold or otherwise disposed of in the ordinary courses of business), free and clear of all liens and encumbrances ("Liens") except (1) those identified in the ESG Balance Sheet, (2) Liens of taxes not yet due and payable or being contested in good faith by appropriate proceedings, (3) any inchoate Lien which may arise by operation of law with respect to non-payment of a liability assumed or to be assumed by the Ventures, (4) those identified in Schedule 7 to the Index, and (5) such Liens (including mechanics', workmen's and other like liens), imperfections of title, easements and other encumbrances, if any, as are not substantial in character, amount or extent, do not materially detract from the value of, or interfere with the present use of, the properties subject thereto or affected thereby, and do not otherwise materially impair the business operations of ESG. ESG's fixed assets, including its real properties, are adequate for the conduct of ESG's business in the manner heretofore conducted.

(h) Schedule 8 to the Index lists as of September 30, 1978 (i) each employee of ESG whose basic annual salary rate is at least $50,000, (ii) each employee of ESG whose basic annual salary rate falls between $40,000 and $50,000, and (iii) each employee of ESG whose basic annual salary rate falls between $30,000 and $40,000. Such Schedule further sets forth, as to each named employee, his age, job title and location of employment and also identifies those employees who are participants in Gould's Key Management Incentive Plan, and, as to each employee referred to in (i) above, identifies his basic salary rate, his 1977 incentive compensation and any contract governing his employment. Gould has furnished to BBC true and correct copies of all

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contracts governing the employment of the employees of ESG listed in such Schedule. As used in this paragraph, the term "employees of ESG" includes not only employees of Gould and its Subsidiaries who are so denominated by Gould but also other employees of Gould or any Subsidiary thereof who are expected to be employed by the Ventures or who devote on a regular basis more than 90% of their working time to the affairs of ESG. No employee of ESG who reported directly to any Division General Manager or higher-level officer has, since June 30, 1978, left ESG to become employed by Gould or any other division or subsidiary of Gould.

(i) The exhibits to the Employee Benefit Agreements identify all life insurance, medical insurance, hospital insurance, dental insurance, salary continuation, disability benefits, bonus, profit sharing, severance pay and other employee benefit or incentive plans (other than retirement plans) of Gould and its Subsidiaries covering the employees of ESG or certain of such employees as of September 30, 1978. There has been no material violation of any of the provisions of any such plan that has not been corrected and there is no liability of any such plan except for liability to beneficiaries in accordance with the provisions of such plan and liabilities for administrative services not delinquent. If Gould or any Subsidiary of Gould maintains for the benefit of any ESG employee listed in Schedule 8 to the Index (or for the benefit of any relative of his or any beneficiary designated by him), at such corporation's expense, any insurance coverage other than coverage under a plan in which other ESG employees participate, such Schedule 8 names such employee and briefly describes the nature and amount of such insurance coverage. Gould has furnished to BBC true and correct copies of all plans described in the exhibits to the Employee Benefits Agreements which are denoted by an asterisk, and such copies will be true and correct copies of such plans on the Closing Date.

(j) (i) Gould has furnished BBC true and correct copies of all pension or retirement plans covering the employees of ESG or certain of such employees, as identified in the Partnership Employee Benefit Agreement and the Venture Employee Benefit Agreement (the "Gould Retirement Plans"), and of any related trust agreements or insurance

contracts. All such pension or retirement plans and related trust agreements and insurance contracts, in the form so furnished to BBC, are in full force and effect. There has been no material violation of any of the provisions of any such pension or retirement plan or related trust agreement or insurance contract that has not been connected and there is no liability of any such plan except for liability to beneficiaries in accordance with the provisions of such plan and liabilities for administrative services not delinquent.

(ii) The I-T-E Imperial Corporation Retirement Plan, the Gould Retirement Plan that covers employees of ESG in the United States, (hereinafter called the "U.S. Plan") is a qualified retirement plan meeting the requirements of Section 401(a) of the Internal Revenue Code of 1954, as amended (the "Code"). Gould has furnished to BBC a copy of the most recent favorable determination letter of the Internal Revenue Service (the "IRS"), evidencing such status of the U.S. Plan.

(iii) There have been no material violations of any of the provisions of Part 4 of Subtitle B of Title I of the Employee Retirement Income Security Act of 1974 ("ERISA") or Section 4975 of the Code with respect to the U.S. Plan. Nor have there been any "reportable events" within the meaning of Section 4043(b) of ERISA with respect to such Plan, other than the execution, delivery, and performance of this Agreement, the Partnership Agreement and the Partnership Employee Benefit Agreement, and Gould has not received notice from the Pension Benefit Guaranty Corporation ("PBGC") of any other event or condition that might constitute grounds under Section 4042 of ERISA for the appointment by PBGC of a trustee for the U.S. Plan or for the termination of such Plan. PBGC has not instituted any proceedings under Section 4042 of ERISA to appoint a trustee for, or to terminate, the U.S. Plan. The Gould Retirement Plans have not become liable for any income or profits taxes imposed by any taxing authority. The U.S. Plan is not subject to the minimum funding standard requirements of ERISA.

(iv) All reports and filings with respect to the U.S. Plan required to be made pursuant to any foreign or domestic laws have been duly filed other than the summary plan descriptions.

(v) Gould has delivered to BBC the summary report of Towers, Perrin, Forster & Crosby ("TPF & C") with respect to the status of the U.S. Plan as of January 1, 1978. Since January 1, 1978 there have been (a) no changes in the U.S. Plan, other than those arising from the new or amended contracts with labor unions entered into since that date and identified on Schedule 9 to the Index, and (b) no acquisitions by ESG of the business operations of third parties, which in either case would materially increase the amount of unfunded actuarial liability under the U.S. Plan with respect to Transferred Employees. Additionally, Gould has been advised by TPF & C that in their opinion nothing has occurred since the date of their report referred to above which would require that, if they were to report on the status of the U.S. Plan as of the date hereof, different assumptions should be employed than those employed in such report. BBC may, in its discretion, designate an actuary to review the accuracy, completeness and correctness of the report of TPF & C, and in such event Gould shall co-operate and shall request the co-operation of TPF & C in any such review. As of January 1, 1979, the unfunded actuarial liability under the Gould Retirement Plans covering Transferred Employees in Canada and Australia did not in total exceed $400,000.

(vi) Gould maintains and there are in effect with respect to Gould's ESG employees in Canada a pension plan for salaried and hourly paid employees (sometimes herein referred to as the "Canadian Plan"). The Canadian Plan is duly registered on the date hereof under the Income Tax Act of Canada and the Pension Benefits Act of Ontario and under all similar laws or regulations under which registration is required, all such registrations are in good standing in all respects and all reports and filings required to be made by the Canadian Plan have been made on a timely basis. Prior to the Closing Date all employers' contributions required under the Canadian Plan shall have been paid to the funding agent under the Canadian Plan and at the Closing Date there shall have been no violation of any of the provisions of the Canadian Plan and no claims of any nature shall have been instituted, threatened, or asserted against the Plan nor shall there be any liability of the Canadian Plan except for liability to beneficiaries in accordance with the provisions of the Canadian Plan. Without limiting the generality of the foregoing the Canadian Plan is not subject to any

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liability for any income or other tax of any nature whatsoever. The contributions up to the date hereof to the Canadian Plan by the employees included therein are deductible from income by such employees for personal income tax purposes. The representations and warranties contained in this subparagraph (j)(vi) shall not limit the generality of any other representation or warranty contained in this paragraph (j).

(k) Schedule 9 to the Index lists all collective bargaining agreements covering employees of ESG as of September 30, 1978. Gould has furnished to BBC true and correct copies of all such collective bargaining agreements, including any supplements or amendments thereto. Such collective bargaining agreements reflect the total and complete contractual obligations of Gould and its Subsidiaries to the unions representing ESG employees and there are no supplemental agreements, settlements or arbitration awards which materially modify, detract or expand the obligations of Gould or any Subsidiary of Gould under such collective bargaining agreements. Except as set forth on Schedule 11, there are no pending, or to the knowledge of Gould or any Subsidiary of Gould threatened, law suits or arbitration seeking to compel Gould or any Subsidiary of Gould to comply with the provisions of such agreements. There are no pending, or to the knowledge of Gould or any Subsidiary of Gould threatened, local, state, provincial or federal unfair labor practice charges relating to employees of ESG, except as set forth on Schedule 11. Except with respect to claims of individual employees being processed through customary grievance procedures or in connection with the matters referred to on Schedule 11, neither Gould nor any Subsidiary of Gould is in default in any material respect in the performance of its obligations under the agreements listed on Schedule 9 insofar as they relate to ESG. On or before November 4, 1978 Gould notified every labor union with which it or a subsidiary thereof had a collective bargaining relationship affecting the operations of ESG of the discussions which were in progress between Gould and BBC which could lead to the establishment of the Partnership Venture contemplated by this agreement and affect the collective bargaining agreement or agreements existing between said labor union and Gould or a subsidiary thereof; since the giving of such notice, Gould has been ready, willing and able to bargain with any such labor union which

requested that the Partnership Venture be made the subject of collective bargaining; and to this date no labor union has requested that bargaining take place with respect to the Partnership Venture or its effects on any employee or operation covered by any such collective bargaining agreement.

(1) Schedule 10 to the Index identifies, as of September 30, 1978, (i) all executory contracts for the sale of ESG products which involve a sale price of $1,000,000 or more, (ii) all executory contracts for the purchase, as subcontractor or otherwise, by ESG, through Gould or a Subsidiary of Gould, of machinery, equipment, inventories or supplies which involve the payment by ESG of $100,000 or more, (iii) all requirements contracts to which ESG, through Gould or a Subsidiary of Gould, is a party, other than requirements contracts which may be terminated by ESG upon 60 or less days' notice without liability or penalty, and (iv) all executory contracts for the sale of ESG products with respect to which contracts Gould presently estimates that (A) the sum of the cost of the goods to be sold (including direct factory overhead but excluding general overhead and corporate and administrative expense) plus 5% of the gross revenues to be received exceeds (B) such gross revenues plus $10,000, and sets forth by contract the estimated amount of such excess. Except as set forth on Schedule 10, there are no contracts involving the sale of more than $250,000 of ESG products which are not expected to be completed within one year after the Closing Date which do not contain provisions relating to price escalation. Schedule 10 also identifies all contracts of ESG, as of September 30, 1978, which are subject to renegotiation under the laws of the United States, Canada or Australia except contracts which may not be performed by the Partnership by reason of restrictions on disclosure of information imposed by the United States Department of Defense Industrial Security Requirements or by requirements of other United States government agencies. Neither Venture will suffer any material loss or damage by reason of the fact that it is unable to enforce any contract assigned to it hereunder because Gould or any Subsidiary of Gould was not, where such contract was executed or to be performed, properly qualified to conduct business in any jurisdiction where such qualification was at the time required by the nature of the business conducted therein by ESG. All existing sales agency contracts relating

to sales of ESG products outside the United States, Canada and Australia are terminable at the option of Gould or a Subsidiary of Gould within two years after the Closing Date. There are no material, uninsured liabilities (including consequential damages) to which the Ventures will be subject arising from the failure of, or any defect in, any ESG product delivered prior to the Closing Date, except for liabilities for service, replacement or repair as covered by warranties given by ESG in the normal course of its business, and, except as aforesaid, Gould and its Subsidiaries are not subject to liabilities and/or losses that in the aggregate are material by reason of any default or defaults by Gould and/or such Subsidiaries in the performance of obligations under any contract or contracts for the sale of ESG products or the purchase of raw materials or other inventories.

(m) Except for suits involving liabilities adequately covered by insurance and other suits of a character incident to the normal conduct of ESG's business and involving a potential recovery against Gould or its Subsidiaries of not more than $500,000 in the aggregate, and such other suits and proceedings identified on Schedule 11 to the Index, there is no litigation pending, or to the knowledge of Gould or any Subsidiary of Gould threatened, against Gould or any Subsidiary of Gould relating to the assets or business of ESG or the transactions contemplated by this Agreement. No complaint or charges on behalf of any group of employees of ESG as a class is pending, or to the knowledge of Gould or any Subsidiary of Gould threatened, against Gould or any Subsidiary of Gould under any applicable anti-discrimination law, and Gould and each Subsidiary of Gould each has in effect and is in compliance with any Affirmative Action Plan that it is required to maintain with respect to ESG under any federal, state, provincial or local anti-discrimination law. Except for the court or administrative orders identified on Schedule 11 to the Index, neither Gould nor any Subsidiary of Gould is subject to any court or administrative order relating, in whole or in part, to the business, operations or assets of ESG. To the best knowledge of Gould and its Subsidiaries and except with respect to any matter referred to in any Schedule to the Index (i) they have all material licenses and permits necessary for the lawful conduct of ESG's business as it is now carried on, and (ii) ESG is in compliance in all material respects with all applicable federal, state, provincial and local laws, regulations and ordinances.

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(n) Except as set forth on Schedule 12 to the Index, since January 1, 1978, Gould and its Subsidiaries (i) have not engaged in any transactions relating to the business or assets of ESG, including without limitation the acquisition or disposition of assets, other than in the normal course of business, (ii) have made no major changes in the business practices or procedures of ESG, and (iii) have made no major changes in the personnel of ESG having management responsibilities. Nor, since such date, has there been any material adverse change in the assets of ESG, taken as a whole, or in the business of ESG.

13.4 BBC represents and warrants to Gould and, effective upon their establishment, Gould's Restricted Subsidiaries, that the granting by it of the licenses and other rights granted and to be granted to the Ventures pursuant to the BBC Technology License Agreements and the BBC Tradename and Trademark License Agreements does not violate any contract or agreement by which BBC is bound. Except as otherwise set forth in Schedule 14 to the Index, no claim has been asserted against BBC that any United States, Canadian or Australian patent, trademark, service mark or copyright covered by any such agreement infringes the rights of others and neither the senior management of BBC, nor its General Counsel, nor the attorneys in its patent department are aware of any basis for such a claim. BBC further represents and warrants that there are no existing restrictions, contractual or otherwise, limiting or preventing the effective availability to the Ventures under the BBC Technology License Agreements of any patent rights, technical information or know-how (i) owned or developed by BBC, (ii) which has been used by BBC, or (iii) which is available to BBC under existing license agreements between BBC and other parties.

13.5 Each Parent hereby agrees to indemnify and hold harmless the other Parent and the latter's Restricted Subsidiaries against and in respect of any and all damages, claims, losses, liabilities and expenses (including without limitation legal and other expenses) ("Damages") which may arise out of or be in respect of the falsity or breach in any material respect of any of the representations and warranties made by such Parent in this Section 13, *provided* that neither Parent nor any of its Restricted Subsidiaries shall have any claim hereunder unless such Damages sustained by such Parent and its Subsidiaries shall exceed $300,000 in the aggregate. If, by reason of the falsity or breach in any material respect of any such representations and

warranties made by a Parent, a Venture is subjected to any damages, claim, loss, liability or expense that it would not have been subjected to in the absence of such falsity or breach, including but not limited to a diminution of its assets, (hereinafter called collectively "Venture Damages"), such Venture Damages shall for the purpose of this Section 13.5 be deemed to constitute Damages sustained by the other Parent's Restricted Subsidiary which is a Partner or Stockholder in such Venture to the extent of that part of such Venture Damages which is proportional to such Restricted Subsidiary's share of the total equity interest in such Venture; and such Damages based upon Venture Damages shall be in addition to any other Damages that such Restricted Subsidiary may have sustained.

13.6 Gould hereby agrees to indemnify and hold harmless each Venture, BBC-US and BBC-Canada against and in respect of any and all damages, claims, losses, liabilities and expenses (including without limitation legal and other expenses) arising as a result of the non-compliance with any "bulk transfer" or similar law in any jurisdiction of the United States, Canada or Australia with respect to the transactions contemplated by this Agreement.

Section 14. Confidentiality

14.1 Prior to the Closing Date, and if the Closing Date shall not occur, all non-public documents, information and other materials received by either Parent from the other in connection with the transactions contemplated hereby shall be kept strictly confidential and shall not without the consent of the other Parent be revealed to anyone other than directors, employees, accountants and other representatives of the Parents, except to the extent that such information may be revealed to governmental authorities or consultants in order to consummate the transactions contemplated hereby or is required to be disclosed in public filings under United States, Canadian or Swiss law or in connection with court proceedings. If the transactions contemplated hereby are not consummated, each Parent shall, upon the request of the other, return any documents containing such non-public information which have been supplied to it by the other Parent, as well as all copies of such documents as may have been made by it.

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14.2 After the Closing, each Parent shall continue to keep the information referred to in Section 14.1 confidential, and shall use its best efforts to keep confidential all non-public information disclosed to it by either Venture or by the other Parent in connection with either Venture, *provided* that all such information may be disclosed by a Parent (i) to its directors, employees, accountants and representatives as required or deemed necessary by such Parent in connection with their performance of their duties, such Parent agreeing to take reasonable precautions to maintain such confidentiality, (ii) in connection with filings with governmental agencies and courts or otherwise where necessary to comply with applicable law, or (iii) to other parties in connection with bona fide negotiations concerning the sale by such Parent of its interests in the Ventures, *provided* that such other party shall itself agree to keep such information confidential on terms substantially similar to those set forth in this Section 14.2.

Section 15. Expenses

15.1 Each Parent agrees that, except as hereinafter set forth, and whether or not the transactions contemplated hereby are consummated, it will pay its own out-of-pocket expenses, including counsel fees, incurred in connection with such transactions.

15.2 Substantial third-party expenses have been and will continue to be incurred which will benefit both Parents if the transactions contemplated hereby are consummated. Such expenses include (i) the fees and expenses of Canadian counsel of Gould and BBC in connection with obtaining necessary Canadian government approvals for the formation of the Canadian Venture, (ii) the costs of printing the agreements relating to the proposed transactions, (iii) the necessary filing and other organizational fees and taxes relating to the formation of the Ventures, (iv) out-of-pocket costs incurred in connection with obtaining appropriate consents in connection with the transfer of the ESG Assets (v) out-of-pocket fees, costs and other expenses relating to the transfer of appropriate employee benefit fund assets to funds established for the benefit of Venture employees, and (vi) the cost of obtaining the policies of title insurance referred to in Section 7(g) above. Whether or not the transactions contemplated hereby are consummated, all such costs and expenses shall be shared equally by the Parents, except that if

the failure to consummate is a result of the breach by either party hereto of this Agreement, then, in addition to all other obligations it may have, all such expenses shall be borne by the breaching party. If the transactions are consummated, the Parents shall determine which of such expenses, if any, should be appropriately borne by the Ventures.

Section 16. Miscellaneous

16.1 *Notices.*

Any notice, election or consent required or contemplated under the terms of this Agreement shall be in writing and shall be effective (and the date of such notice as used herein shall be deemed to be the date such notice shall be effective) (i) when personally delivered during normal business hours to the party to be given such notice, election or consent at the address designated by it for such delivery, (ii) fourteen days after such notice, election or consent shall have been deposited in the mail, certified or registered, with return receipt requested, and with air mail postage thereon fully prepaid, addressed to such address, or (iii) on the business day next following the day that such notice, election or consent shall have been sent by telex or telegram fully prepaid at straight rates sent to such address, whichever shall first occur. Until otherwise specified by notice, the addresses for such notice, election or consent shall be:

Gould: Gould Inc.
10 Gould Center
Rolling Meadows, Illinois 60008
Attn: Secretary
Telex:

BBC: BBC Brown, Boveri & Company, Limited
CH 5400 Baden
Switzerland
Attn: General Counsel

Copies of any notice sent hereunder shall be sent to the Partnership and the Canadian Venture at their respective principal executive offices, to the

attention of their respective chief executive officers. Each successor Parent shall give notice in accordance herewith to the other Parent of its address for purposes of such notices, elections or consents.

16.2 *Entire Agreement; Modification*

This Agreement, the Exhibits hereto and the agreements and schedules referred to in the Index represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersede all prior negotiations and writings between the parties. This Agreement may not be amended except by a written instrument executed by each Parent.

16.3 *Governing Law.*

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New York.

16.4 *Settlement of Disputes*

(a) Any controversy or claim arising out of or relating to this Agreement or any of the Venture Agreements, or the breach thereof, shall be settled by arbitration before three Arbitrators in accordance with the Rules (the "Rules") of the American Arbitration Association (the "Association") and the provisions of this Section 16, and judgment upon the award rendered by the Arbitrators may be entered in any court having jurisdiction thereof.

(b) All such arbitration proceedings shall be conducted in the English language in New York, New York.

(c) The Arbitrators shall have the qualifications set forth in paragraph (d) below and shall be selected in accordance with the following procedure: the party initiating the arbitration proceeding shall, in its notice initiating such proceeding, name one Arbitrator who is willing to serve; within 10 days after the date of such notice, the other party shall name one Arbitrator who is willing to serve, and notify the initiating party thereof; and within 30 days after the date of such notice by the responding party, such two Arbitrators shall together select a third Arbitrator who is willing to serve. If within such period the Arbitrators selected by the parties are unable to agree on a third

Arbitrator with the requisite qualifications who is willing to serve, such third Arbitrator shall be selected by the Association in accordance with the Rules.

(d) Each Arbitrator shall have the following qualifications: such Arbitrator shall have earned a degree awarded for the study of law from an accredited law school in the United States of America, and shall have practiced law in the United States of America, or been employed in the United States of America as an associate or other legal assistant by an attorney or law firm engaged in the practice of law, for at least 12 months. The Arbitrator selected by the Arbitrators named by the parties or by the Association shall, in addition to the foregoing, have the following qualifications: (i) such Arbitrator shall be a partner in a firm of attorneys in the United States having at least 30 partners and shall have at least 10 years' experience in the field of corporation, business or commercial law; or (ii) such Arbitrator shall be a tenured member of the faculty at the law school of one of the following universities: University of California at Berkeley, University of Chicago, Columbia University, Cornell University, Harvard University, University of Michigan, Pennsylvania University, Stanford University, University of Virginia, or Yale University.

16.5 *Further Assurances.*

Each Parent shall execute, in addition to instruments of transfer to be delivered on the Closing Date, such deeds, assignments, endorsements and other instruments and evidences of transfer, shall give such further assurances and shall perform such acts which are or may become necessary or appropriate fully to effectuate and carry out the provisions of this Agreement. All such additional deeds, assignments, endorsements and other instruments and evidences of transfer and all such other acts of any kind shall be delivered or taken on or as soon as possible following the Closing Date.

16.6 *Assignment; Third Parties.*

This Agreement shall be binding upon and inure to the benefit of the Parents and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned by either Parent other than pursuant to the provisions of Section 11 hereof without the written consent of the other Parent. No person, other

EXHIBIT A TO PARENTS AGREEMENT

Description of ESG

The Electrical Systems Group (ESG) of Gould Inc. (Gould) is an operating group of Gould organized on a product line basis. It designs, manufactures and markets electrical switching and protection equipment for electric utilities, industrial plants, commercial and public buildings, offshore platforms and naval vessels.

From a corporate standpoint, ESG consists of a part of I-T-E Imperial Corporation (a Gould subsidiary incorporated under the laws of Delaware), a part of I-T-E Industries Limited (a Gould subsidiary incorporated under the laws of Canada) and all of two subsidiaries of the latter corporation, Canadian Porcelain Company Limited and I-T-E Industries Australia Proprietary, Limited. The two corporations first mentioned have ESG facilities, assets and personnel but they also have facilities, assets and personnel of other Gould operating groups.

ESG is organized into three operating divisions. The Power Systems Division produces power circuit breakers, substations, and switches for use in high-voltage applications. The Switchgear Division produces metal clad switchgear circuit breakers, secondary unit substations, and power distribution centers for medium and low-voltage applications. The Insulator Division produces porcelain insulators for all three voltage ranges that are used on power lines, substations, and in electrical equipment.

ESG sales are made directly to end users through a single group sales force made up of electrical engineers. Both internal and external contract research and testing services are provided by an R & D Division. The R & D Division operates a high power test laboratory in Chalfont, Pennsylvania.

ESG manufactures its products in 13 plants in the United States, Canada and Australia. Total ESG employment at September 30, 1978, was approximately 5,000.

EXHIBIT A TO PARTNERSHIP AGREEMENT

Description of ESG

The Electrical Systems Group (ESG) of Gould Inc. (Gould) is an operating group of Gould organized on a product line basis. It designs, manufactures and markets electrical switching and protection equipment for electric utilities, industrial plants, commercial and public buildings, offshore platforms and naval vessels.

From a corporate standpoint, ESG consists of a part of I-T-E Imperial Corporation (a Gould subsidiary incorporated under the laws of Delaware), a part of I-T-E Industries Limited (a Gould subsidiary incorporated under the laws of Canada) and all of two subsidiaries of the latter corporation, Canadian Porcelain Company Limited and I-T-E Industries Australia Proprietary, Limited. The two corporations first mentioned have ESG facilities, assets and personnel but they also have facilities, assets and personnel of other Gould operating groups.

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ESG manufactures its products in 13 plants in the United States, Canada and Australia. Total ESG employment at September 30, 1978, was approximately 5,000.

Schedule 1 to the
Partnership Agreement

A. ESG Partnership Assets means

1. The assets of Gould and its Subsidiaries used by or relating to the business of ESG heretofore conducted in or from the United States of America and which were recorded as assets on the ESG Balance Sheet, and all such assets which are or should be recorded on the Effective Date Balance Sheet when prepared in accordance with Section 3.3 of the Partnership Agreement, excluding, however:

(a) all cash and cash equivalents,

(b) all accounts receivable (including without limitation accounts receivable from Gould or any Subsidiary of Gould),

(c) all patents, licenses, trademarks, trade names and other intangible assets, and

(d) all assets included on the ESG Balance Sheet but sold or otherwise disposed of subsequent to the date thereof.

(e) all assets the transfer of which is prohibited by any government requirement.

2. All rights of Gould and its Subsidiaries under all contracts, agreements and leases to which Gould or any of its Subsidiaries is a party on the Effective Date entered into solely in connection with, or relating solely to, the business of ESG heretofore conducted in or from the United States of America, except contracts which may not be performed by the Partnership by reason of restrictions on disclosure of classified information imposed by the United States Department of Defense Industrial Security Requirements or requirements of other United States government agencies.

3. Insofar as they relate to ESG, all rights of Gould and its Subsidiaries under all the collective bargaining agreements listed on Schedule 9 to the Index.

4. The records and documents (or copies thereof) relating to the business of ESG heretofore conducted in or from the United States of America in the possession of Gould and its Subsidiaries, except records and documents classified in accordance with United States Department of Defense Industrial Security Requirements or similar requirements of other United States government agencies.

B. ESG Partnership Intangibles means

1. The various patent, trademark and tradename licenses and other rights granted to the Partnership in the Gould Tradename and Trademark License Agreement, the Gould Technology License Agreement and the ITE Tradename and Trademark License Agreement.

C. Partnership Liabilities means

1. All liabilities and obligations of Gould and its Subsidiaries relating to the business of ESG heretofore conducted in or from the United States of America which (a) were recorded on the ESG Balance Sheet, except any such liabilities and obligations discharged prior to the Effective Date, or (b) were incurred or which arose subsequent to September 30, 1978 in the ordinary course of business and which are or should be recorded on the Effective Date Balance Sheet when prepared in accordance with Section 3.3 of the Partnership Agreement, except in each case accounts payable to Gould or a Subsidiary of Gould.

2. All accounts payable to Gould or a Subsidiary of Gould which (a) were recorded on the ESG Balance Sheet, except any such payables discharged prior to the Effective Date, or (b) were incurred or which arose subsequent to September 30, 1978 in the ordinary course of business and which are or should be recorded on the Effective Date Balance Sheet when prepared in accordance with Section 3.3 of the Partnership Agreement, *provided,* however, that the aggregate amount of such accounts payable shall not exceed $35,000,000.

3. All obligations of Gould and its Subsidiaries under the contracts, agreements and leases referred to in Item A(2) and A(3) above, except, in connection with the lease of the ESG facility in Chalfont, Pennsylvania, any amounts of rent due for the period prior to the Closing Date.

4. To the extent not included in (3) above, all obligations (including any obligation to pay royalties) of Gould and its Subsidiaries under any contracts, licenses or like agreements relating to the ESG Partnership Intangibles.

5. All obligations of Gould and its Subsidiaries to employees employed in connection with the United States operations of ESG under the various employee benefit plans and programs to the extent provided to be assumed in the Employee Benefit Agreement.

than a Restricted Subsidiary of a Parent, not a party to this Agreement (including any employee of either Parent, any Restricted Subsidiary of a Parent or either Venture) shall have or acquire any rights by reason of this Agreement.

16.7 *Survival.*

The representations, warranties, covenants and agreements of each party hereto contained in this Agreement shall survive the Closing and any investigations made by such party.

16.8 *United States Dollars.*

Unless otherwise specified, all monetary amounts specified in this Agreement are, and all payments hereunder shall be made, in United States dollars.

16.9 *Headings.*

The headings of Sections in this Agreement are for convenience only and are not a part of this Agreement.

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

GOULD INC.

By_____

BBC BROWN, BOVERI & COMPANY, LIMITED

By_____

By_____

Exhibits to Parents' Agreement

Exhibit A	—Description of ESG
Exhibit B	—Partnership Agreement
Exhibit C	—Stockholders' Agreement
Exhibit D(1)	—Opinion of Barton P. Jenks III
D(2)	—Opinion of Gottfried Buetikofer
D(3)	—Opinion of Martineau, Walker, Allison, Beaulieu, Markell & Clermont
Exhibit E(1)	—Opinion of Winston & Strawn
E(2)	—Opinion of Osler, Hoskin & Harcourt

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Exhibit B
to
Parents' Agreement

GOULD-BROWN BOVERI

PARTNERSHIP AGREEMENT

between

I-T-E IMPERIAL CORPORATION

and

BROWN BOVERI POWER DELIVERY, INC.

January 31, 1979

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Schedules

1—ESG Partnership Assets; ESG Partnership Intangibles; and Partnership Liabilities

Exhibits

A—Description of ESG

PARTNERSHIP AGREEMENT

THIS AGREEMENT, dated as of January 31, 1979, by and between I-T-E Imperial Corporation, a Delaware corporation, and BROWN BOVERI POWER DELIVERY, INC., a Delaware corporation,

WITNESSETH:

Section 1. Definitions

1.1 When used in this Agreement, the following terms shall have the meanings set forth below.

Act means the Uniform Partnership Act of the State of New York, as amended from time to time, and any successor statutes thereto.

Affiliate of any person means any entity directly or indirectly controlling, controlled by or under common control with such person.

BBC means BBC Brown, Boveri & Company, Limited, a Swiss corporation.

BBC-Canada means Castor Investments Limited, a Canada corporation and Wholly-owned Subsidiary of BBC, which is to be a Stockholder.

BBC Sales Agency Agreement means the agreement of that name, dated as of the date hereof, between BBC and the Partnership, as it may be amended from time to time.

BBC Technology License Agreement means the agreement of that name, dated as of the date hereof, between BBC and the Partnership, as it may be amended from time to time.

BBC Tradename and Trademark License Agreement means the agreement of that name, dated as of the date hereof, between BBC and the Partnership, as it may be amended from time to time.

BBC-US means Brown Boveri Power Delivery, Inc., a Delaware corporation and Wholly-owned Subsidiary of BBC.

Canadian Venture means Gould-Brown Boveri, Inc., the Canada corporation formed pursuant to the Stockholders' Agreement.

Chief Executive Officer means the chief executive officer of the Partnership designated in Section 6.5, and his successors as determined by the Management Committee.

Effective Date means the date of this Agreement.

Effective Date Balance Sheet is defined in Section 3.3.

Employee Benefit Agreement means the agreement of that name, dated as of the date hereof, between Gould and the Partnership, as it may be amended from time to time.

ESG means the Electrical Systems Group division of Gould, which is generally described in Exhibit A hereto.

ESG Balance Sheet means the balance sheet of ESG as at September 30, 1978 attached as Schedule 1 to the Index.

ESG Balance Sheet Principles means the statement of accounting principles and practices used in preparing the ESG Balance Sheet and attached as Schedule 2 to the Index.

ESG Partnership Assets is defined in Schedule 1 to this Agreement.

ESG Partnership Intangibles is defined in Schedule 1 to this Agreement.

Gould means Gould Inc., a Delaware corporation.

Gould Canada means I-T-E Industries Limited, a Canadian corporation and indirect Wholly-owned Subsidiary of Gould.

Gould Service Agreement means the agreement of that name, dated as of the date hereof, between Gould and the Partnership, as it may be amended from time to time.

Gould Technology License Agreement means the agreement of that name, dated as of the date hereof, between ITE, Gould and the Partnership, as it may be amended from time to time.

Gould Tradename and Trademark License Agreement means the agreement of that name, dated as of the date hereof, between Gould and the Partnership, as it may be amended from time to time.

Index means the Index of Agreements and Schedules, dated as of the date of the Parents' Agreement and signed by Gould and BBC for identification, to which are attached the forms of various agreements, and certain schedules, referred to herein.

Interim Option Price is defined in Section 13.3.

ITE means I-T-E Imperial Corporation, a Delaware corporation and Wholly-owned Subsidiary of Gould.

ITE Tradename and Trademark License Agreement means the agreement of that name, dated as of the date hereof, between ITE and the Partnership, as it may be amended from time to time.

Management Committee means the committee established pursuant to Section 6.

Net Worth means the amount of the excess of the total assets of the Partnership over its total liabilities, in each case as of the most recent available balance sheet of the Partnership prepared in accordance with Section 9.

Option Price is defined in Section 13.3.

Parent means Gould or BBC and their respective successors and permitted assigns hereunder.

Parents' Agreement means the agreement, dated as of January 31, 1979, between Gould and BBC.

Partner means ITE or BBC-US, or any successor to either permitted under this Agreement.

Partnership means the partnership established by this Agreement.

Partnership Interest means the interest of each Partner in the Partnership as specified in Section 4.1.

Partnership Liabilities is defined in Schedule 1 to this Agreement.

Stockholder means Gould Canada or BBC Canada, or any permitted transferee under the Stockholders' Agreement of shares of capital stock of the Canadian Venture.

Stockholders' Agreement means the agreement between Gould Canada and BBC Canada, dated the date hereof, in respect of the formation of the Canadian Venture, as it may be amended from time to time.

Subsidiary of any entity means a corporation in which such entity owns, directly or indirectly through or with one or more intermediaries, more than 50% of the outstanding capital stock having ordinary voting power (other than upon the happening of a contingency) for election of directors.

Venture means the Partnership or the Canadian Venture, and *Ventures* means both such entities.

Venture-BBC Distributor Agreement means the agreement of that name, dated as of the date hereof, between BBC and the Partnership, as it may be amended from time to time.

Venture-Gould Sales Agency Agreement means the agreement of that name, dated as of the date hereof, between Gould and the Partnership, as it may be amended from time to time.

Wholly-owned Subsidiary of any entity means a Subsidiary of such entity all of the outstanding capital stock of which, except for directors' qualifying shares, if any, is owned, directly or indirectly through or with one or more intermediaries, by such entity.

Section 2. Partnership; Scope of Activities

2.1 ITE and BBC-US hereby establish a general partnership under the Act for the purposes set forth in this Section 2. The Partnership shall conduct its business under the name of "Gould-Brown Boveri", subject to the provisions of the BBC Tradename and Trademark License Agreement and the Gould Tradename and Trademark License Agreement. It is further agreed that the Gould symbol, or "logo", shall be used with the Partnership name in all cases except on product nameplates to be affixed to products to be delivered outside the United States and Canada.

2.2 The purpose of the Partnership is to conduct, operate and expand, pursuant to the terms and provisions of this Agreement and for the mutual profit of the Partners, the business and operations currently being conducted by ESG in or from the United States of America provided that such business shall not be deemed to include the performance of contracts which may not be performed by the Partnership by reason of restrictions on disclosure of classified information imposed by the United States Department of Defense Industrial Security Requirements or by requirements of other United States government agencies.

2.3 The scope of activities of the Partnership shall include the manufacture and/or sale of products within the following range and such additional products as may be determined by the Management Committee pursuant to the provisions of this Agreement:

(a) High voltage and medium voltage circuit breakers utilizing any medium of circuit interruption.

(b) Low voltage power circuit breakers.

(c) Indoor and outdoor isolators.

(d) Indoor and outdoor interrupter switches.

(e) Lightning arrestors.

(f) Outdoor air-insulated switching stations.

(g) SF6 insulated switching stations.

(h) SF6 cable systems.

(i) Generator circuit breakers.

(j) Instrument transformers.

(k) Protective relays for transmission and distribution of electrical power.

(l) Electrical porcelain and polymer insulators.

(m) Low and medium voltage metal-enclosed and metal-clad switchgear.

(n) Medium power transformers.

(o) Traction rectifier substations.

(p) Capacitors.

(q) Capacitance potential transformers.

(r) Condenser bushings.

2.4 Additionally, the Partnership will, pursuant to the terms of the Venture-BBC Distributor Agreement, act as exclusive distributor of BBC products within the product range of the Partnership in the United States, and, pursuant to the terms of the Venture-Gould Sales Agency Agreement, act as a sales agent for Gould products in the United States.

2.5 Notwithstanding anything contained herein or in any Venture Agreement to the contrary, if the Partners each agree that the Partnership shall not manufacture, sell or distribute any particular product or item within the product range of the Partnership, then the exclusive distributorship and technology rights for such item or product granted to the Partnership shall terminate and BBC or any Affiliate thereof shall be free to manufacture or sell such product or item in the United States.

2.6 Subject to the terms and provisions of this Agreement, the Partnership shall have the power to do any act and thing and enter into any contract incidental to, or necessary, proper or advisable for, the accomplishment or attainment of any purpose of the Partnership specified in this Agreement.

2.7 The Partners shall execute and deliver, on behalf of the Partnership and as of the Effective Date, the various agreements to which the Partnership is to be a party which are appended as Exhibits to the Index.

Section 3. Capital Contributions

3.1 (a) On the Effective Date, ITE shall, as its initial contribution to the capital of the Partnership, (i) convey, transfer and assign into the name of the Partnership, or cause to be so conveyed, transferred and assigned, all right, title and interest of Gould and its Subsidiaries in and to the ESG Partnership Assets, and (ii) license or assign, or cause to be licensed or assigned, to the Partnership the licenses and other rights to the ESG Partnership Intangibles as provided in the Gould Tradename and Trademark License Agreement, the Gould Technology License Agreement and the ITE Tradename and Trademark License Agreement.

(b) On the Effective Date the Partnership shall, and by the execution of this Agreement by the Partners the Partnership hereby does, assume the Partnership Liabilities and agree to indemnify and hold Gould and its Subsidiaries harmless against any and all claims, damages, costs, expenses, losses and liabilities arising therefrom. To the extent that any of the Partnership Liabilities constitutes an obligation to pay or remit funds to Gould or any Subsidiary of Gould, the Partnership shall make such payments promptly, and in any event within 30 days after the Effective Date. It is understood and agreed by the parties hereto that the foregoing assumption of Partnership Liabilities is not to be construed as constituting a

waiver of any rights that BBC-US may have against Gould for breach of any warranties given by Gould in the Parents' Agreement or in any of the Venture Agreements.

3.2 (a) On the Effective Date, BBC-US shall, as its initial contribution to the capital of the Partnership, pay or cause to be paid into the Partnership in cash the sum of $45,000,000 in Federal funds.

(b) Within 10 days after the completion of the Effective Date Balance Sheet, BBC-US shall, as a further contribution to the capital of the Partnership, pay or cause to be paid into the Partnership in cash an amount, not to exceed $5,000,000, determined by mutual agreement of the Partners in accordance with Section 2.4 of the Parents' Agreement, *provided* that if no such agreement has been reached within such time, such payment shall be in an amount equal to 80% of the amount then held by the bank referred to in said section.

3.3 (a) Promptly after the Effective Date, the Partners shall cause to be prepared a balance sheet reflecting, as of the Effective Date, the ESG Partnership Assets, the ESG Partnership Intangibles and such of the Partnership Liabilities as should be recorded thereon in accordance with the provisions of this Section 3.3(a). Such balance sheet shall be prepared in the same manner as was the ESG Balance Sheet, the values assigned to the ESG Partnership Assets shall be consistent with the values ascribed thereto in the ESG Balance Sheet, and the Partnership Liabilities shall be recorded thereon upon the same basis as and in the same manner as such liabilities, as liabilities of ESG, were recorded on the ESG Balance Sheet, all in accordance with the ESG Balance Sheet Principles, provided that on such balance sheet the ESG Partnership Intangibles shall be valued at $8,200,000.

(b) The Partners shall cause the balance sheet prepared as directed in paragraph (a) above to be audited by Peat, Marwick, Mitchell & Co., independent accountants for the Partnership, and such firm shall be instructed to determine and report whether such balance sheet has been prepared in accordance with the provisions of such paragraph (a), and the Partners shall revise such balance sheet as necessary in their opinion in order for such independent accountants to render such an opinion thereon without any qualifications or exceptions thereto. Such balance sheet, as so audited and reported upon, is herein referred to as the "Effective Date Balance Sheet".

3.4 (a) To the extent that (i) the sum of the values attributable to the ESG Partnership Assets and the ESG Partnership Intangibles, as recorded on the Effective Date Balance Sheet, is less than (ii) the sum of (A) the amount of such of the Partnership Liabilities as are so recorded, plus (B) $45,000,000, plus (C) the amount contributed by or on behalf of BBC-US pursuant to Section 3.2(b) above, then ITE, as a further contribution to the capital of the Partnership, shall, within 15 days after the completion of the Effective Date Balance Sheet, pay or cause to be paid to the Partnership an amount in cash equal to the difference between the amounts described in clauses (i) and (ii) above.

(b) To the extent that the amount described in clause (i) of Section 3.4(a) shall exceed the amount described in clause (ii) of such Section, the Partnership shall pay to ITE in cash within such 15 day period the amount of such excess. The amount of any such payment shall be deemed to be a return of a portion of ITE's initial capital contribution made pursuant to Section 3.1.

(c) If any adjustments are made to the capital contributions of ITE pursuant to the foregoing paragraphs of this Section, the term "ESG Partnership Assets" shall thereafter be deemed to include any cash contributed by ITE pursuant to Section 3.4(a).

Section 4. Partnership Interests; Tax Matters

4.1 Each Partner's interest in the Partnership ("Partnership Interest") shall be 50%, subject to adjustment as provided in this Agreement. Each Partner shall be entitled to or chargeable for each item of the Partnership's gross income, profit, gain, loss, cost, deduction, credit or allowance in proportion to its Partnership Interest.

4.2 The Partnership's fiscal and taxable years shall each be the calendar year. The books of the Partnership (both tax and financial) shall be kept on an accrual basis.

4.3 The tax basis of any assets contributed to the Partnership shall upon such contribution pass to the Partnership. ITE represents and warrants to BBC-US that Schedule 13 to the Index sets forth the amounts, as of December 31, 1977, at which the itemized categories of the ESG Partnership Assets were recorded by Gould and its Subsidiaries for financial reporting

purposes and the corresponding amounts at which such assets were carried for United States income tax purposes, except that, for the tax depreciation reserve applicable to property, plant and equipment, there is set forth a range within which the amount of such reserve would fall.

4.4 For tax purposes each item of gross income, profit, gain, loss, cost, deduction, credit or allowance shall be allocated to each Partner in proportion to its Partnership Interest.

4.5 Partnership tax returns shall be prepared under the direction of the Management Committee, subject to the approval of each Partner.

Section 5. Distributions

5.1 Capital, whether cash or property, may not be distributed by or withdrawn from the Partnership without the consent of each Partner.

5.2 Partnership income shall be distributed to the Partners in proportion to their respective Partnership Interest. Subject to Section 5.3 and unless otherwise agreed by each Partner, such distributions shall be made quarterly and shall be in the following amounts:

(a) an amount payable on account of the estimated liability for United States federal, state and local income taxes, determined as set forth below; plus

(b) 35% of the Partnership's income for such quarter after deducting from such income the amount distributed in respect of such quarter under paragraph (a) above.

In order to determine the amount distributable pursuant to paragraph (a) above, the Partners shall each certify to the Partnership the appropriate incremental tax rate to which such Partner estimates that it would have been subject in the preceding calendar quarter with respect to additional taxable income, and the amount distributable thereunder to each Partner with respect to such quarter shall be based upon the higher of such rates.

5.3 (a) Unless otherwise agreed by each Partner, the distribution referred to in Section 5.2(b) shall not be made for any period if, as at the end of such period, the aggregate net income of the Partnership since its inception does not exceed its aggregate net losses, if any, since its inception.

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(b) If, as of the end of any calendar year, the operation of Section 5.2 above has resulted in aggregate distributions to each Partner which exceed the distribution that would have been made to it had the formulae of Section 5.2 been applied on a yearly rather than a quarterly basis, then, unless otherwise agreed by each Partner, the excess amount of distributions made to each Partner shall be recovered by the Partnership by setting such excess amount off against the next succeeding distributions payable to such Partner under Section 5.2(b) until such excess amount has been fully set-off.

5.4 All Partnership income not distributed to the Partners shall be deemed to be additional capital contributions of the Partners, in proportion to their respective Partnership Interests, and, subject to the provisions of this Agreement, shall be employed in the business of the Partnership in such manner as the Management Committee shall direct.

Section 6. Management of the Partnership

6.1 Except as otherwise set forth in this Agreement, the responsibility for the general conduct of the business of the Partnership shall be vested in the Management Committee. The Chief Executive Officer shall have the responsibility for the day-to-day management of the operations and activities of the Partnership.

6.2 The Management Committee shall be established on the Effective Date composed of four representatives of each Partner who shall not be employees of the Partnership. The Chairman of the Management Committee shall be one of BBC-US's representatives as designated by it. Each Partner may from time to time and for any reason replace any member of the Management Committee appointed by it or designate an alternate to act for any member, which alternate shall be deemed a member of the Management Committee while so acting. Each appointment made by a Partner to the Management Committee shall remain in effect until the Partner making such appointment shall notify the Partnership and the other Partner of a change in such appointment. The members of the Management Committee representing each Partner shall as a group have one vote, and at all meetings of the Management Committee a member shall be acting solely as the representative of the Partner which appointed him. Meetings of the Management Committee shall be held and conducted in accordance with

this Agreement and the Procedural Rules attached as Schedule 3 to the Index, and such Procedural Rules shall not be altered or modified without the consent of each Partner.

6.3 All actions of the Management Committee shall be taken by unanimous vote, *provided,* however, that, in the event of a disagreement between the representatives of each Partner, the Chairman of the Management Committee shall be entitled to cast a determining vote on all matters except the following:

(a) The making of, or any requirement that there be made, additional capital contributions to the Partnership.

(b) Any business acquisition or divestiture, whether of stock or assets or both, by the Partnership, directly or through any Subsidiary thereof, involving the payment or receipt of cash in an amount, and/or securities or property having a value, exceeding 10% of Net Worth.

(c) Capital equipment investments by the Partnership, directly or through any Subsidiary thereof, in any fiscal year exceeding 10% of Net Worth.

(d) The authorization to incur or the incurring of short term or long term debt from borrowings (including the issuance of bonds, debentures or notes) or the incurrence of obligations under leases which are to be capitalized, in each case by the Partnership directly or through any subsidiary thereof, at any time exceeding in the aggregate 40% of Net Worth.

(e) Any expenditure by the Partnership, directly or through any Subsidiary thereof, for a new product line with forecasted cumulative sales exceeding $50 million in 5 years or for new product lines outside of the electric power equipment field.

(f) Actions or expenditures by the Partnership, directly or through any Subsidiary thereof, to develop new markets by capital investment outside the United States.

(g) Selection of the Chief Executive Officer.

(h) Any transaction between the Partnership or any Subsidiary thereof and either Partner or any Affiliate of either Partner (including any amendment or modification of, or waiver or consent under, any

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agreement between the Partnership or such Subsidiary and such Partner or Affiliate and any determination, agreement or other action, including the setting of prices of products to be purchased or sold thereunder, to be made or taken by the Partnership under any such agreement) except transactions within the Partnership's normal course of business which are not material to the Partnership in nature or amount (it being understood that any such amendments, modifications, waivers, consents, determinations, agreements and actions shall not be considered transactions in the normal course of business).

All actions with respect to the matters set forth in (a) through (h) above shall require the approval of each Partner.

6.4 (a) In the event that either Partner shall acquire a Partnership Interest of 55% or more, then, notwithstanding the provisions of Section 6.3, the representatives of such Partner (the "Majority Partner") shall have a vote on the Management Committee equal to such Partnership Interest, such Partner shall be entitled to designate the Chairman of the Management Committee, and all actions of the Management Committee shall thereafter be taken by majority vote, *provided* that (i) the Majority Partner shall take no action or cause or permit the Partnership to take any action which would be unfair as to the other Partner (the "Minority Partner") and (ii) the Minority Partner shall not be required (but may choose) to meet any call made by the Management Committee for an additional capital contribution to the Partnership.

(b) If in accordance with clause (ii) of the preceding paragraph the Minority Partner should choose not to meet or only partly to meet any additional call for capital which is met by the Majority Partner, the Majority Partner may at its option make all or any part of the contribution that the Minority Partner failed to make, and the Partnership Interests of the respective Partners shall be further adjusted so that, upon the making of such additional capital contribution, the Partnership Interest of each Partner shall equal the percentage determined by dividing (i) the total amount of such Partner's capital account after such additional capital contribution by (ii) the sum of both Partners' capital accounts after such additional capital contribution.

6.5 In the event that the Partnership Interest of any Partner having the right to designate the Chairman of the Management Committee shall be transferred to a third party, such third party shall have the right to designate the Chairman of the Management Committee.

6.6 The Chief Executive Officer shall be, initially, James B. Owens. The Management Committee shall appoint such other officers and agents of the Partnership as it shall deem necessary or appropriate for the conduct of the business of the Partnership.

Section 7. Partnership Employees

7.1 The United States employees of ESG (and, where agreed by the Parents, any other employees of Gould or its Subsidiaries) except those required to have access to information classified in accordance with United States Department of Defense Restrictions or restrictions of other United States government agencies in the course of their employment, on the Effective Date shall, on such date, be offered the opportunity to become employees of the Partnership. Except as otherwise determined by the Partners or as otherwise specified in the Employee Benefit Agreement, all such employees shall initially receive comparable direct salary payments and shall initially enjoy comparable (or as nearly comparable as shall be practicable) benefits as were received or enjoyed by such employees immediately prior to the Effective Date.

Section 8. Sales Activities of the Partnership

8.1 Sales activities of the Partnership shall be conducted in accordance with the provisions of Section 9 of the Parents' Agreement and pursuant to the provisions of the BBC Sales Agency Agreement, the Venture-BBC Distributor Agreement and the Venture-Gould Sales Agency Agreement.

8.2 With respect to sales of the Partnership's products made outside the United States, Canada or Australia and through BBC's organization pursuant to the BBC Sales Agency Agreement, the Partnership will pay, for the support provided by BBC's headquarters and corporate staffs, an amount equal to 1.5% of the invoiced c.i.f. price of such sales, including erection but excluding local customs and other taxes in the country of installation.

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Section 9. Books and Accounts

9.1 (a) The books and records of the Partnership shall be maintained on an accrual basis in accordance with accounting principles generally accepted in the United States applied consistently so as to accurately reflect, among other things,

(i) contributions by each Partner,

(ii) the capital account of each Partner,

(iii) distributions to each Partner,

(iv) assets and liabilities,

(v) receivables from and payables to each Partner or Affiliate thereof,

(vi) income of the Partnership, and

(vii) adequate records to permit the filing of Partners' and Partnership tax returns.

Other accounts shall be maintained in accordance with the directions of the Management Committee. All accounting principles, including any changes therein, employed by the Partnership which materially affect the results of operations of the Partnership shall be subject to the approval of each Partner.

(b) As of the Effective Date the ESG Partnership Assets, the ESG Partnership Intangibles and the Partnership Liabilities shall be recorded on the books of the Partnership in accordance with the Effective Date Balance Sheet.

(c) The contributions to the capital of the Partnership made by each Partner pursuant to Section 3 hereof shall be entered into each Partner's capital account at a value equal to the dollar amount contributed to the Partnership by or on behalf of BBC-US pursuant to the provisions of Sections 3.2(a) and (b).

9.2 The accounts of the Partnership shall be audited at the end of each fiscal year by Peat, Marwick, Mitchell & Co. or such other firm of independent public accountants satisfactory to each Partner *provided,* however,

that if the Partners cannot agree upon such other firm, BBC-US shall have the right to select such other firm from among the following list: Arthur Andersen & Co.; Arthur Young & Co.; Coopers & Lybrand; Deloite, Haskins & Sells; Ernst & Ernst; Price Waterhouse & Co.; and Touche Ross & Co.

9.3 The Partnership shall provide each Partner with such financial and other information and records as it may request.

Section 10. Commitments by Partners; Financings

10.1 Except as provided in or permitted under this Agreement, each Partner agrees that it will not take, without the prior consent of the other Partner, any action which will commit or bind the Partnership or the other Partner to any act, agreement, contract, liability, obligation or undertaking of any kind or nature whatsoever.

10.2 Each Partner agrees that, without the prior consent of both Parents and notwithstanding anything in this Agreement to the contrary the Partnership shall not incur or guarantee, nor shall either Partner incur or guarantee on behalf of the Partnership, any indebtedness for borrowed money (whether short-term or long-term) or any other obligation which would appear on a balance sheet of the Partnership as long-term indebtedness or as a capitalized lease obligation, unless the instruments governing such indebtedness or obligation, or guaranty thereof, shall provide that such indebtedness or other obligation, and such guaranty, is an obligation of the Partnership only and is nonrecourse to the Partners and the Parents. The foregoing shall not restrict any guaranty either Parent may undertake on its own behalf with respect to indebtedness of the Partnership.

10.3 Each Partner hereby agrees that it will indemnify and hold harmless the Partnership and the other Partner from and against any and all claims, damages, costs, expenses, losses, and liabilities to which the Partnership or such other Partner may be or become subject arising or resulting from the breach by such Partner of this Section 10.

10.4 Subject to the provisions of Section 10.3 above, in the event that the Partnership shall fail to perform any obligation that it is required to perform, so as to render the Partners jointly, or jointly and severally, liable for the performance of such obligation, the Partners agree that as between

themselves such liability (hereinafter referred to as a "Partners' Liability") shall be shared between the Partners in the same proportions as their respective Partnership Interests. If either Partner is required to pay more than its share, determined in the manner set forth above, of a Partners' Liability, or shall voluntarily do so in anticipation of the other Partner's inability or unwillingness to bear its share of such Partners' Liability, the Partner so paying more than its share of such Partners' Liability shall have a claim against such other Partner to the extent of its payment of such other Partner's share of the Partners' Liability, and if such claim is not satisfied within ten (10) days after demand is made for the payment thereof interest shall be payable on the unpaid balance thereof from the date that the claim arose until it is satisfied at an annual rate equal to 3% above the prime rate of Morgan Guaranty Trust Company of New York as in effect from time to time while the claim remains outstanding in whole or in part.

Section 11. Confidentiality

11.1 Each Partner shall use its best efforts to keep confidential all non-public information disclosed to it by the Partnership or by the other Partner in connection with the Partnership, *provided* that all such information may be disclosed by a Partner (i) to its and its Parent's directors, employees, accountants and representatives as required or deemed necessary by it or its Parent in connection with the performance of their duties, it or its Parent agreeing to take reasonable precautions to maintain such confidentiality, (ii) in connection with filings with governmental agencies and courts or otherwise where necessary to comply with applicable law, or (iii) to other parties in connection with bona fide negotiations concerning the sale by such Partner of its Partnership Interest. provided that such other party shall itself agree to keep such information confidential on terms substantially similar to those set forth in this Section 11.1).

Section 12. Transfers of Partnership Interest to Third Parties

12.1 Neither Partner may sell, convey, assign or otherwise transfer, or mortgage, pledge or otherwise encumber, all or any part of its Partnership Interest or permit any such sale, conveyance, assignment or transfer or such mortgage, pledge or encumbrance except as provided in this Agreement, *provided,* however, that nothing in this Agreement shall be construed to prohibit the following: (i) the transfer of the entire Partnership Interest of

either Partner to a Wholly-owned Subsidiary of such Partner or its Parent; (ii) the liquidation of either Partner or any other Wholly-owned Subsidiary of a Parent which may become a Partner pursuant to the provisions of this Agreement and the distribution of its assets to its Parent; or (iii) if the Partner is either Parent, the merger or consolidation of such Partner with any other corporation, or the sale of all or substantially all the assets of such Partner to any other corporation; so long as, in each such case, the corporation to which any such transfer shall have been made or the parent corporation, or the corporation resulting from any such merger or consolidation or to which any such sale shall have been made, shall be solvent immediately before such merger, sale or consolidation and, immediately upon such transfer, liquidation, merger, consolidation or sale, become a Partner and expressly assume in writing the due and punctual performance of all the obligations of the retiring Partner under this Agreement and agree to be bound by all the terms and provisions hereof in respect of such Partner.

12.2 Except as otherwise permitted by this Agreement, neither Partner may sell, encumber, permit the sale or encumbrance of, or otherwise dispose of its Partnership Interest. After the third anniversary of the Effective Date, a Partner wishing to sell its Partnership Interest (the "Selling Partner") may do so, but only if it sells all of its Partnership Interest to a single purchaser and the Selling Partner (i) obtains the written consent of the other Partner (the "Non-Selling Partner") to such sale or (ii) receives a bona fide offer (as defined below) from a person not controlling, controlled by or under common control with the Selling Partner and grants the Non-Selling Partner a right of first refusal upon the terms and conditions set forth in Section 12.3, and in either case (iii) causes the prospective purchaser of the Partnership Interest and any parent thereof to execute and deliver to the Non-Selling Partner a written agreement, satisfactory to the Non-Selling Partner's counsel, to be bound by this Agreement as if such prospective purchaser and such parent (if any) were the Selling Partner. For the purpose of this Agreement a "bona fide offer" is a written offer to purchase all of a Partner's Partnership Interest, whether initiated by the would-be purchaser (the "Offeror") or in the form of its acceptance of a proposal made by the Selling Partner, which is made in good faith and satisfies all of the following requirements: (i) it sets forth the price (amount and manner of payment), other terms of the offer, and any conditions to the offer, (ii) neither such

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price nor terms nor conditions are so uniquely related to the Offeror or its business or its particular circumstances that it would be impossible for the Matching Offer contemplated by Section 12.3 to be made (it being understood that the inclusion in such offer of securities capable of valuation pursuant to Section 12.4 shall not be deemed so related) or, alternatively, impossible for the recipient of such Matching Offer to satisfy the requirements thereof, (iii) any conditions to the offer are only of the kind normally found in agreements covering transactions of this type (which conditions do not include, for example, the availability of financing to the Offeror or a requirement that the Offeror's stock maintain or reach a certain market value), (iv) the offer makes reference to the right of first refusal required by this Section 12.2 and states that it shall remain open throughout the period that such right of first refusal is exercisable and for a further reasonable period thereafter, (v) the offer states that it has been approved by the Board of Directors or other governing body of the Offeror, subject only to the execution of a definitive agreement between the Offeror and the Selling Partner, and (vi) the offer is signed by the President of the Offeror or, if signed by another officer, states that such officer is duly authorized to sign same.

12.3 The condition of clause (ii) of Section 12.2 that a right of first refusal be offered by the Selling Partner to the Non-Selling Partner shall be deemed satisfied if the Selling Partner delivers to the Non-Selling Partner (i) a copy of the Offeror's bona fide offer certified by an officer of the Selling Partner and (ii) the Selling Partner's written offer to sell its Partnership Interest to the Non-Selling Partner at the price and on the terms and conditions set forth in the Offeror's bona fide offer, subject to the Non-Selling Partner's acceptance of such offer (the "Matching Offer") by giving written notice of such acceptance to the Selling Partner within 120 days after the date of its receipt of such offer. However, if the price is other than wholly for cash, the Non-Selling Partner shall be entitled to have a cash equivalent substituted for the non-cash portion of the price. If the Partners are unable to agree on such cash equivalent within 20 days after the date of the Non-Selling Partner's receipt of the Matching Offer, the property other than cash included in the price shall be appraised in the manner set forth in Section 12.4 and valued in money or money's worth, and the 120 day period for the Non-Selling Partner's acceptance of the Matching Offer shall commence upon the date of its receipt of written notice from the Appraisers'

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or the Third Appraiser (each as defined in Section 12.4) of the value of such property as determined by them or it. If the Non-Selling Partner accepts the Selling Partner's offer to sell its Partnership Interest, the sale shall be consummated at such time not earlier than 30 nor later than 90 days after the date of such acceptance as the Partners shall mutually agree upon. If the Non-Selling Partner rejects in writing or fails to accept the Selling Partner's offer to sell its Partnership Interest, or having accepted such offer fails through no fault of the Selling Partner to consummate the purchase of the Partnership Interest within the period of time allowed above or such extension thereof as the Partners may have mutually agreed upon, then the Selling Partner shall be free to sell its Partnership Interest to the Offeror at a price not less and on terms and conditions not more favorable to the Offeror than those contained in the Offeror's bona fide offer, *provided* that (i) such sale to the Offeror shall be consummated within 180 days after the date of the event that makes the Selling Partner free to carry out such sale (that is, the date of written rejection of its offer to the Non-Selling Partner or the expiration of the period for the latter's acceptance of such offer or the expiration of the period for the latter's consummation of the purchase), and (ii) if the sale is to be at a price and/or on other terms and conditions varying from those contained in the Offeror's bona fide offer, the Selling Partner shall at least 30 days before the sale is to be consummated give the Non-Selling Partner written notice of the change or changes in such price and/or other terms and conditions. If the Selling Partner's Partnership Interest is not sold to the Offeror within the period of time allowed by this Section 12.3, any disposition of its Partnership Interest shall again be subject to the provisions of Section 12.2 and this Section 12.3.

12.4 If under Section 12.3 an appraisal of the cash value of non-cash consideration (the "Consideration") is necessary, it shall be made as follows: Each Partner shall designate an international investment banking firm having its head office in the United States or a nationally-known (in the United States) certified public accounting firm to participate in the appraisal, *provided* that the firm so designated shall not have performed any material services for such Partner (the "Designating Partner") or any Affiliate thereof during the five years immediately preceding its designation and shall certify in writing to the other Partner to such effect and also to the effect that it knows of no other reason why it should not accept its designation by the Designating Partner. The two firms so designated (the

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"Appraisers") shall then endeavor in good faith to reach agreement within 60 days on the cash value of the Consideration, applying generally accepted principles of valuation for such purpose, and in that connection they may by mutual agreement employ experts to assist them in valuing the Consideration. Upon reaching agreement or determining that they are unable to reach agreement on the value of the Consideration, and in any event no later than 60 days after commencing the appraisal, the Appraisers shall jointly submit a written report to the Partners setting forth the agreed upon value of the Consideration or, if they have been unable to agree, the value that each would assign to the Consideration; and any such agreed upon value shall be binding upon the Partners. In the event that the Appraisers disagree as to the value of the Consideration, the Partners shall consult with a view to determining whether they can reach agreement on the cash value of the Consideration in the light of the Appraisers' report. If they are unable to reach such agreement within 10 days after receiving the Appraisers' report, the Partners shall so advise the Appraisers in writing and the Appraisers shall within 20 days jointly select a third firm which would have been qualified to be designated an Appraiser by either Partner to determine as soon as practicable but in any event within not more than 60 days after its appointment the value of the Consideration; and the value of the Consideration as so determined by such third firm (the "Third Appraiser") shall be binding upon the Partners. The fees and expenses of the Appraisers, any experts employed by them, and any Third Appraiser shall be borne equally by the Partners.

12.5 Whenever pursuant to this Section 12 any firm, corporation or other entity is entitled to become a Partner, the other Partner agrees to execute an appropriate instrument admitting such firm, corporation or other entity as a Partner.

Section 13. Transfers of Partnership Interests between the Partners

13.1 If at any time on or after the third anniversary of the Effective Date, either Partner shall wish to withdraw from the Partnership, such Partner (the "Proposing Partner") may by notice (the "Initial Notice") to the other Partner (the "Receiving Partner") offer to sell all (but not less than all) of its Partnership Interest to the Receiving Partner at the Option Price (as defined below), *provided* that its Affiliate or Affiliates shall simultaneously offer to sell all of its or their interests in the Canadian

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Venture to the Receiving Partner or its Affiliates in accordance with the provisions of Section 13 of the Stockholders' Agreement. The Receiving Partner shall, within 90 days after the date of the Initial Notice, by notice to the Proposing Partner, accept or reject such offer. No such acceptance or rejection shall be valid, however, unless the Receiving Partner or one of its Affiliates shall have taken the same action with respect to the offer relating to the Canadian Venture. If similar notices of acceptance or rejection shall not have been delivered with respect to both offers within such 90-day period, the Receiving Partner shall be deemed to have accepted such offer on the last day of such period. If such offer is accepted, the sale of the Proposing Partner's Partnership Interest shall occur at such time as the Partners shall agree, but if no such agreement is reached, such sale shall occur 180 days after the date on which such offer was or was deemed to be accepted (the "Acceptance Date").

13.2 (a) Payment of the Interim Option Price (as defined below) shall be made in cash at the closing of such sale, *provided* that, at the option of the Receiving Partner, such payment may be made in nine equal quarterly installments, with the first installment to be paid on the closing date. If the Interim Option Price is paid in installments, the Receiving Partner shall at such closing make its first payment and issue to the Proposing Partner a negotiable promissory note in principal amount equal to the balance of the Interim Option Price. The principal amount of such note shall be payable in eight equal quarterly installments with interest on the unpaid balance, also payable quarterly, at an annual rate equal to 1% above the prime rate of Morgan Guaranty Trust Company of New York as in effect on the Acceptance Date *provided* that if the Proposing Partner so elects, there shall be issued in place of such single note up to eight negotiable promissory notes (the number of notes to be designated by the Proposing Partner) aggregating the same principal amount as the single note, each such substituted note to cover one or more installments of the single note, as designated by the Proposing Partner, and to bear the same rate of interest as such single note (such single note, or substituted notes collectively, being hereinafter referred to as the "Note"). Notwithstanding the foregoing, however, a note shall be issued only if, in the opinion of counsel to the Receiving Partner, such note (i) may be issued without registration under the Securities Act of 1933 and otherwise in compliance with law and (ii) the issuance of such note shall not violate any agreement by which the Receiving Partner or its Parent is

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bound, *provided* that if the issuance of the Note would violate one or more of such agreements by which the Receiving Partner or its Parent is bound but such violation would not exist if the Note were subordinated to certain indebtedness, then the Note shall be subordinated to such indebtedness to the extent necessary to permit its issuance, and *further provided* that if the issuance of the Note would violate one or more of such agreements by which the Receiving Partner or its Parent is bound but a note or notes covering less than all of the eight quarterly installments contemplated would not violate such agreements, then, subject to clause (i) above, such note or notes of lesser total principal amount shall be substituted for the Note (with subordination to other indebtedness if necessary to permit the issuance thereof), and the installment or installments not covered by such substituted note or notes shall remain to be paid by the Receiving Partner as a contractual obligation. If the Receiving Partner is not free to issue the Note, but would be free to issue a substituted note or notes as referred to above, it shall give the Proposing Partner full information as to such matter, and to the extent that a choice can be made as to which installments shall be covered by the substituted note or notes, or as to whether there shall be one or several substituted notes, the Proposing Partner shall have the right to make such choice.

(b) If the Option Price, when finally determined, exceeds the Interim Option Price, then, within 30 days after the final determination of the Option Price, the Receiving Partner shall pay such excess to the Proposing Partner, with interest at the rate referred to in paragraph (a) above, calculated from the date of the sale to the date of such payment.

13.3 (a) The Option Price with respect to either Partner's Partnership Interest shall, for any sale where the Initial Notice is given on or prior to the fifth anniversary of the Effective Date, be the highest of the amounts described in paragraphs (i), (ii) and (iii) below; for any sale where the Initial Notice is given subsequent to such fifth anniversary, the Option Price shall be the higher of the amounts described in paragraphs (ii) and (iii) below:

(i) An amount equal to (A) the amount of all capital contributions (other than contributions credited to such Partner on account of Partnership income and attributable to but not distributed to such

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Partner) made by such Partner from and including the Effective Date to the date of the sale, less the amount of all distributions of such capital contributions to such Partner made prior to such date and the amount, if any, by which Partnership losses allocable to such Partner during such period exceeded Partnership income allocable to such Partner during such period, plus (B) an additional amount calculated at the rate of 5% per annum (but not compounded) on the balance of the amount described in clause (A) from time to time outstanding since the Effective Date.

(ii) The total amount of the such Partner's capital account as of the fiscal quarter end next preceding the date of the sale.

(iii) An amount equal to 50% of 10 times the average of the Partnership's net income (adjusted as set forth below) for the fiscal year in which the Initial Notice is given, the two immediately preceding fiscal years and the two next following fiscal years. For the purposes of this clause (iii), the Partnership's net income for any fiscal year shall be its book net income in such year (A) adjusted to eliminate all items of income or loss which (1) under generally accepted accounting principles are considered to be extraordinary gains or losses, (2) are in respect of the sale of capital assets for an aggregate amount exceeding $50,000, and (3) expenses associated with the discontinuance or start-up of operations, and (B) reduced by an amount equal to the amount of United States federal, state and local income taxes which would have been payable by the Partnership in such year had the Partnership been a corporation, calculated after giving effect to the adjustments described in clause (A).

Notwithstanding the method of accounting for inventory then in use by the Partnership, the calculation of the Option Price to be made hereunder shall be based on the Partnership's accounts stated (or restated) on the basis that inventory is accounted for using the first-in, first-out method of accounting.

(b) The Interim Option Price with respect to either Partner's Partnership Interest shall be the higher of the amounts specified in clauses (i) and (ii) of paragraph (a) above, unless the Initial Notice is given subsequent to the fifth anniversary of the Effective Date, in which case the Interim Option Price shall be the amount specified in such clause (ii).

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(c) The Partners recognize that, in the event of a transfer of Partnership Interest pursuant to this Section 13, the Receiving Partner will obtain sole control of the business of the Partnership and will therefore be in a position to affect the earnings of the Partnership during the time period specified in clause (iii) of paragraph (a) above, and, as a result, the amount of the Option Price. In order to assure that the provisions of such clause will have the effect intended by the Partners, each Partner hereby agrees that, if it should be the Receiving Partner and acquire such control, it will use its best efforts to maximize the net income of the Partnership during the period contemplated by such clause, consistent with sound business practices and the manner in which the business of the Partnership was conducted prior to such acquisition.

(d) The Partners shall consult with each other in determining the Interim Option Price and the Option Price in accordance with the provisions set forth above. If, however, the Partners shall not have agreed upon the Interim Option Price within 90 days after the Acceptance Date, or upon the Option Price within 180 days after the end of the second fiscal year next following the year in which the Initial Notice is given, then all matters or questions in dispute shall be referred to the Partnership's independent public accountants, or such other firm of independent public accountants as shall be agreed upon by the Partners. Such accountants shall be instructed to determine as promptly as possible all such matters and questions other than those arising under the provisions of paragraph (c) above in accordance with the provisions of this Section 13.3, and such determinations shall be binding upon the Partners. The fees and expenses of such accountants in connection with such determinations shall be borne equally by the Partners.

13.4 (a) If, within 90 days after its receipt of the Initial Notice, the Receiving Partner rejects the offer contained therein and the same action is taken with respect to the offer relating to the Canadian Venture, the Proposing Partner shall have the right, exercisable upon notice to the Receiving Partner within 60 days after the date of the notice of such rejection, to purchase from the Receiving Partner 10% of the Receiving Partner's Partnership Interest, *provided* that the Proposing Partner or an Affiliate thereof shall have exercised the similar right granted pursuant to Section 13.4 of the Stockholder's Agreement. Such purchase shall occur on such date as may be specified by the Proposing Partner in its notice

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exercising the right to purchase set forth in this Section, provided that such date shall be at least 30 days and not more than 90 days after the determination of the Interim Option Price as set forth below.

(b) The price to be paid by the Proposing Partner upon any purchase pursuant to paragraph (a) above shall be equal to 10% of the Option Price of the Receiving Partner's Partnership Interest, determined in accordance with Section 13.3. An amount equal to 10% of the Interim Option Price of the Receiving Partner's Partnership Interest shall be payable in full in cash on the date of the purchase, and the provisions of Section 13.2(b) shall apply upon the determination of the Option Price.

(c) Upon the closing of the purchase referred to in this Section 13.4, the Proposing Partner's Partnership Interest shall be 55% and the Receiving Partner's shall be 45%, and appropriate adjustments to the accounts of the Partnership shall be made to reflect such transfer.

13.5 The effectiveness of the transfer of the entire Partnership Interest of any Partner to the other Partner pursuant to this Section 13 shall relieve the selling Partner of all obligations to the Partnership or the other Partner, except any obligations of the selling Partner to the other Partner arising as a result of a breach by the selling Partner, prior to such transfer, of any of its obligations to the other Partner under this Agreement. The selling Partner agrees, from time to time at the request of the other Partner, at or after the date of such transfer to execute and deliver such instruments of conveyance, assignment, transfer and consent as may be required or advisable for the effective conveyance and transfer of any of the business, properties, name, goodwill, assets and rights included in such Partnership Interest. The selling Partner agrees, at the request of the other Partner, to execute an appropriate instrument admitting any person, firm, corporation or other entity designated by the other Partner as a Partner in the Partnership, with such admission to become effective upon the effectiveness of such transfer.

13.6 In the event that action is taken pursuant to this Section 13 but no sale occurs pursuant to either Section 13.1 or Section 13.4, then this Section 13 shall remain operative; otherwise such a sale shall exhaust the Partners' rights to transfer Partnership Interests under this Section 13.

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Section 14. Withdrawal of a Partner

14.1 At any time on or after the third anniversary of the Effective Date, either Partner ("Withdrawing Partner") may, subject to the provisions of this Section 14, elect to withdraw from the Partnership by giving notice of such election ("Section 14 Notice") to the Non-Withdrawing Partner ("Non-Withdrawing Partner"), provided the Withdrawing Partner shall not be in breach of any of the terms, covenants or conditions of this Agreement and that such Partner or its relevant Affiliate shall have taken the steps with respect to termination of the Canadian Venture set forth in Section 14 of the Stockholders' Agreement, unless such steps (including the right of purchase by the Non-Withdrawing Partner or its affiliates of the interest in the Canadian Venture held by the Withdrawing Partner or its Affiliate) shall be prohibited by Canadian law or by any Canadian governmental authority exercising discretion vested in it or by any existing joint contractual commitment of BBC-Canada and Gould-Canada. For purposes of this Section 14, the "Date of Withdrawal" referred to below shall be the date two years following the date of the effectiveness of the Section 14 Notice.

14.2 Upon effectiveness of the Section 14 Notice, the representatives of the Non-Withdrawing Partner, notwithstanding the provisions of Section 6.3, shall have a 55% vote on the Management Committee, the Non-Withdrawing Partner shall be entitled to designate the Chairman of the Management Committee, and all actions of the Management Committee shall thereafter be taken by majority vote, *provided* that (i) the Non-Withdrawing Partner shall take no action or cause or permit the Partnership to take any action which would be unfair as to the Withdrawing Partner and (ii) the Withdrawing Partner shall not be required (but may choose) to meet any call made by the Management Committee for an additional capital contribution to the Partnership.

14.3 At any time prior to the Date of Withdrawal, the Non-Withdrawing Partner may elect to dissolve the Partnership and thereby to cause the Partnership's business to be wound up and all its assets distributed in accordance with the provisions of Section 18.3. In the event the Non-Withdrawing Partner elects to dissolve the Partnership, the Non-Withdrawing Partner shall be the liquidating Partner and be in charge of winding up the Partnership business.

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14.4 At any time prior to the Date of Withdrawal, the Non-Withdrawing Partner may elect to have the Withdrawing Partner's Partnership Interest appraised on a going concern basis, giving due consideration to the amount and value of the assets and rights which will remain to the Partnership after the purchase for which the appraisal is made, and such appraisal shall be conducted in accordance with the procedures set forth in Sections 15.2(a) through (c). All costs in connection with such appraisal shall be borne by the Partnership.

14.5 At any time prior to the Date of Withdrawal, the Non-Withdrawing Partner may elect to acquire the entire Partnership Interest of the Withdrawing Partner by giving notice of such election to the Withdrawing Partner. On the date of the effectiveness of such notice, the Withdrawing Partner shall be deemed to have made an offer to sell all of its Partnership Interest to the Non-Withdrawing Partner at the Interim Option Price and the Option Price (in each case as defined below) in accordance with the provisions of Section 13, and the Initial Notice referred to in Section 13 shall be deemed to have been given, and the Non-Withdrawing Partner shall be deemed to have accepted such offer. The Interim Option Price, subject to the provisions of Section 13.3(d) and the Option Price for the purposes of this Section 14.5 shall be the lower of (A) the appraised value of the Withdrawing Partner's Partnership Interest, as determined pursuant to Section 14.4 above, or (B) the amount specified in clause (ii) of paragraph (a) of Section 13.3.

14.6 At the Date of Withdrawal, if the Non-Withdrawing Partner shall not have elected to dissolve the Partnership nor elected to purchase the Partnership Interest of the Withdrawing Partner in accordance with this Section, the Partnership will be dissolved and its business wound up and all its assets distributed in accordance with the provisions of Section 18.3, provided that the Withdrawing Partner shall not be in breach of any of the terms, covenants or conditions of this Agreement. In the event of such dissolution, the Non-Withdrawing Partner shall be the liquidating Partner and be in charge of winding up the Partnership business.

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Section 15. Dissolution Upon Bankruptcy of Partner or Parent

15.1 If:

(i) a Partner, or the Parent of a Partner, shall (1) apply for or consent to the appointment of a receiver, trustee or liquidator of such Partner, or such Parent, or of all or a substantial part of such Partner's or Parent's assets, (2) be adjudicated a bankrupt or insolvent, or file a voluntary petition in bankruptcy, or admit in writing its inability to pay its debts as they come due, (3) make a general assignment for the benefit of creditors, (4) file a petition or an answer seeking reorganization or arrangement with creditors or to take advantage of any insolvency law, or (5) file an answer admitting the material allegations, or consent to, or default in answering, a petition filed against such Partner or Parent in any bankruptcy, reorganization or insolvency proceeding;

(ii) an order, judgment or decree shall be entered by any court of competent jurisdiction approving a petition seeking reorganization of a Partner or a Parent of a Partner or an arrangement with creditors (or any class of creditors) of a Partner or a Parent of a Partner or appointing a receiver, trustee or liquidator of a Partner or a Parent of a Partner or of all or a substantial part of the assets of a Partner or a Parent of a Partner, and such order, judgment or decree shall continue unstayed and in effect for any period of 60 consecutive days; or

(iii) dissolution of the Partnership is caused pursuant to the Act by the bankruptcy of a Partner;

then in any such event the Partnership shall be dissolved and the Partner other than the Partner referred in subsections (i), (ii) or (iii) above shall be the liquidating Partner and be in charge of winding up the Partnership business. In so winding up, that Partner may either cause the Partnership's property to be sold and distribute the proceeds of sale as provided in Section 18.3 or cause all of the Partnership's property to be appraised and account to the other Partner for the value of its interest as if the property had been sold at the appraised value.

15.2 (a) If the liquidating Partner chooses to have the property appraised, it shall within 30 days after learning of the event causing dissolution of the Partnership, notify the other Partner of such decision and name an appraiser in such notice. The other Partner shall, within 15 days thereafter, name a second appraiser by notice to the liquidating Partner, and upon its failure to do so within the stipulated period the liquidating Partner shall name such second appraiser. The two appraisers so appointed shall name a third and upon their failure to do so within 30 days after the appointment of the second appraiser, the third appraiser may be appointed by the then Senior Judge of the United States District Court for the Southern District of New York.

(b) The appraisers so selected shall meet the qualifications for appraisers set forth in Section 12.4 and may by mutual agreement employ experts in their valuation.

(c) Acting jointly with each other, the three appraisers, within 90 days after appointment of the third appraiser, shall submit to the Partners a written report and appraisal stating therein their respective opinions as to the value, determined as of the time the Partnership has been dissolved pursuant to this section, of all Partnership property for the purpose of a cash sale subject to existing liabilities and encumbrances. If the three appraisers shall not have agreed upon a single value, the following procedure shall be employed: the three values determined by the appraisers shall be averaged; the value which differs from such average by the greatest amount shall be discarded; the remaining two values shall again be averaged; and such final average shall be deemed to be the appraised value as determined by the appraisers.

(d) The value of the Partnership Interest for which the liquidating Partner must account is the amount which would be distributed pursuant to Section 18.3 to the Partner referred to in subsections (i), (ii) or (iii) above if the Partnership assets were sold at a price equal to their appraised value.

(e) Subject to the Venture Agreements, the liquidating Partner shall have the right to retain the Partnership's property and goodwill *provided* (i) it discharges all Partnership debts and liabilities; or furnishes the other Partner an indemnity agreement indemnifying it against, and holding it harmless from, all obligations of the Partnership other than those known to

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it and not known to the liquidating Partner, and (iii) accounts to the other Partner by cash payment for its interest in the Partnership as provided herein.

Section 16. Default

16.1 If a Partner commits an act in violation of or otherwise breaches any provisions of Section 12 or 13 of this Agreement or a Parent of a Partner commits an act in violation of or otherwise breaches Section 11 of the Parents' Agreement or an Affiliate of a Partner commits an act in violation of or otherwise breaches the provisions of Sections 12 and 13 of the Stockholders' Agreements, and the default resulting from any such act or breach is not cured within 60 days after notice to such Partner (the "Defaulting Partner") from the other Partner of such default, then in such event the other Partner

(a) (i) may by giving notice to the Defaulting Partner declare the Partnership dissolved, and upon such declaration the Partnership shall be dissolved, the Partner making such declaration shall be the liquidating Partner and shall cause the Partnership to be wound up in accordance with the provisions of Section 18, or

(ii) may, if it does not elect to dissolve the Partnership, elect at any time within three years of such violation or breach to have appraised in accordance with Section 14.4 the Partnership Interest of the Defaulting Partner and to acquire such Partnership Interest by giving notice of such election to the Defaulting Partner. On the date of the effectiveness of such notice, the Defaulting Partner shall be deemed to have made an offer to sell all of its Partnership Interest to the other Partner at the Option Price, which for this purpose shall be the amount described in Section 14.5 of this Agreement, in accordance with the provision of Section 13, and the Initial Notice referred to in Section 13 shall be deemed to have been given and the other Partner shall be deemed to have accepted such offer; and

(b) shall have the right to have its representatives have a 55% vote on the Management Committee and shall be entitled to designate the Chairman of the Management Committee, and all actions of the Management Committee shall thereafter be taken by majority vote, *provided* that (i) such Partner shall take no action or cause or permit the

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Partnership to take any action which would be unfair as to the Defaulting Partner and (ii) the Defaulting Partner shall not be required (but may choose) to meet any call made by the Management Committee for an additional capital contribution to the Partnership.

Section 17. Dissolution in Contravention of the Agreement

17.1 If either Partner ("Dissolving Partner") shall cause dissolution of the Partnership in contravention of this Agreement, the Partner not responsible for such dissolution ("Non-Dissolving Partner") in its sole discretion may:

(i) become the liquidating Partner and cause the Partnership business to be wound up and all its assets to be distributed in accordance with the provisions of Section 18.3;

(ii) elect to continue the business of the Partnership and to pay to the Dissolving Partner the value of his Partnership Interest at the date of such dissolution, less any damages, losses and liabilities resulting from or caused by such dissolution, including but not limited to legal expenses, and less any value of goodwill attributable to the Partnership's business, such payment to be made to the Dissolving Partner, at the option of the Non-Dissolving Partner, in ten equal quarterly installments, with interest at the rate of 5% per annum on unpaid installments, the first installment to be paid on the date three years following the date of such dissolution; or

(iii) elect to acquire the Partnership Interest of the Dissolving Partner pursuant to the provisions of Section 14.5, as if the Dissolving Partner were the Withdrawing Partner as defined in Section 14 and the date of the event causing dissolution was the "Section 14 Notice".

Section 18. Dissolution of the Partnership

18.1 The Partnership shall only be dissolved by the unanimous vote of the Partners, in accordance with the provisions of Section 14, 15 or 16 of this Agreement, or as otherwise permitted by Sections 62.3 and 63.1(b)-(f) of the Act.

18.2 Upon dissolution by unanimous vote of the Partners, the Partners shall be co-liquidating Partners and shall continue to act through the Management Committee; in such event the co-liquidating Partners shall have equal rights to wind up the Partnership and shall proceed to cause the

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Partnership's property to be sold and distribute the proceeds of sale as provided in Section 18.3. In a dissolution pursuant to Section 14, 15 or 16, or in a dissolution referred to in Section 17, the liquidating Partner shall be as therein provided and such liquidating Partner shall have the right to wind up the Partnership and may in such winding up either (i) cause the Partnership's property to be sold and distribute the proceeds of sale as provided in Section 18.3 or (ii) exercise the additional rights specifically granted in those respective Sections. In any other dissolution, the liquidating Partner shall be the Partner not causing or not responsible for such dissolution.

18.3 The proceeds from liquidation of the Partnership shall be applied in the following order of priority:

(i) Debts and liabilities of the Partnership except:

(A) loans or advances that may have been made by the Partners to the Partnership, and

(B) debts secured by liens on property sold subject thereto, provided that neither the Partnership nor either of the Partners is personally liable on, or is released from liability on such debts;

(ii) Expenses of liquidation;

(iii) To the setting up of any reserves which the liquidating Partner or Partners, as the case may be, may deem necessary for any contingent or unforeseen liabilities or obligations of the Partnership or of the Partners arising out of or in connection with the Partnership. Said reserves may be paid over by the liquidating Partner or Partners to a bank or trust company acceptable to the liquidating Partner or Partners, as the case may be, to be held by it for the purpose of disbursing such reserves in payment of any of the aforementioned liabilities or obligations, and at the expiration of such period as the liquidating Partner or Partners, as the case may be, shall deem advisable, distributing the balance, if any, thereafter remaining, in the manner hereinafter provided;

(iv) To the repayment of any loans that may have been made by the Partners to the Partnership;

(v) To the repayment of each Partner's capital account in the proportion that the balances therein bear to each other;

(vi) To both Partners in accordance with their Partnership Interests in the Partnership.

18.4 A reasonable time shall be allowed for the orderly liquidation of the assets of the Partnership and the discharge of liabilities to creditors so as to enable the Partners to minimize the losses normally attendant upon a liquidation.

18.5 If the Partnership is dissolved otherwise than pursuant to the unanimous vote of the Partners or pursuant to Section 14, the Partner whose act or whose Parent's act resulted in the dissolution, or whose act or whose Parent's act gave rise to the right to dissolution or the Partner otherwise causing or responsible for dissolution shall be liable to the other Partner for all damages, losses and liabilities incurred by such other Partner in connection with such dissolution, including but not limited to legal expenses.

Section 19. Miscellaneous

19.1 *Remedies.*

No provision of this Agreement shall be construed to be a waiver by either Partner of any rights or remedies such Partner may have against the other Partner for failure to comply with the provisions of this Agreement and, unless otherwise provided in this Agreement, no remedy herein conferred is intended to be exclusive of any other remedy, but every such remedy shall be cumulative and shall be in addition to every other remedy herein conferred or now or hereafter existing at law or in equity or by statute.

19.2 *Notices.*

Any notice, election or consent required or contemplated under the terms of this Agreement shall be in writing and shall be effective (and the date of such notice, as used herein, shall be deemed to be the date such notice is effective) (i) when personally delivered during normal business hours to the party to be given such notice, election or consent at the address designated by it for such delivery, (ii) fourteen days after such notice, election or consent shall have been deposited in the mail, certified or registered, with return receipt requested, and with air mail postage thereon fully prepaid, addressed to such address, or (iii) on the business day at the address of the recipient next following the day that such notice, election or consent shall have been sent by telex or telegram fully prepaid at straight

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rates sent to such address, whichever shall first occur. Until otherwise specified by notice, the addresses for such notice, election or consent shall be:

ITE: I-T-E Imperial Corporation
c/o Gould Inc.
10 Gould Center
Rolling Meadows, Illinois 60008
Attn: Secretary

BBC-US: Brown Boveri Power Delivery, Inc.
c/o Brown Boveri Corporation
1460 Livingston Avenue
North Brunswick, New Jersey 08902
Attn: Chairman of the Board

A copy of any notice sent hereunder shall be sent to the Partnership at its principal executive offices, to the attention of the Chief Executive Officer. Each successor Partner shall give notice in accordance herewith to the other Partner of its address for purposes of such notices, elections or consents.

19.3 *Entire Agreement; Modification.*

This Agreement, the Exhibits and Schedules hereto and the agreements and schedules referred to in the Index represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersede all prior negotiations and writings between the parties. This Agreement may not be amended except by a written instrument executed by each Partner.

19.4 *Controlling Law; Disputes.*

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New York. Any disputes arising out of this Agreement, including but not limited to the meaning and effect hereof, shall be settled by arbitration to be conducted in accordance with the provisions of Section 16.4 of the Parents' Agreement dated as of January 31, 1979, between Gould and BBC.

19.5 *Further Assurances.*

Each Partner shall in addition to instruments of transfer to be delivered on the Effective Date, execute such deeds, assignments, endorsements and

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other instruments and evidences of transfer, give such further assurances and perform such acts which are or may become necessary or appropriate fully to effectuate and carry out the provisions of this Agreement. All such additional deeds, assignments, endorsements and other instruments and evidences of transfer and all such other acts of any kind shall be delivered or taken on or as soon as possible following the Effective Date.

19.6 *Assignment; Third Parties.*

This Agreement shall be binding upon and inure to the benefit of the Partners and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned by either Partner other than pursuant to the provisions of Section 12 hereof without the written consent of the other Partner. No person, other than a Parent, not a party to this Agreement (including any employee of either Parent or Partner or any Subsidiary of a Parent or Partner or of the Partnership) shall have or acquire any rights by reason of this Agreement.

19.7 *United States Dollars.*

Unless otherwise specified, all monetary amounts specified in this Agreement are, and all payments hereunder shall be made, in United States dollars.

19.8 *Headings.*

The headings of Sections in this Agreement are for convenience only and are not a part of this Agreement.

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

I-T-E IMPERIAL CORPORATION

By_____

BROWN BOVERI POWER DELIVERY, INC.

By_____

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Exhibits to Partnership Agreement

Exhibit A —Description of ESG

Schedule 1 —ESG Partnership Assets, ESG Partnership Intangibles and Partnership Liabilities.

AGREEMENT OF MERGER

This Agreement of Merger (hereinafter called the "Agreement") is made and entered into as of the 9th day of February 1976, by and among Gould Inc., a Delaware corporation (hereinafter called "Gould"), Gite Corporation, a Delaware corporation (hereinafter called "Newco") and I-T-E Imperial Corporation, a Delaware corporation (hereinafter called "I-T-E").

In consideration of the mutual covenants, agreements and warranties herein contained, it is agreed that I-T-E shall be merged into Newco and that the terms and conditions of the merger, the mode of carrying the merger into effect and certain other provisions relating thereto shall be as hereinafter set forth:

ARTICLE I

MERGER

1.1 *Surviving Corporation.* On the Merger Date, as defined in Paragraph 1.6, I-T-E shall be merged into Newco, which shall be the surviving corporation (hereinafter sometimes called the "Surviving Corporation") and which shall continue its corporate existence under the laws of the State of Delaware and as part of said merger shall change its name to "I-T-E Imperial Corporation". The separate existence and corporate organization of I-T-E shall cease on the Merger Date, and the Surviving Corporation shall succeed to and possess all the properties, rights, privileges, powers, franchises and immunities, as well of a public as of a private nature, and be subject to all the debts, liabilities, obligations, restrictions, disabilities and duties of I-T-E, all without further act or deed, as provided in Section 259 of the Delaware General Corporation Law. Gould shall not become subject to any debts, liabilities, obligations, restrictions, disabilities and duties of I-T-E or Newco except as provided in Section 2.7.

1.2 *Further Documents.* From time to time, after the Merger Date, as and when requested by the Surviving Corporation or its successors or assigns, the proper officers and directors of I-T-E as of the Merger Date shall, for and on behalf and in the name of I-T-E or otherwise, execute and deliver all such deeds and other instruments and shall take or cause to be taken such further or other actions as the Surviving Corporation or its successors or assigns may deem necessary or desirable in order to confirm of record or otherwise to the Surviving Corporation title to and possession of all of the aforesaid properties, rights, privileges, powers, franchises and immunities and otherwise to carry out fully the provisions and purposes of this Agreement.

1.3. *Certificate of Incorporation.* From and after the Merger Date, and until thereafter amended as provided by law, the Certificate of Incorporation of Newco, as in effect immediately prior to the Merger Date, shall be the Certificate of Incorporation of the Surviving Corporation; provided that Article I of such Certificate shall be amended upon the effectiveness of the merger, and without further action of the stockholders, to read as follows: "The name of the corporation is I-T-E Imperial Corporation".

1.4. *By-Laws.* From and after the Merger Date, the by-laws of Newco as in effect immediately prior to the Merger Date shall be and, until amended as therein provided, shall continue to be the by-laws of the Surviving Corporation.

1.5. *Directors and Officers.* From and after the Merger Date, the directors of Newco in office immediately prior to the Merger Date shall be the directors of the Surviving Corporation. From and after the Merger Date, the officers of I-T-E in office immediately prior to the Merger Date shall become the officers of the Surviving Corporation. Said directors and officers of the Surviving Corporation shall hold office for the term, and subject to the provisions, set forth in the by-laws of the Surviving Corporation.

1.6. *Merger Date.* The merger shall become effective, after all necessary corporate action has been taken to approve this Agreement and all other necessary action has been taken to effectuate the transaction contemplated herein, including the filing of this Agreement in accordance with the laws of the State of Delaware, as of the close of business of Newco on April 30, 1976 or as soon thereafter as practicable, unless otherwise agreed by the parties hereto (hereinafter called the "Merger Date").

ARTICLE II

Conversion of Shares and Other Securities

2.1. *Conversion of I-T-E Stock Into Gould Stock.* (a) Upon the merger becoming effective, each share of common stock of I-T-E ("I-T-E Common Stock") issued and outstanding (other than the shares owned by Gould) shall, by reason of the merger and without any action on the part of the holders thereof, be converted into 0.83 of a share of common stock of Gould ("Gould Common Stock"). Each certificate representing, immediately prior to the Merger Date, outstanding shares of I-T-E Common Stock shall thereupon be deemed for corporate purposes (subject to Section 2.4 below) to evidence ownership of the number of shares of Gould Common Stock into which such shares of I-T-E have been converted. Effective upon the consummation of the merger, any shares of I-T-E Common Stock held in the treasury of I-T-E and all shares of I-T-E Common Stock owned by Gould shall automatically be cancelled.

(b) *Combining Fractional Interests.* No fractional shares of Gould Common Stock and no scrip certificates therefor shall be issued to represent less than a single share to which I-T-E stockholders may be entitled; and such fractional share interests shall not entitle the owners thereof to vote, receive dividends or to exercise any other right of stockholders. Each such stockholder shall be afforded an opportunity during the period of thirty (30) days following the Merger Date, through an agent for all such stockholders (appointed and compensated by Gould), either to consolidate his fractional interest into one full share of Gould Common Stock by purchasing the additional fractional interest required or to sell his fractional interest and obtain the proceeds of such sale. All fractional interests which are not consolidated or sold pursuant to such arrangements will be consolidated by such agent and be sold following the expiration of such thirty (30) day period, and the proceeds thereof (net of any brokerage commissions or transfer taxes) remitted to the stockholders entitled thereto (and the single fractional interest, if any, remaining thereafter shall be purchased by Gould at the average per share price represented by such proceeds and shall be cancelled). Any such amount not claimed within six (6) months after the date of such consolidation or sale shall be repaid to Gould, after which the stockholders entitled thereto shall look only to Gould for the payment thereof without interest. Purchases and sales of fractional interests will be effected periodically on the basis of quoted market prices for Gould Common Stock on the New York Stock Exchange, and the agent may offset purchase and sell orders.

2.2. *Gould to Make Shares Available.* Gould shall make available, by transferring to Newco or by transferring directly to the stockholders of I-T-E, such number of shares of Gould Common Stock as shall be required for conversion in accordance with Section 2.1.

2.3. *Outstanding Shares of Newco.* Each of the 1,000 shares of Common Stock of Newco issued and outstanding on the Merger Date (all of which shall be on said date owned by Gould) shall continue to be a share of Common Stock of the Surviving Corporation and the certificates for such stock then issued and outstanding shall continue to be valid certificates therefor.

2.4. *Exchange of Certificates.* Following the Merger Date, Gould or its agent shall act as exchange agent in effecting the exchange of certificates which, prior to the merger, represented shares of I-T-E Common Stock for certificates representing shares of Gould Common Stock. Subsequent to the Merger Date, no dividends or distributions of any kind shall be paid by Gould in respect of shares of Gould Common Stock for which new Gould certificates have not been issued in exchange for the

I-T-E certificates. Upon the subsequent surrender and exchange of certificates, the holder shall be paid the amount of any dividends or distributions, without interest, which theretofore became payable with respect to the shares of Gould evidenced by such certificates. If any certificate for Gould Common Stock is to be issued in a name other than that in which the certificate for I-T-E Common Stock surrendered for exchange is registered, it shall be a condition of such exchange that the certificate so surrendered shall be properly endorsed or otherwise in proper form for transfer and that the person requesting such exchange shall pay any transfer or other taxes required by reason of the issuance of certificates for such Gould Common Stock in a name other than that of the registered holder of the certificate surrendered. Gould may impose such other reasonable conditions upon the exchange of certificates as may be necessary or desirable and are consistent with the provisions of this agreement.

2.5. *Cancellation of I-T-E Certificates.* Upon the submission to Gould of certificates which prior to the merger represented shares of I-T-E, the same shall forthwith be cancelled.

2.6. *Return of Unused Gould Common Stock.* Any shares of Gould Common Stock made available pursuant to Section 2.2 above and not exchanged for I-T-E Common Stock shall be returned to Gould following the Merger Date.

2.7. *Obligations of Gould to Fulfill I-T-E's Obligations Under Stock Options.*

(a) Gould agrees to assume I-T-E's obligations pursuant to stock options to the extent outstanding on the Merger Date. Such obligations shall be fulfilled upon exercise of such options, by the issuance of a number of shares of Gould Common Stock equal to the product of (i) 0.83 and (ii) the number of shares of I-T-E Common Stock issuable pursuant to any such option. Any resulting fraction of a share shall be rounded to the nearest whole number. The exercise price for any such outstanding option shall be the product of (i) the reciprocal of 0.83 and (ii) the present exercise price for such option.

(b) The shares of Gould Common Stock issuable under this Section 2.7, and the exercise price for such options, shall be subject to adjustment for stock dividends, stock splits and other similar events in accordance with the provisions of the instruments governing the above mentioned commitments of I-T-E to issue stock.

ARTICLE III

Representations and Warranties of I-T-E

I-T-E represents and warrants to Gould and Newco as follows:

3.1. *Due Incorporation, etc.* I-T-E and each of its subsidiaries listed in Form 10-K for the year ended December 31, 1974 is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of incorporation, with all requisite corporate power and authority to own, operate and lease its properties and to carry on its business as now being conducted, and I-T-E and each such subsidiary is duly qualified or licensed and in good standing in each jurisdiction in which the property owned, leased or operated by it or the nature of the business conducted by it makes such qualification or licensing necessary.

3.2. *Capitalization and Compliance with Securities Laws.* The authorized capital stock of I-T-E consists of 20,000,000 shares of voting Common Stock, $1.00 per share par value, of which 8,331,299 shares were issued and outstanding as of February 3, 1976, and 20,000 shares of I-T-E Preferred Stock, $50.00 per share par value, of which none is issued and outstanding. All of such outstanding shares have been validly issued and are fully paid and nonassessable and the issuance and sale of all such shares has been in full compliance with all applicable Federal and state securities laws.

3.3. *Options and Obligations to Register.* Neither I-T-E nor any subsidiary has outstanding any option, warrant or other right to purchase, or convert any obligation into, any shares of capital stock,

except for (i) stock options granted to employees to purchase as of February 3, 1976 an aggregate of 576,134 shares of I-T-E Common Stock and (ii) warrants to purchase stock of Nucleonic Data Systems, all of which warrants are owned by I-TE. Neither I-T-E nor any subsidiary has otherwise agreed to issue or sell any securities. Neither I-T-E nor any subsidiary has any obligation to register any securities under the Securities Act of 1933 or any other statute except for obligations which have been disclosed to Gould prior to the date hereof.

3.4. *Financial Statements.* I-T-E has delivered to Gould and Newco a consolidated balance sheet of I-T-E and subsidiaries as of December 31, 1975 and consolidated statements of income, common shareholders' equity and changes in financial position for the year then ended, in each case examined and reported on by Arthur Andersen & Co. Such financial statements present fairly the financial position of I-T-E and subsidiaries and the results of their operations and changes in financial position as of the date and for the period indicated, in conformity with generally accepted accounting principles, consistently applied, except as otherwise stated in such financial statements and the notes thereto. The consolidated balance sheet as of December 31, 1975, including footnotes thereto, makes full and adequate disclosure of, and provision for, all material obligations and liabilities (including contingent obligations and liabilities) of I-T-E and its subsidiaries as of such date. Neither such balance sheet nor such income statement, including the footnotes thereto, contain any untrue statements of a material fact or omit any material fact necessary in order to make the statements contained in this paragraph or therein not misleading.

3.5. *Corporate Authority of I-T-E.* I-T-E has full corporate power and authority to enter into this Agreement and (subject to the requisite approval of the I-T-E stockholders referred to in Section 5.1 below) to carry out the transactions contemplated hereby. On February 9, 1976, the Board of Directors of I-T-E duly authorized this transaction. The execution and delivery hereof, and (subject to such requisite approval of I-T-E stockholders and the consent of certain lenders and others) the consummation of the transactions contemplated hereby, will not violate any provision of I-T-E's Certificate of Incorporation or by-laws, or violate any provision of, or result in the acceleration of any obligation or the creation of any lien or security interest under, any agreement, indenture, instrument, lease, security, mortgage, lien, order, arbitration award, judgment or decree to which I-T-E or any of its subsidiaries is a party or by which any of such companies or any of their property is bound and will not violate any other restriction of any character to which I-T-E or any such subsidiary is subject; and this Agreement is valid and enforceable against I-T-E in accordance with its terms.

3.6. *No Adverse Change.* Since December 31, 1975 there has not been (i) any material adverse change in the consolidated financial condition, business, properties, assets, or results of operations of I-T-E and its subsidiaries or (ii) any loss or damage (whether or not covered by insurance) to any of the property or assets of I-T-E or its subsidiaries which materially affects or impairs their ability to conduct their business, or any other event or condition of any character which has materially and adversely affected the business of I-T-E or its subsidiaries.

3.7. *Title to Properties.* I-T-E and its subsidiaries have good and marketable title to all of the properties they purport to own, including that reflected in the consolidated balance sheet as of December 31, 1975, other than property disposed of in the ordinary course of business subsequent to December 31, 1975, free and clear of any mortgage, lien, pledge, charge, claim or encumbrance, except (i) as shown on said consolidated balance sheet or as specified in the notes thereto, (ii) the lien of taxes not yet due or payable or being contested in good faith by appropriate proceedings and (iii) such imperfections of title and encumbrances, if any, as do not materially detract from the value or interfere with the use of the properties subject thereto or affected thereby, or otherwise materially impair business operations.

3.8. *Patents and Licenses.* I-T-E and its subsidiaries own or possess substantially adequate licenses or other rights to use all patents, trademarks, trade names and copyrights used in their respec-

tive businesses, and the same are sufficient to conduct their respective businesses substantially as now conducted. To the best of the knowledge of its officers, its operations and those of its subsidiaries do not infringe, and no one has asserted to it that such operations do infringe, the patents, trademarks, trade secrets or other rights of anyone in such a manner as would materially affect its business as presently conducted.

3.9. *Litigation and Other Matters.* There are no actions, suits, labor disputes or other litigation, proceedings or governmental investigations of a material nature pending or, to the knowledge of I-T-E, threatened against or affecting I-T-E or any of its subsidiaries, and no material default exists in the performance of any obligation of I-T-E or any of its subsidiaries under the terms of any material lease, contract, commitment, agreement, instrument, plan or license to which any of them is a party or by which any of them is bound.

3.10. *Taxes.* I-T-E and its subsidiaries have filed all tax returns and reports required to be filed, including, without limitation, returns with respect to Federal, state, Dominion, provincial, foreign and local taxes, and have paid in full all taxes shown due thereon (together with all interest, penalties, assessments and deficiencies assessed in connection therewith due through the date hereof). To the best knowledge of I-T-E, such tax returns and reports are correct in all material respects. Federal tax returns of I-T-E and its subsidiaries have been audited by the Internal Revenue Service or otherwise closed through the year ended December 31, 1970 and the results of such audits are duly reflected in the financial statements described in Section 3.4 above except for those portions of deficiencies being contested by I-T-E. Appropriate provision has been made in the financial statements for the ultimate liability anticipated upon resolution of such deficiencies.

3.11. *Products and Product Liability.* No present material product or process of I-T-E has, to I-T-E's knowledge, suffered prior to the date hereof an extraordinary degree of obsolescence. I-T-E has no knowledge of any state of facts or the occurrence of any event forming the basis for any present claim against I-T-E or any of its subsidiaries, not fully covered to the extent of I-T-E's product liability insurance, for product liability on account of negligence or on account of any express or implied warranty except as heretofore disclosed to Gould.

3.12. *Accuracy of Statements.* Neither this Agreement nor any statement, lists, certificate or other information furnished or to be furnished to Gould or Newco in connection with this Agreement or any of the transactions contemplated hereby (including, without limitation, any information regarding I-T-E provided for inclusion in a Registration Statement on Form S-14 (the "Registration Statement") relating to the securities of Gould being issued hereunder) contains or will contain an untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements contained herein or therein, in light of the circumstances in which they are made, not misleading.

3.13. *Information Complete.* All information related to I-T-E's business, its subsidiaries, its prospects and affairs known or which would on reasonable inquiry be known to I-T-E or to its officers and directors, which might affect the willingness of a prudent purchaser for value of the business to complete its purchase or the amount of consideration which such purchaser would be prepared to pay for the business, has been disclosed by I-T-E to Gould.

ARTICLE IV

Representations and Warranties of Gould and Newco

Gould and Newco represent and warrant to I-T-E as follows:

4.1. *Due Incorporation, etc.* Gould, Newco and each of Gould subsidiaries listed in Form 10-K for the year ended June 30, 1975 are corporations duly organized, validly existing and in good standing under the laws of the jurisdiction of incorporation, with all requisite corporate power and authority to own, operate and lease their respective properties and to carry on their respective businesses as now

being conducted and they are duly qualified or licensed and in good standing in each jurisdiction in which the property owned, leased or operated by them or the nature of the business conducted by them makes such qualification or licensing necessary.

4.2. *Capitalization and Compliance with Securities Laws.* The authorized capital stock of Gould consists of 40,000,000 shares of voting Common Stock, $4.00 per share par value, of which 8,841,836 shares were issued and outstanding as of January 31, 1976 and 6,000,000 shares of preferred stock, $1.00 per share par value, of which 200,000 shares of $7.50 Cumulative Preferred Stock and 1,954,890 shares (exclusive of 100,000 shares owned by a subsidiary of Gould) of $1.35 Cumulative Convertible Preferred Stock were issued and outstanding as of January 31, 1976. All such outstanding shares have been validly issued and are fully paid and nonassessable and the issuance and sale of all of such shares has been in full compliance with all applicable Federal and state securities laws.

4.3. *Options and Obligations to Register.* Neither Gould nor any subsidiary has outstanding any option, warrant or other right to purchase or convert any obligation into any shares of capital stock, except for (i) stock options granted to employees to purchase as of January 31, 1976 an aggregate of 525,081 shares of Gould Common Stock, and an aggregate of 2,500 shares of $1.35 Cumulative Convertible Preferred Stock, (ii) the right of holders of $1.35 Cumulative Convertible Preferred Stock to convert into a maximum of 1,335,695 shares of Gould Common Stock, (iii) the right of holders of 5% Convertible Subordinated Debentures to convert into a maximum of 548,511 shares of Gould Common Stock and (iv) the right of holders of Common Stock Purchase Warrants to purchase a maximum of 854,037 shares of Gould Common Stock. Neither Gould nor any subsidiary has any obligation to register any securities under the Securities Act of 1933 or any other statute except for obligations which have been disclosed to I-T-E prior to the date hereof.

4.4. *Financial Statements.* Gould has delivered to I-T-E the consolidated statements of financial position of Gould and subsidiaries as of June 30, 1975 and consolidated statements of earnings, stockholders' equity and changes in financial position for the year then ended, in each case examined and reported on by Ernst & Ernst. Such financial statements present fairly the financial position of Gould and subsidiaries and the results of their operations and changes in financial position as of the date and for the period indicated, in conformity with generally accepted accounting principles, consistently applied, except as otherwise stated in such financial statements and the notes thereto. The consolidated balance sheet as of June 30, 1975, including the footnotes thereto, makes full and adequate disclosure of, and provision for, all material obligations and liabilities (including contingent obligations and liabilities) of Gould and its subsidiaries as of such date. Neither such balance sheet nor such income statement, including the footnotes thereto, contain any untrue statements of a material fact or omit any material fact necessary in order to make the statements contained in this paragraph or therein not misleading.

4.5. *Corporate Authority.* Gould and Newco have full corporate power and authority to enter into this Agreement and (subject to the requisite approval of the Gould stockholders referred to in Section 6.1 below) to carry out the transactions contemplated hereby. On February 9, 1976, the Board of Directors of Gould duly authorized this transaction. The execution and delivery hereof, and (subject to such requisite approval of Gould stockholders) the consummation of the transactions contemplated hereby, will not violate any provisions of the Certificates of Incorporation or by-laws of Gould or Newco, or violate any provision of, or result in the acceleration of any obligation or the creation of any lien or security interest under, any agreement, debenture, installment, lease, securities, mortgage, lien, order, arbitration award, judgment or decree to which Gould or Newco is a party or by which either of them or any of their property is bound and will not violate any other restriction of any character to which they are subject; and this Agreement is valid and enforceable against Gould and Newco in accordance with its terms. The shares of Gould Common Stock to be issued pursuant to Article II will be validly issued and fully paid and nonassessable shares of Common Stock of Gould. Gould owns all of the outstanding securities of Newco.

4.6. *No Adverse Change.* Since June 30, 1975 there has not been (i) any material adverse change in the consolidated financial condition, business, properties, assets or results of operations of Gould

and its subsidiaries or (ii) any loss or damage (whether or not covered by insurance) to any of the property or assets of Gould or its subsidiaries which materially affects or impairs its ability to conduct its business, or any other event or condition of any character which has materially and adversely affected the business of Gould or its subsidiaries.

4.7. *Title to Properties.* Gould and its subsidiaries have good and marketable title to all of the properties they purport to own, including that reflected in the consolidated balance sheet as of June 30, 1975, other than property disposed of in the ordinary course of business and three divisions sold subsequent to June 30, 1975, free and clear of any mortgage, lien, pledge, charge, claim or encumbrance, except (i) as shown on said consolidated balance sheet or as specified in the notes thereto, (ii) the lien of taxes not yet due or payable or being contested in good faith by appropriate proceedings and (iii) such imperfections of title and encumbrances, if any, as do not materially detract from the value or interfere with the use of the properties subject thereto or effected thereby, or otherwise materially impair business operations.

4.8. *Patents and Licenses.* Gould and its subsidiaries own or possess substantially adequate licenses or other rights to use all patents, trademarks, trade names and copyrights used in their respective businesses, and the same are sufficient to conduct their respective businesses substantially as now conducted. To the best of the knowledge of its officers, its operations and those of its subsidiaries do not infringe and no one has asserted to it that such operations do infringe, the patents, trademarks, trade secrets or other rights of anyone in such a manner as would materially affect its business as presently conducted.

4.9. *Litigation and Other Matters.* There are no actions, suits, labor disputes or other litigation proceedings or governmental investigations of a material nature pending or, to the knowledge of Gould, threatened against or affecting Gould or any of its subsidiaries, and no material default exists in the performance of any obligation of Gould or any of its subsidiaries under the terms of any material lease, contract, commitment, agreement, instrument, plan or license to which any of them is a party or by which any of them is bound.

4.10. *Taxes.* Gould and its subsidiaries have filed all tax returns and reports required to be filed, including, without limitation, returns with respect to Federal, state, Dominion, provincial, foreign and local taxes, and have paid in full all taxes shown due thereon (together with all interest, penalties, assessments and deficiencies assessed in connection therewith due through the date hereof). To the best knowledge of Gould such tax returns and reports are correct in all material respects. Federal tax returns of Gould have been audited by the Internal Revenue Service or otherwise closed through the year ended June 30, 1973 and the results of such audits are duly reflected in the financial statements described in Section 4.4 above except for those portions of deficiencies being contested by Gould. Appropriate provision has been made in the financial statements for the ultimate liabilities anticipated upon resolution of such deficiencies.

4.11. *Products and Product Liability.* No present material product or process of Gould has, to Gould's knowledge, suffered prior to the date hereof an extraordinary degree of obsolescence. Gould has no knowledge of any state of facts or the occurrence of any event forming the basis for any present claim against Gould or any of its subsidiaries, not fully covered to the extent of Gould's product liability insurance, for product liability on account of negligence or on account of any express or implied warranty except as heretofore disclosed to I-T-E.

4.12. *Accuracy of Statements.* Neither this Agreement nor any statement, list, certificate or other information furnished or to be furnished to I-T-E by Gould or Newco in connection with this Agreement or any of the transactions contemplated hereby (including without limitation any information regarding Gould provided for inclusion in the proxy material of I-T-E for the special meeting of stockholders described in Section 5.1) contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements contained herein or therein, in light of the circumstances in which they are made, not misleading.

4.13. *Information Complete.* All information related to Gould's business, its subsidiaries, its prospects and affairs known or which would on reasonable inquiry be known to Gould or to its officers and directors, which might affect the willingness of a prudent purchaser for value of the business to complete its purchase or the amount of consideration which such purchaser would be prepared to pay for the business, has been disclosed to I-T-E by Gould.

ARTICLE V

Covenants of I-T-E

I-T-E agrees that from the date hereof to the Merger Date:

5.1. *I-T-E Stockholders Meeting; Other Action.* I-T-E will duly convene and hold a special meeting of its common stockholders for the purpose of approving and adopting this Agreement and authorizing the transactions contemplated hereby and will take all other action required by it to carry out the transactions contemplated in this Agreement.

5.2. *Access to Information.* I-T-E will furnish Gould all information concerning I-T-E and its subsidiaries which Gould reasonably requests for inclusion in its proxy statement, in a Registration Statement on Form S-14 under the Securities Act of 1933 and in any listing application to be filed by Gould with the New York Stock Exchange respecting any shares of Gould Common Stock to be issued hereunder. I-T-E will give to Gould and to Gould's accountants, counsel and other representatives full access, without unreasonable interference with business operations, and subject to government security regulations, to all of the properties, books, contracts, commitments and records of I-T-E and its subsidiaries, will furnish to Gould all such documents and copies of documents and records and information relating to I-T-E and its subsidiaries, and will make its officers and employees available to Gould as Gould shall from time to time reasonably request.

5.3. *Preservation of Business.* I-T-E will use its best efforts to (i) preserve intact the present business organization and personnel of I-T-E and its subsidiaries, (ii) preserve the present good will and advantageous relationships of I-T-E and its subsidiaries with investors and all other persons having business dealings with I-T-E and its subsidiaries and (iii) preserve and maintain in force all licenses, registrations, franchises, patents, trademarks, copyrights, bonds and other similar rights of I-T-E and its subsidiaries. I-T-E and its subsidiaries will not enter into any employment agreements with any of their officers or management personnel. I-T-E and its subsidiaries will maintain in force all property, casualty, crime, directors and officers and other forms of insurance which they are presently carrying and no cancellation of existing insurance coverage shall be effected by I-T-E and its subsidiaries.

5.4. *Ordinary Course.* I-T-E and its subsidiaries shall operate their business only in the usual, regular and ordinary course and manner, and, except with the written consent of Gould, shall not encumber or mortgage any property or assets, and shall not, except in the ordinary course of business, incur any obligation (contingent or otherwise) or purchase or acquire, or transfer or convey, any material assets or property or enter into any transaction or make or enter into any contract or commitment and shall not, except with the written consent of Gould, acquire any stock or other equity interest in any corporation, trust or other entity.

5.5. *Books and Records.* I-T-E and its subsidiaries shall maintain their books, accounts and records in the usual, regular and ordinary manner, and on a basis consistent with prior years, and shall comply with all laws applicable to them or to the conduct of their business.

5.6. *No Organic Change.* No amendment shall be made to the Certificate of Incorporation or the by-laws of I-T-E or its subsidiaries, no change shall be made in their capital stock by reclassification, subdivision, reorganization or otherwise, and neither I-T-E nor any subsidiary shall, except with the written consent of Gould, merge or consolidate with any other corporation, trust or entity or change the character of their business.

5.7. *No Issuance by I-T-E of Shares, Options, etc.* No change shall be made in the number of shares of I-T-E Common Stock issued and outstanding (except for the issuance of any shares of I-T-E

Common Stock referred to in Section 3.3); and no option, warrant or other right to purchase or to convert any obligation into shares of I-T-E Common Stock shall, except with the written consent of Gould, be granted or made.

5.8. *Compensation.* No increase shall be made in compensation payable to any elected officer of I-T-E or to other management personnel from the amount payable as of January 1, 1976 except in accordance with I-T-E's normal and customary practice or with the consent of Gould; no pension or profit sharing plan, or any other employee benefit arrangement, shall be introduced or changed except as a result of collective bargaining negotiations.

5.9. *No Dividends, etc.* I-T-E may declare and pay a regular quarterly dividend of 20¢ per share on March 10, 1976. Except for such dividend, no dividend or other distribution or payment shall be declared, paid or made by I-T-E with respect to I-T-E Common Stock and no purchase, redemption or other acquisition shall be made by I-T-E of any I-T-E Common Stock.

5.10. *Consents and Approvals.* I-T-E shall use its best efforts to obtain all necessary consents and approvals of other persons and governmental authorities to the performance by I-T-E of the transactions contemplated by this Agreement. I-T-E shall make all filings, applications, statements and reports to all Federal or state government agencies or entities which are required to be made prior to the Merger Date by or on behalf of I-T-E or its subsidiaries pursuant to any statute, rule or regulation in connection with the transactions contemplated by this Agreement.

ARTICLE VI

Covenants of Newco and Gould

Gould and Newco agree that from the date hereof to the Merger Date:

6.1. *Stockholders Meetings; Other Action.* Gould and Newco will duly convene and hold special meetings of their stockholders for the purpose of approving and adopting this Agreement and authorizing the transactions contemplated hereby and will take all other action required of them to carry out the transactions contemplated in this Agreement.

6.2. *Access to Information.* Gould will furnish to I-T-E all information concerning Gould and its subsidiaries which I-T-E reasonably requests for inclusion in the proxy solicitation material to be transmitted by I-T-E to its stockholders in connection with the special meeting referred to in Section 5.1. Gould will give to I-T-E and to I-T-E's accountants, counsel and other representatives full access, without unreasonable interference with business operations, and subject to government security regulations, to all of the properties, books, contracts, commitments and records of Gould, will furnish to I-T-E all such documents and copies of documents and records and information relating to Gould, and will make its officers and employees available to I-T-E as I-T-E shall from time to time reasonably request.

6.3. *Registration and Listing.* Gould will use its best efforts to effect (a) the registration under the Securities Act of 1933 of all securities of Gould to be issued pursuant to this Agreement and (b) authorization of listing on the New York Stock Exchange, subject to official notice of issuance, of the shares of Gould Common Stock to be issued pursuant to this Agreement.

6.4. *Books and Records.* Gould and its subsidiaries shall maintain their books, accounts and records in the usual, regular and ordinary manner, and on a basis consistent with prior years, and shall comply with all laws applicable to them or to the conduct of their business.

6.5. *No Organic Change.* No amendment shall be made to the Certificate of Incorporation or the by-laws of Gould or Newco, no change shall be made in their capital stock by reclassification, subdivision, reorganization or otherwise, and neither Gould nor Newco shall merge or consolidate with any other corporation, trust or entity or change the character of their business.

6.6. *No Issuance by Gould of Shares, Options, etc.* No change shall be made in the number of shares of Gould Common Stock issued and outstanding (except for the issuance of any shares of

Gould Common Stock referred to in Section 4.3); and no option, warrant or other right to purchase or to convert any obligation into shares of Gould Common Stock shall be granted or made except for grants of options under Gould Stock Option Plans.

6.7. *Consents and Approvals.* Gould and Newco shall use their best efforts to obtain all necessary consents and approvals of other persons and governmental authorities to the performance by Gould and Newco of the transactions contemplated by this Agreement. Gould and Newco shall make all filings, applications, statements and reports to all Federal or state government agencies or entities which are required to be made prior to the Merger Date by or on behalf of Gould or Newco pursuant to any statute, rule or regulation, in connection with the transactions contemplated by this Agreement.

ARTICLE VII

Conditions Precedent to Obligations of Gould and Newco

The obligations of Gould and Newco under this Agreement are, at the option of Gould and Newco, subject to satisfaction of the following conditions precedent on or before the Merger Date:

7.1. *Warranties True as of Both Present Date and Merger Date.* The representations and warranties of I-T-E and its subsidiaries contained herein shall be true in all material respects on and as of the date of this Agreement, and shall also be true in all material respects (except for such changes as are permitted by the terms of this Agreement) on and as of the Merger Date with the same force and effect as though made by I-T-E on and as of such Date.

7.2. *Compliance with Covenants; Certificate.* I-T-E and its subsidiaries shall have performed all obligations and agreements and complied with all covenants contained in this Agreement, to be performed and complied with by them on or prior to the Merger Date; and I-T-E shall have delivered to Newco a certificate dated as of the Merger Date of its President and its Vice President—Finance, certifying to the correctness of all warranties and representations of I-T-E and its subsidiaries as of such Date and as to compliance with Section 7.1 and this Section 7.2.

7.3. *Opinion of I-T-E Counsel.* Newco and Gould shall have received an opinion, dated the Merger Date, of Franklyn S. Judson, Esq., general counsel of I-T-E, to the effect that

(a) I-T-E is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and each of its subsidiaries is a corporation duly organized, validly existing and in good standing under the laws pursuant to which it is incorporated, with all requisite corporate power and authority to own, operate and lease their properties and to carry on their business as now being conducted, and are duly qualified or licensed and in good standing in each jurisdiction in which the property owned, leased or operated by them or the nature of the business conducted by them makes such qualification or licensing necessary;

(b) All of the outstanding shares of I-T-E Common Stock have been duly and validly authorized and issued and are fully paid and nonassessable;

(c) The execution, delivery and performance of this Agreement have been duly and validly authorized and approved by the board of directors and the common stockholders of I-T-E, all in the manner required by any applicable law, charter or by-law provision or agreement, and this Agreement constitutes the valid and binding obligation of I-T-E in accordance with its terms;

(d) All actions and proceedings required by law or by this Agreement to be taken by I-T-E at or prior to the Merger Date in connection with this Agreement and the transactions contemplated herein, including, without limitation, the obtaining of all necessary consents and approvals, have been duly and validly taken and completed;

(e) Except as specified by such counsel, such counsel does not know of any action, suit, labor dispute or other litigation, proceeding or governmental investigation of a material nature pending or threatened against or affecting I-T-E or any of its subsidiaries, or any officers, directors or em-

ployees thereof in their capacity as such, or any of the properties or businesses thereof, or relating to the transactions contemplated by this Agreement;

(f) To the knowledge of such counsel, neither I-T-E nor any of its subsidiaries has breached any provision of, or is in default under the terms of, any material lease, contract, commitment, agreement, instrument, plan or license to which such concern is a party, under which it has any rights or by which it is bound, nor is I-T-E or any subsidiary in material violation or default of or with respect to any law, governmental regulation or rule or order of any court or governmental authority or under any applicable regulation or provision of any charter, by-law or other restriction.

Such opinion shall also cover such other matters incident to the transactions herein contemplated as Gould and Newco may reasonably request.

7.4. *Proceedings Satisfactory to Counsel.* All proceedings taken by I-T-E and all instruments executed and delivered by I-T-E on or prior to the Merger Date in connection with the transactions herein contemplated shall be satisfactory in form and substance to counsel for Gould and Newco.

7.5. *Registration Under Securities Act of 1933 and Listing on New York Stock Exchange.* All of the securities of Gould to be issued hereunder shall have been registered under the Securities Act of 1933 and the shares of Gould Common Stock to be issued hereunder shall have been authorized for listing, subject to official notice of issuance, on the New York Stock Exchange.

7.6. *Litigation.* No action or proceeding by any governmental agency shall have been instituted or threatened which would enjoin, restrain or prohibit, or might result in substantial damages in respect of, this Agreement or consummation of the transaction contemplated by this Agreement, and would in the reasonable judgment of Gould and Newco make it inadvisable to consummate such transaction, and no court order shall have been entered in any action or proceeding instituted by any other party which enjoins, restrains or prohibits this Agreement or consummation of the transaction contemplated by this Agreement.

7.7. *Arthur Andersen & Co. Letters With Respect to I-T-E.* Gould shall have received two letters from Arthur Andersen & Co., one dated the effective date of the Registration Statement and the other dated the Merger Date, stating that:

(i) They are independent accountants within the meaning of the Securities Act and the applicable published rules and regulations thereunder and the statement in the Registration Statement in answer to Item 3 of Form S-14 is accurate insofar as it relates to themselves;

(ii) In their opinion, the financial statements of I-T-E and its consolidated subsidiaries included in the Registration Statement and examined by them comply as to form in all material respects with the applicable accounting requirements of the Securities Act and of the published rules and regulations thereunder with respect to registration statements on Form S-14; and

(iii) On the basis of procedures (but not an examination in accordance with generally accepted auditing standards) consisting of:

(a) Reading the minutes of meetings of the stockholders and the Board of Directors of I-T-E and its consolidated subsidiaries since December 31, 1975, as set forth in the minute books through a specified date not more than five days prior to the date of delivery of such letter;

(b) Reading the unaudited interim financial statements of I-T-E and its consolidated subsidiaries for the period from December 31, 1975 to the date of the latest available financial statements and for the comparable period of the prior year; and

(c) Making inquiries of certain officials of I-T-E who have responsibility for financial and accounting matters regarding the specific items for which representations are requested below, and such other procedures as Gould may reasonably request;

nothing has come to their attention as a result of the foregoing procedures that caused them to believe that (x) the unaudited financial statements of I-T-E and its consolidated subsidiaries were not prepared in accordance with generally accepted accounting principles and practices applied on a basis consistent in all material respects with those followed in the preparation of the financial statements referred to in the preceding clause (ii) of this Section 7.7, or do not present fairly the information purported to be shown, or (y) at the date of the latest available interim financial statements and at a specified date not more than five days prior to the date of delivery of each such letter, there was any change in the capital stock or long-term debt of I-T-E and its consolidated subsidiaries or any decrease in consolidated net current assets or stockholders' equity as compared with the amounts shown in the latest balance sheet included in the Registration Statement and the related Prospectus ("Prospectus") or (z) for the period from the date of the latest financial statements included in the Registration Statement and the Prospectus to a specified date not more than five days prior to delivery of each such letter, there were any decreases, as compared with the corresponding period in the preceding year, in consolidated net sales or in the total or per-share amounts of net income, except in all instances for such changes or decreases which the Registration Statement and Prospectus discloses have occurred or may occur, or they shall state any specific changes or decreases. Such letters shall also state that, as requested by Gould, they have performed certain specified procedures, including the comparison to certain specified accounting records of I-T-E and its consolidated subsidiaries, of certain items of information appearing in the Registration Statement and Prospectus, and found such items to be in agreement with such records.

7.8. *Results of Examination.* Such examination of the books and affairs of I-T-E and its subsidiaries as may be conducted by Gould or its auditors shall have disclosed no breach of the representations, warranties, or covenants of I-T-E and no material adverse developments in the business or affairs of I-T-E or its subsidiaries.

7.9. *Approval of Gould Stockholders.* This Agreement shall have been approved by the stockholders of Gould in accordance with the Delaware General Corporation Law.

ARTICLE VIII

Conditions Precedent to Obligations of I-T-E

The obligations of I-T-E under this Agreement are, at the option of I-T-E, subject to the satisfaction of the following conditions precedent on or before the Merger Date:

8.1. *Warranties True as of Merger Date.* The representations and warranties of Gould and Newco contained herein shall be true in all material respects on and as of the date of this Agreement, and shall also be true in all material respects (except for such changes as are permitted by the terms of this Agreement) on and as of the Merger Date with the same force and effect as though made by Gould and Newco on and as of such Date.

8.2. *Compliance with Covenants; Certificate.* Gould and Newco shall have performed all obligations and agreements and complied with all covenants contained in this Agreement, to be performed and complied with by them on or prior to the Merger Date; and Gould and Newco shall have delivered to I-T-E certificates, dated as of the Merger Date, of the President or a Vice President of Gould and of the President or a Vice President of Newco, certifying as to the correctness of all warranties and representations of Gould and Newco as of such Date and as to compliance with Section 8.1 and this Section 8.2.

8.3. *Opinion of Gould's Counsel.* I-T-E shall have received an opinion, dated the Merger Date, of Winston & Strawn to the effect that:

(a) Gould is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and each of its subsidiaries is a corporation duly organized, validly existing and in good standing under the laws pursuant to which it is incorporated, with all requisite corporate power and authority to own, operate and lease their properties and to carry on their

business as now being conducted, and are duly qualified or licensed and in good standing in each jurisdiction in which the property owned, leased or operated by them or the nature of the business conducted by them makes such qualification or licensing necessary;

(b) All of the shares of Gould Common Stock to be issued pursuant to Article II of this Agreement will, when issued as provided in this Agreement, be duly and validly authorized and issued and be fully paid and nonassessable;

(c) The execution, delivery and performance of this Agreement have been duly and validly authorized and approved by the board of directors and the stockholders of Gould, all in the manner required by any applicable law, charter or by-law provision or agreement, and this Agreement constitutes the valid and binding obligation of Gould in accordance with its terms;

(d) All actions and proceedings required by law or by this Agreement to be taken by Gould at or prior to the Merger Date in connection with this Agreement and the transactions contemplated herein, including, without limitation, the obtaining of all necessary consents and approvals, have been duly and validly taken and completed;

(e) Except as specified by such counsel, such counsel does not know of any action, suit, labor dispute or other litigation, proceeding or governmental investigation of a material nature pending or threatened against or affecting Gould or any of its subsidiaries, or any officers, directors or employees thereof in their capacity as such, or any of the properties or business thereof, or relating to the transactions contemplated by this Agreement;

(f) To the knowledge of such counsel, neither Gould nor any of its subsidiaries has breached any provision of, or is in default under the terms of any material lease, contract, commitment, agreement, instrument, plan or license to which such concern is a party, under which it has any rights or by which it is bound, nor is Gould or any subsidiary in material violation or default of or with respect to any law, government regulation or rule or order of any court or governmental authority or under any applicable regulation or provision of any charter, by-law or other restriction.

Such opinion shall also cover such other matters incident to the transactions herein contemplated as I-T-E may reasonably request.

8.4. *Proceedings Satisfactory to Counsel.* All proceedings taken by Gould and Newco and all instruments executed and delivered by Gould and Newco on or prior to the Merger Date in connection with the transactions herein contemplated shall be satisfactory in form and substance to counsel for I-T-E.

8.5. *Registration Under Securities Act of 1933 and Listing on New York Stock Exchange.* All of the securities of Gould to be issued hereunder shall have been registered under the Securities Act of 1933 and the shares of Gould Common Stock to be issued hereunder shall have been authorized for listing, subject to official notice of issuance, on the New York Stock Exchange.

8.6. *Litigation.* No action or proceeding by any governmental agency shall have been instituted or threatened which would enjoin, restrain or prohibit or might result in substantial damages in respect of, this Agreement or consummation of the transaction contemplated by this Agreement, and would in the reasonable judgment of I-T-E make it inadvisable to consummate such transaction, and no court order shall have been entered in any action or proceeding instituted by any other party which enjoins, restrains or prohibits this Agreement or consummation of the transaction contemplated by this Agreement.

8.7. *Ernst & Ernst Letters with Respect to Gould.* I-T-E shall have received two letters from Ernst & Ernst one dated the effective date of the Registration Statement and the other dated the Merger Date stating that:

(i) They are independent accountants within the meaning of the Securities Act and the applicable published rules and regulations thereunder and the statement in the Registration Statement in answer to Item 3 of Form S-14 is accurate insofar as it relates to themselves;

(ii) In their opinion, the financial statements of Gould and its consolidated subsidiaries included in the Registration Statement and examined by them comply as to form in all material respects with the applicable accounting requirements of the Securities Act and of the published rules and regulations thereunder with respect to registration statements on Form S-14; and

(iii) On the basis of procedures (but not an examination in accordance with generally accepted auditing standards) consisting of:

(a) Reading the minutes of meetings of the stockholders and the Board of Directors of Gould and its consolidated subsidiaries since June 30, 1975, as set forth in the minute books through a specified date not more than five days prior to the date of delivery of such letter;

(b) Reading the unaudited interim financial statements of Gould and its consolidated subsidiaries for the period from June 30, 1975 to the date of the latest available financial statements and for the comparable period of the prior year; and

(c) Making inquiries of certain officials of Gould who have responsibility for financial and accounting matters regarding the specific items for which representations are requested below, and such other procedures as I-T-E may reasonably request;

nothing has come to their attention as a result of the foregoing procedures that caused them to believe that (x) the unaudited financial statements of Gould and its consolidated subsidiaries contained in the Registration Statement or the Prospectus do not comply as to form in all material respects with the applicable accounting requirements of the Securities Act and the published rules and regulations thereunder with respect to registration statements on Form S-14 or were not prepared in accordance with generally accepted accounting principles and practices applied on a basis consistent in all material respects with those followed in the preparation of the financial statements referred to in the preceding clause (ii) of this Section 8.7 or do not present fairly the information purported to be shown, or (y) at the date of the latest available interim financial statements and at a specified date not more than five days prior to the date of delivery of each such letter, there was any change in the capital stock or long-term debt of Gould and its consolidated subsidiaries or any decrease in consolidated net current assets or stockholders' equity as compared with the amounts shown in the latest balance sheet included in the Registration Statement and the Prospectus or (z) for the period from the date of the latest financial statements included in the Registration Statement and the Prospectus to a specified date not more than five days prior to delivery of each such letter, there were any decreases, as compared with the corresponding period in the preceding year, in consolidated net sales or in the total or per-share amounts of net income, except in all instances for such changes or decreases which the Registration Statement and Prospectus discloses have occurred or may occur, or they shall state any specific changes or decreases. Such letters shall also state that, as requested by I-T-E, they have performed certain specified procedures, including the comparison to certain specified accounting records of Gould and its consolidated subsidiaries, of certain items of information appearing in the Registration Statement and Prospectus, and found such items to be in agreement with such records.

8.8. *Results of Examination.* Such examination of the books and affairs of Gould as may be conducted by I-T-E or its auditors shall have disclosed no breach of the representations, warranties, or covenants of Gould and no material adverse developments in the business or affairs of Gould.

8.9. *Approval of I-T-E Stockholders.* This Agreement shall have been approved by the holders of I-T-E Common Stock in accordance with the Delaware General Corporation Law.

8.10. *Tax Ruling.* I-T-E shall have received a favorable ruling from the Internal Revenue Service to the effect that for federal income tax purposes no gain or loss will be recognized by I-T-E upon consummation of the transaction pursuant to this Agreement, or to those holders of I-T-E Common Stock who did not sell any shares of I-T-E Common Stock to Gould pursuant to Gould's Offer to Purchase dated January 5, 1976 and who exchange their I-T-E shares for Gould shares pursuant to this Agreement, except with respect to any cash received by such holders for fractional shares of Gould Common Stock. I-T-E shall diligently seek such a favorable ruling to said effect from the Internal Revenue Service and shall permit Gould to participate in the effort to obtain such a ruling.

ARTICLE IX

MISCELLANEOUS

9.1. *Termination.* This Agreement may be terminated (notwithstanding that approval hereof by stockholders of I-T-E, Gould and Newco, or of any thereof, may have been obtained) any time prior to the Merger Date:

(a) With the mutual consent of the boards of directors of I-T-E and Newco and Gould; or

(b) If any of the conditions provided in Article VII shall not have been satisfied, complied with or performed in any material respect, and Newco and Gould shall not have waived such failure of satisfaction, noncompliance or nonperformance, by the boards of directors of Newco and Gould; or

(c) If any of the conditions provided in Article VIII shall not have been satisfied, complied with or performed in any material respect, and I-T-E shall not have waived such failure of satisfaction, noncompliance or nonperformance, by the board of directors of I-T-E; or

(d) At the option of Gould, if in the judgment of its Board of Directors the financial condition, earnings or prospects of I-T-E and its subsidiaries, taken as a single enterprise, at any time prior to the Merger Date make the merger undesirable to Gould and its subsidiaries; or

(e) At the option of I-T-E, if in the judgment of its Board of Directors the financial condition, earnings or prospects of Gould and its subsidiaries, taken as a single enterprise, at any time prior to the Merger Date make the merger undesirable to I-T-E and its subsidiaries.

In the event of any termination pursuant to this Section 9.1 (other than pursuant to subparagraph (a) hereof), written notice setting forth the reasons thereof shall forthwith be given by I-T-E, if it is the terminating party, to Newco and Gould, or by Newco and Gould, if they are the terminating parties, to I-T-E. This Agreement shall terminate automatically if the Merger Date shall not have occurred on or before August 31, 1976, or such later date as shall have been agreed to by the parties hereto under Section 1.6 hereof.

9.2. *Expenses.* In the event this Agreement is terminated as provided in Section 9.1, none of I-T-E, Newco and Gould, or any officer, director or stockholder thereof, shall have any liability to any of the others or to any third party (including, without limitation, any officer, employee or stockholder) for damages, costs, expenses (including, without limitation, legal and accounting fees and expenses), loss of anticipated profits or otherwise; it being understood that in the event of such termination each party shall bear its own legal, accounting and other fees, costs, losses and expenses. If the transaction contemplated hereby is consummated, Gould will, upon receipt of proper statements, reimburse and reasonably compensate the officers and directors of I-T-E for reasonable costs and expenses incurred by them and for time and effort expended by them, following the Merger Date, in carrying out any obligations imposed on them (whether or not arising out of litigation) in connection with the merger.

9.3. *Amendment.* I-T-E, Gould and Newco, with the approval of their respective boards of directors, but only in writing signed by I-T-E, Newco and Gould, may amend, modify or supplement this Agreement at any time before or after approval hereof by the stockholders of I-T-E, Newco or Gould (or of any thereof); provided, however, that no such amendment, modification or supplement after such approval by the stockholders of either Gould or I-T-E shall affect the rights of such stockholders in a manner which is materially adverse to such stockholders in the judgment of the board of directors of such corporation.

9.4. *Brokers.* I-T-E represents that no broker or finder has acted for it in connection with this Agreement or the transactions contemplated hereby and that no broker or finder is entitled to any brokerage or finder's fee or other commission based on agreements, arrangements or understandings made by it. Gould represents that no broker or finder has acted for it in connection with this Agreement or the transactions contemplated hereby and that no broker or finder is entitled to any brokerage or finder's fee or other commission based on agreements, arrangements or understandings made by it.

9.5. *Non-Survival of Warranties, etc.* Warranties, representations, covenants and agreements contained herein with respect to I-T-E, Gould or Newco shall not survive the Merger Date, except for Gould's obligations under Sections 2.7, 9.2 and 9.6.

9.6. *Employee Benefit Plans.* All retirement, group insurance and disability plans for salaried and hourly paid employees of I-T-E in force on the Merger Date shall be assumed by the Surviving Corporation, to the extent I-T-E may be bound thereby, and the Surviving Corporation shall thereafter have all the rights and obligations of I-T-E thereunder, including the right to amend or terminate any of such plans which right shall not be exercised (except for technical modifications or as required by changes in governing law or regulations thereunder or by similar matters) to change the benefits available thereunder unless the Surviving Corporation or its successor makes adequate provision so that the participants in such amended or terminated plan continue to have benefits available to them which, in the aggregate, are at least substantially equivalent (on an actuarial basis) to those available to them prior to any such amendment or termination. Prior to the Merger Date, I-T-E shall amend such plans insofar as necessary to permit the assumption and adoption of such plans by the Surviving Corporation without termination thereof or any adverse effect on the continued qualification of such of said plans as are qualified under Section 401(a) of the Internal Revenue Code of 1954, as amended ("Code"). Any merger or consolidation of any plan qualified under Section 401(a) of the Code with, or any transfer of the assets and liabilities of any such plan to, any other plan after the Merger Date shall be made in accordance with Section 401(a)(12) of the Code.

9.7. *Notices.* Any notice, request, instruction or other document to be given hereunder by either party hereto shall be in writing and shall be deemed to have been given, when received, or when deposited in the U.S. mail, certified or registered mail, postage prepaid:

(a) If to I-T-E, addressed as follows:
I-T-E Imperial Corporation
Spring House, Pennsylvania, 19477
Attention: William C. Musham, Chairman and President

with a copy to
Franklyn S. Judson, Esq.
General Counsel
I-T-E Imperial Corporation
Spring House, Pennsylvania 19477

(b) If to Newco and Gould, addressed as follows:
Gould Inc.
Gould Center
Rolling Meadows, Illinois 60008
Attention: William T. Ylvisaker, Chairman

with a copy to
Thomas A. Reynolds, Jr., Esq.
Winston & Strawn
One First National Plaza
Chicago, Illinois 60603

or to such other address as any party hereto may designate for itself by notice given as herein provided.

9.8. *Place of Closing.* The closing of the transactions to be completed on the Merger Date shall take place at the offices of Winston & Strawn, One First National Plaza, Chicago, Illinois, at 10:00 A.M. on the Merger Date or at such other time or place as the parties may agree.

9.9. *Entire Understanding.* This Agreement sets forth the entire agreement and understanding of the parties in respect of the transactions contemplated hereby and supersedes all prior agreements, arrangements and understandings relating to the subject matter hereof.

9.10. *Waivers.* The failure of any party at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by any party of any condition or of any breach of any term, covenant, representation or warranty contained in this Agreement shall be effective unless in writing, and no waiver in any one or more instances shall be deemed to be a further or continuing waiver of any such condition or breach in other instances or a waiver of any other condition or any breach of any other term, covenant, representation or warranty.

9.11. *Counterparts.* This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

9.12. *Headings.* The headings preceding the text of Sections of this Agreement are for convenience only and shall not be deemed part of this Agreement.

9.13. *Applicable Law.* This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware.

In Witness Whereof, the parties hereto, pursuant to authority given by their respective boards of directors have caused this Agreement of Merger to be entered into and signed by their respective officers thereunto duly authorized, and their corporate seals to be hereunto affixed and to be attested by their respective secretaries or assistant secretaries, all as of the date and year first above written.

I-T-E Imperial Corporation

By W. C. Musham
Chairman and President

Attest:

I. R. Schafer
Secretary

[Corporate Seal]

Gite Corporation

By W. T. Ylvisaker
President

Attest:

T. A. Reynolds, Jr.
Secretary

[Corporate Seal]

Gould Inc.

By W. T. Ylvisaker
Chairman

Attest:

N. R. Jack
Assistant Secretary

[Corporate Seal]

AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER dated as of February 23, 1968, *as amended by an amendment dated as of April 1, 1968 (the "Agreement and Plan of Merger"),* by and among I-T-E CIRCUIT BREAKER COMPANY ("I-T-E"), IMPERIAL-EASTMAN CORPORATION ("Imperial") and I-T-E IMPERIAL CORPORATION (the "Surviving Corporation");

WITNESSETH:

WHEREAS, I-T-E is a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania, having been incorporated thereunder on December 12, 1939 and having an authorized capital stock consisting of 4,500,000 shares of Common Stock, par value $3.33⅓ per share, of which 2,425,442 shares were issued and outstanding on February 20, 1968 and 64,160 shares of Preferred Stock, par value $50 per share, of which 44,160 shares, designated "4.60% Preferred Stock", were issued and outstanding on February 20, 1968; and

WHEREAS, Imperial is a corporation duly organized and existing under the laws of the State of Illinois, having been incorporated thereunder on January 24, 1905 and having an authorized capital stock consisting of 4,000,000 shares of Common Stock, par value $4 per share, of which 2,175,248 shares were issued and outstanding on February 20, 1968; and

WHEREAS, the Surviving Corporation is a corporation duly organized and existing under the laws of the State of Delaware, having been incorporated thereunder on February 23, 1968 and having an authorized capital stock consisting of ten shares of Common Stock, par value $1 per share, of which all ten shares are now issued and outstanding; and

WHEREAS, I-T-E, Imperial and the Surviving Corporation (hereinafter sometimes called the "Constituent Corporations") desire to merge pursuant to the applicable statutes of the Commonwealth of Pennsylvania and the States of Illinois and Delaware, and in accordance with the terms and provisions hereinafter contained;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto in accordance with the applicable statutes of the Commonwealth of Pennsylvania, and the States of Illinois and Delaware, agree as follows:

ARTICLE I

Merger and Name of Surviving Corporation

I-T-E and Imperial shall be merged into the Surviving Corporation in accordance with the applicable statutes of the Commonwealth of Pennsylvania and the States of Illinois and Delaware and, upon the merger becoming effective, the separate existences of I-T-E and Imperial shall cease except to the extent provided by the laws of Pennsylvania and Illinois, respectively, in the case of a corporation after its merger into another corporation; and the Surviving Corporation shall continue under the laws of the State of Delaware under the name "I-T-E Imperial Corporation" as the surviving corporation.

ARTICLE II

Certificate of Incorporation and By-Laws of the Surviving Corporation

The Certificate of Incorporation of the Surviving Corporation shall be as set forth in Exhibit A hereto on the effective date of the merger. Until altered, amended or repealed, the By-Laws of the Surviving Corporation in effect immediately prior to the effective date of the merger shall continue to be the By-Laws of the Surviving Corporation.

ARTICLE III

Treatment of Shares of each Constituent Corporation

Upon the merger becoming effective:

(a) Each outstanding share of Common Stock of I-T-E shall forthwith be converted into two shares of Common Stock of the Surviving Corporation;

(b) Each outstanding share of 4.60% Preferred Stock of I-T-E shall forthwith be converted into one share of 4.60% Preferred Stock of the Surviving Corporation;

(c) Each outstanding *share* of Common Stock of Imperial shall forthwith be converted into *.86* shares of Common Stock of the Surviving Corporation; and

(d) The ten outstanding shares of Common Stock of the Surviving Corporation shall forthwith be cancelled.

After the merger becomes effective, each holder of an outstanding certificate or certificates theretofore representing shares of Common Stock or Preferred Stock of I-T-E or Common Stock of Imperial may surrender the same to the Surviving Corporation or to its agent, and such holder shall be entitled upon such surrender to receive in exchange therefor a certificate or certificates representing the number of full shares of Common Stock or 4.60% Preferred Stock of the Surviving Corporation into which the shares theretofore represented by the certificate or certificates so surrendered shall have been converted. Until so surrendered, each outstanding certificate, which prior to the effective date of the merger represented shares of stock of I-T-E or Imperial, shall be deemed for all corporate purposes, except for the receipt of dividends, to represent ownership of the number of full shares of Common Stock or 4.60% Preferred Stock of the Surviving Corporation into which such shares of stock of I-T-E or Imperial shall have been so converted. Until such outstanding certificate shall be so surrendered, however, no dividend payable to the holders of record of shares of stock of the Surviving Corporation shall be paid to the holder of such certificate, but upon surrender of such certificate there shall be paid to the holder of such certificate, all dividends which have theretofore become payable with respect to the shares of the Surviving Corporation represented thereby and such holder shall be entitled to receive any dividend thereafter payable to holders of record of such shares at a date prior to the date of such surrender.

No fractional interest in a share of Common Stock of the Surviving Corporation resulting from the conversion of shares of Common Stock of Imperial shall confer any voting or dividend right or any other right of a stockholder, and no certificate shall be issued representing any such fractional interest. In lieu thereof, each Imperial shareholder entitled to such a fractional interest, upon surrender of his certificate or certificates which prior to the merger becoming effective represented shares of Common Stock of Imperial, will be afforded the opportunity for a period of 45 days after the effective date of the merger, to purchase an additional fractional interest sufficient to provide him one additional full share of Common Stock of the Surviving Corporation. Thereafter any remaining fractional interests in shares of Common Stock of the Surviving Corporation (in respect of which additional fractional interests have not been so purchased) shall be combined with all other such fractional interests and a stock certificate or certificates for the aggregate number of shares of Common Stock of the Surviving Corporation represented by such combined fractional interests shall be issued to an agent acting for the Imperial shareholders entitled thereto. Such shares of Common Stock of the Surviving Corporation shall be sold on the open market for the account of such Imperial shareholders, and the net proceeds from the sale shall be remitted to each of them in accordance with his proportionate interest therein, but only upon surrender by him of his certificate or certificates which prior to the merger becoming effective represented shares of Imperial Common Stock.

Any shares of Common Stock or Preferred Stock of I-T-E or Common Stock of Imperial held by either I-T-E- or Imperial in its treasury or otherwise on the effective date of the merger shall be cancelled and shall not be converted into stock of the Surviving Corporation. The shares of stock of the Surviving Corporation into which the shares of stock of I-T-E or Imperial held by shareholders who

objected to the merger and who were paid the value of such I-T-E or Imperial shares would have been converted but for such objection shall have the status of authorized but unissued shares of the Surviving Corporation.

ARTICLE IV

Conduct of Business Prior to Merger

From the date of this Agreement and Plan of Merger until the merger becomes effective or until the abandonment of the merger pursuant to Article XI hereof:

(a) I-T-E and Imperial and their respective subsidiaries shall continue to conduct their business in the ordinary course and neither I-T-E nor Imperial nor any subsidiary of either of them shall, without the prior written consent of the other, engage in any transaction or incur any obligation except in the ordinary course of business or as otherwise authorized by this Agreement. Without limiting the foregoing, neither I-T-E nor Imperial nor any subsidiary of either of them shall during the foregoing period, without the prior consent of the other:

(1) borrow any money, other than short term borrowings in the ordinary course of business, except (i) pursuant to its existing Revolving Credit Agreement; (ii) in the case of I-T-E, pursuant to its Insurance Loan Agreement dated December 20, 1967; and (iii) in the case of Imperial, from foreign lenders by, for the account of, or for investment in any foreign subsidiary or joint venture including the subsidiary about to be organized in Italy as a joint venture, such borrowings pursuant to this clause (iii) not to exceed in the aggregate $900,000;

(2) issue, sell, or otherwise dispose of any shares of its capital stock except (i) pursuant to options referred to in Article V hereof; (ii) pursuant to the Agreement dated January 17, 1968 between I-T-E and Imperial, and (iii) in the case of I-T-E, pursuant to the conversion rights of the holders of its outstanding 4¼% Convertible Subordinated Debentures due April 1, 1982;

(3) declare or pay any dividend on, make any distribution in respect of, redeem or acquire for value any shares of its capital stock except that I-T-E in accordance with its usual practice may declare and pay its regular quarterly dividends of 25¢ per share on its Common Stock and 57½¢ per share on its Preferred Stock and similarly Imperial may declare and pay its regular quarterly dividend not to exceed 11¢ per share on its Common Stock;

(4) sell any assets except in the ordinary course of business;

(5) enter into any new plans or agreements for the benefit of officers or employees or increase the benefits under any existing such plan, except as required by collective bargaining agreements;

(b) I-T-E will exercise all reasonable efforts to cause to be registered under the Securities Exchange Act of 1934 and to be listed on the New York Stock Exchange, subject to notice of issuance, the shares of Common Stock of the Surviving Corporation which will be issued and outstanding as a result of the merger herein contemplated;

(c) I-T-E and Imperial will exercise all reasonable efforts to obtain the approval by the several Banks which are parties to their Revolving Credit Agreements of a new Composite Revolving Credit Agreement extending to the Surviving Corporation the benefits provided under both such Revolving Credit Agreements or to make other appropriate arrangements in connection therewith;

(d) I-T-E and Imperial shall each make available for examination by the other as requested, in addition to its audited financial statements, any inventory and other related detailed records in support of such statements; records of important contracts, commitments, leases, licensing agreements, deeds, title insurance policies, patents, trademarks, and other evidence of interest or ownership in property; details and status of the various funds, plans, profit sharing and deferred compensation agreements, if any, stock option plans and other provisions of either party for the benefit of its officers and employees, income tax returns, audit material and related data; information

concerning claims, litigation threatened or pending, and all other information relevant to the merger herein contemplated;

(e) With respect to all leases and other interests or instruments under which either I-T-E or Imperial is obligated to obtain a consent prior to the merger herein contemplated in order to comply with the conditions thereof or to vest its interest therein in the Surviving Corporation, I-T-E or Imperial, respectively, will exercise all reasonable efforts to obtain such consent;

(f) Except to the extent otherwise indicated by the context or as may be inappropriate the provisions of this Article shall apply to the subsidiaries of I-T-E as well as to I-T-E and to the subsidiaries of Imperial as well as to Imperial;

(g) The Surviving Corporation shall not transact any business, enter into any transactions or perform any acts except such as shall be necessary or appropriate to the consummation of the merger herein contemplated;

(h) I-T-E and Imperial will each exercise all reasonable efforts to obtain prior to the effective date of the merger an opinion of counsel satisfactory to it to the effect that for Federal income tax purposes (a) the merger herein contemplated will constitute a reorganization within the meaning of Section 368(a)(1)(A) of the Internal Revenue Code of 1954 and that I-T-E, Imperial and the Surviving Corporation will be parties to the reorganization; (b) no gain or loss will be recognized to I-T-E, Imperial or the Surviving Corporation by reason of the merger herein contemplated; (c) the basis of the assets transferred to the Surviving Corporation by the merger contemplated herein will be the same as the basis of such assets in the hands of I-T-E and Imperial immediately prior to the merger contemplated herein, and the holding period of each such asset in the hands of the Surviving Corporation will include the period for which it was held by I-T-E or Imperial as the case may be; (d) no gain or loss will be recognized to the holders of I-T-E Common Stock, I-T-E Preferred Stock or Imperial Common Stock upon receipt of the shares of the Surviving Corporation in exchange for shares of Imperial or I-T-E pursuant to the merger contemplated herein.

ARTICLE V

Treatment of Employee Stock Options

As of February 20, 1968 34,024 shares of Common Stock of I-T-E are subject to issuance pursuant to options heretofore granted under a "Restricted Stock Option Plan" (hereinafter referred to as the "I-T-E Stock Option Plan") which was approved by the shareholders of I-T-E on April 23, 1957 and under which no additional options may be granted.

Imperial had in effect a "Restricted Stock Option Plan for Key Employees" approved by shareholders of Imperial on June 22, 1960 under which no further options may be granted and as of the date of this Agreement has in effect a "Qualified Stock Option Plan for Executive Employees" approved by the shareholders of Imperial on April 16, 1966 (said plans are hereinafter referred to collectively as the "Imperial Stock Option Plans"). As of February 20, 1968 44,518 shares of Common Stock of Imperial are subject to and reserved for issuance pursuant to options heretofore granted or which may hereafter be granted under the Imperial Stock Option Plans. Upon the effective date of the merger the Imperial Stock Option Plans shall terminate except as provided below.

Upon the effective date of the merger, outstanding options under the I-T-E Stock Option Plan and outstanding options under the Imperial Stock Option Plans shall be assumed by the Surviving Corporation and shall be treated as follows:

(a) The shares which each holder of an option then outstanding under the I-T-E Stock Option Plan shall be entitled to receive upon the exercise of such option for the period therein stated shall be shares of the Common Stock of the Surviving Corporation in lieu of shares of the Common Stock of I-T-E, the number of shares of Common Stock of the Surviving Corporation subject to such option shall be determined by multiplying the number of shares of Common Stock of I-T-E subject to such option immediately prior to the effective date of the merger by two, and the price

per share to be paid for such Common Stock of the Surviving Corporation upon the exercise of such option shall be determined by dividing the price per share of Common Stock of I-T-E pursuant to such option immediately prior to the effective date of the merger by two and, if any fraction shall result, increasing the result so obtained to the next highest whole cent.

(b) The shares which each holder of an option then outstanding under the Imperial Stock Option Plans shall be entitled to receive upon the exercise of such option for the period therein stated shall be shares of the Common Stock of the Surviving Corporation in lieu of shares of the Common Stock of Imperial, the number of shares of Common Stock of the Surviving Corporation subject to such option shall be determined by multiplying the number of shares of Common Stock of Imperial subject to such option immediately prior to the effective date of the merger by *.86* and, if any fraction shall result, decreasing the result so obtained to the next lowest full share, and the price per share to be paid for such shares of Common Stock of the Surviving Corporation upon the exercise of such option shall be determined by multiplying the price per share of Common Stock of Imperial pursuant to such option immediately prior to the effective date of the merger by *1.163* and, if any fraction of less than a tenth of a cent shall result, increasing the result so obtained to the next highest tenth of a cent.

(c) The Surviving Corporation shall reserve and keep available out of its authorized but unissued Common Stock or out of its treasury stock the number of shares of Common Stock which shall be required for issuance upon the exercise of stock options assumed by it pursuant to this Article V.

ARTICLE VI

Directors of the Surviving Corporation

Upon the merger contemplated herein becoming effective, there shall be seventeen directors of the Surviving Corporation, whose names and addresses are as follows:

Name of Director	Address
Robert G. Biesel	General American Transportation 135 South La Salle Street Chicago, Illinois
Alfred G. Bosanko	609 Yawl Lane Sarasota, Florida 33577
Merlin W. Brose	1506 Waldo Boulevard Manitowoc, Wisconsin
Harry L. Buck	911 Morris Avenue Bryn Mawr, Pennsylvania 19010
William H. Frank	12944 Talbot Lane Huntington Wood, Michigan 48070
John Hawkinson	120 S. La Salle Street Room 1040 Chicago, Illinois 60603
G. E. Heberlein	621 Harriton Road Bryn Mawr, Pennsylvania 19010
E. William Henry	Management Television System 277 Park Avenue New York, New York 10017
Frank McNellis, Jr.	338 Oak Street Palatine, Illinois
William C. Musham	6300 West Howard Street Chicago, Illinois
Derald H. Ruttenberg	277 Park Avenue 34th Floor New York, New York 10017

Name of Director	Address
Robert D. Scott	North Valley Road Paoli, Pennsylvania 19301
W. M. Scott III	408 McClenaghan Mill Road Wyndwood, Pennsylvania 19096
Bradford Smith, Jr.	Insurance Company of North America P. O. Box 7728 Philadelphia, Pennsylvania 19101
Lewis H. Van Dusen, Jr.	Drinker Biddle & Reath 1100 Philadelphia National Bank Building Broad and Chestnut Streets Philadelphia, Pennsylvania 19107
William M. Weaver, Jr.	Alex Brown & Sons 66 Beaver Street 24th Floor New York, New York 10004
H. Edward Wrapp	University of Chicago 190 East Delaware Street Chicago, Illinois

Said persons shall hold office until the next annual meeting of the stockholders of the Surviving Corporation and until their respective successors are elected in accordance with the By-Laws of the Surviving Corporation. The first annual meeting of the stockholders of the Surviving Corporation to be held after the effective date of the merger shall be held in 1969 on the day prescribed therefor pursuant to the By-Laws of the Surviving Corporation.

If at the effective date of the merger a vacancy shall exist in the Board of Directors of the Surviving Corporation by reason of the death, resignation or unavailability of any of the persons named above, a substitute nominee will be selected by mutual agreement of I-T-E and Imperial who will cause such vacancy to be filled in the manner provided by the By-Laws of the Surviving Corporation.

ARTICLE VII

Accounting for the Merger

Upon the merger becoming effective the assets and liabilities of I-T-E, Imperial and the Surviving Corporation shall be taken upon the books of the Surviving Corporation at the amounts at which they are respectively recorded on the books of the Constituent Corporations on the date on which the merger shall become effective, appropriately adjusted in accordance with generally accepted accounting practices.

ARTICLE VIII

Submission to Stockholders and Effectiveness

This Agreement and Plan of Merger shall be submitted to the shareholders of each of the Constituent Corporations as provided by the applicable laws of the Commonwealth of Pennsylvania and the States of Illinois and Delaware, and if this Agreement and Plan of Merger shall have been duly approved by the requisite votes of such shareholders in accordance with the applicable laws of Pennsylvania, Illinois and Delaware, then at the earliest convenient time thereafter, appropriate Articles of Merger containing this Agreement and Plan of Merger shall be filed in accordance with the laws of the Commonwealth of Pennsylvania and the State of Illinois and this Agreement and Plan of Merger shall be filed in accordance with the laws of the State of Delaware, provided, however, that if the Board of Directors of either I-T-E or Imperial determines that the exposure of the Surviving Corporation to liability for payment of the fair value of shares of dissenting shareholders of I-T-E and/or Imperial may in its opinion be so excessive that the merger would not be in the best interests of the Constituent Corporations, such filings may be deferred to not later than 22 days after the later of such requisite votes. The merger shall

take effect upon the filing of this Agreement and Plan of Merger in the office of the Secretary of State of Delaware and the date of such filing is herein sometimes called the "effective date of the merger". The Constituent Corporations shall do all of such acts and things as shall be necessary or desirable in order to effectuate the merger as contemplated herein as soon as reasonably possible, subject, however, to the proviso contained in the first sentence of this Article VIII.

ARTICLE IX

Transfers of Assets and Liabilities

On the effective date of the merger, the rights, privileges, powers and franchises, both of a public as well as of a private nature, of each of the Constituent Corporations shall be vested in and possessed by the Surviving Corporation, subject to all the restrictions, disabilities and duties of each of the Constituent Corporations; and all and singular the rights, privileges, powers and franchises of each of the Constituent Corporations, and all property, real, personal and mixed, of each of the Constituent Corporations and all debts due to each of the Constituent Corporations on whatever account, and all things in action or belonging to each of the Constituent Corporations shall be vested in the Surviving Corporation; and all property, rights, privileges, powers and franchises, and all and every other interest, shall be thereafter as effectually the property of the Surviving Corporation as they were of the several and respective Constituent Corporations, and the title to any real estate vested by deed or otherwise in each of the Constituent Corporations shall not revert or be in any way impaired by reason of the merger; provided, however, that all rights of creditors and all liens upon any property of each of the Constituent Corporations shall be preserved unimpaired, except as may otherwise be modified with the consent of such creditors, and all debts, liabilities and duties of the respective Constituent Corporations shall thenceforth attach to the Surviving Corporation, and may be enforced against it to the same extent as if said debts, liabilities, restrictions and duties had been incurred or contracted by it. The parties hereto agree that from time to time as and when requested by the Surviving Corporation, or by its successors or assigns, the officers and directors of I-T-E and Imperial and the officers and directors of the Surviving Corporation are fully authorized in the name of I-T-E or Imperial or otherwise to execute and deliver all such deeds, assignments and other instruments and to take or cause to be taken all such further action as the Surviving Corporation or any such officer may deem necessary or desirable in order to vest, perfect or confirm in the Surviving Corporation title to and possession of all of said property, rights, privileges, powers and franchises and otherwise to carry out the intent and purpose of this Agreement and Plan of Merger.

The employee benefit plans of I-T-E and Imperial shall be assumed by the Surviving Corporation.

ARTICLE X

Representations and Warranties

I-T-E and Imperial have each delivered to the other statements of income and balance sheets for itself and its consolidated subsidiaries, certified by its respective independent certified public accountants, Arthur Young & Company and Ernst & Ernst, for its fiscal year ended December 31, 1967.

I-T-E represents and warrants to Imperial, and Imperial represents and warrants to I-T-E, that the following statements concerning it and its consolidated subsidiaries, are true and correct:

(a) The aforesaid financial statements for the fiscal year ended December 31, 1967 reflect truly and completely the financial position of it and its consolidated subsidiaries at December 31, 1967, and the results of the operations of it and its consolidated subsidiaries for the year ended on that date in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding year. It and its consolidated subsidiaries did not on December 31, 1967 have any material liabilities, absolute or contingent, not reflected in such financial statements or related notes.

(b) Since December 31, 1967 there has not been any material adverse change in its financial condition or in that of its consolidated subsidiaries, or in the results of their operations, business or prospects.

(c) Since December 31, 1967 neither its business, nor its property or assets nor those of its consolidated subsidiaries have been materially and adversely affected in any way as the result of a fire, explosion, strike, accident, confiscation of governmental authority or Act of God;

(d) Since December 31, 1967 its business and affairs and the business and affairs of its consolidated subsidiaries have been conducted only in the ordinary course and except for transactions in the ordinary course of business neither it nor any of its consolidated subsidiaries has incurred any significant liability or subjected or agreed to subject any assets to any significant mortgage, pledge, lien, charge, security interest or other encumbrance, and since December 31, 1967 neither it nor any of its consolidated subsidiaries has guaranteed or agreed to guarantee any significant liability; nor has it declared or paid any dividends not reflected in the aforesaid financial statements except regular dividends referred to in Paragraph (a)(3) of Article IV hereof.

(e) Except for property acquired or disposed of in the ordinary course of business since December 31, 1967, its consolidated balance sheet as of December 31, 1967 and the notes thereto reflect all of the property used by it and its consolidated subsidiaries in their respective businesses, and except for leasehold interests it and its consolidated subsidiaries have good and marketable title, free and clear of any material lien, claim, charge or other encumbrance (other than those referred to in said balance sheet or the notes thereto) to all property used in their respective businesses but subject, nevertheless, to public ways, easements, rights of way, licenses and other defects of title which do not in any material respect interfere with or impair the present and continued use of such property in the normal conduct of the business presently conducted thereon.

(f) It and its subsidiaries own or possess substantially adequate licenses or other rights to use all patents, trademarks, trade names and copyrights used in their respective businesses and the same are sufficient to conduct their respective businesses substantially as now conducted. To the best of the knowledge of its officers, its operations and those of its subsidiaries do not infringe, and no one has asserted to it that such operations do infringe, the patents, trademarks, trade secrets or other rights of anyone in such a manner as would materially and adversely affect its business as presently conducted.

(g) All federal, state and other tax returns and reports that it and its subsidiaries are required by law to file have been duly filed and all taxes, assessments, fees and other governmental charges shown to be due thereon have been paid. All its federal income tax returns have been examined by the Internal Revenue Service for all years through the fiscal year ended December 31, 1963; and all assessments asserted with respect to such year have been paid or provision has been made therefor. Without limiting the foregoing, the consolidated balance sheet as of December 31, 1967 includes adequate provision for all taxes, assessments, fees and other governmental charges for all periods through such date.

(h) Its execution and delivery of this Agreement and its performance of its obligations hereunder will, assuming any necessary consents are obtained, not constitute a violation of its By-Laws or Articles of Incorporation or a violation of, or a default under, any agreement, judgment, decree or other document to which it or any of its subsidiaries is a party or by which it or any such subsidiary or any of its or their property is bound.

(i) Except for the proceedings referred to in Item 6 of Imperial's Registration Statement on Form 10 dated May 26, 1967, heretofore filed with the United States Securities and Exchange Commission, there is not pending or, to the knowledge of its management threatened, any material litigation or administrative proceeding against or affecting it or any of its subsidiaries which might have a materially adverse effect on it and its subsidiaries (including, without limitation, pending or threatened litigation or administrative proceedings, brought in its name or in the name of any of its subsidiaries or on behalf of it or any of its subsidiaries, and pending or threatened litigation or proceedings which seek or would seek to have enjoined or set aside any act or corporate proceeding of it or any of its subsidiaries); there is not pending or, to the knowledge of its management, contemplated any material governmental investigation of its business or of the business of any of its subsidiaries or of their compliance with any law or administrative regulation (it being understood

that routine antitrust investigations are not considered material) and no solicitation of proxies from its security holders is being conducted or, to the knowledge of its management contemplated by any person or group except its management.

(j) No person is entitled as a result of any act by it or any agreement to which it is a party, to any compensation as a broker or finder in connection with this Agreement and Plan of Merger or the merger contemplated hereby.

The representations and warranties contained in this Article shall not survive the time the merger herein contemplated becomes effective.

ARTICLE XI

Termination

Anything herein or elsewhere to the contrary notwithstanding, this Agreement and Plan of Merger, and the merger herein provided for, may be abandoned (A) by either the Board of Directors of I-T-E or the Board of Directors of Imperial if this Agreement and Plan of Merger is not duly approved by the shareholders of I-T-E and by the shareholders of Imperial and is not duly consummated on or prior to June 30, 1968, or such later date as may be mutually agreed upon by such Boards of Directors, or (B) at any time before the effective date of the merger:

1. by mutual consent of the Board of Directors of I-T-E and the Board of Directors of Imperial; or

2. by the Board of Directors of I-T-E or by the Board of Directors of Imperial in the event of: (a) a material inaccuracy in the representations and warranties of the other corporation contained in Article X hereof; (b) the material breach of or failure to perform the agreements of the other corporation herein provided; (c) the failure of I-T-E to cause to be listed on the New York Stock Exchange, subject to notice of issuance, the shares of Common Stock of the Surviving Corporation which will be issued and outstanding as a result of the merger herein contemplated; (d) the inability of I-T-E or Imperial after the exercise of all reasonable efforts to obtain a satisfactory opinion as provided in Article IV(h), to obtain the approvals or to make other appropriate arrangements as provided in Article IV(c), and to obtain all required consents provided in Article IV(e);

3. by the Board of Directors of I-T-E or by the Board of Directors of Imperial in the event that subsequent to the date hereof in its judgment there shall be a materially adverse change in the financial condition of the other corporation, or the properties or business of the other corporation shall be materially and adversely affected, as a result of fire, explosion, strike, accident, confiscation of governmental authority or act of God, or there shall be any litigation materially and adversely affecting the other corporation, or the properties or business of the other corporation pending or threatened; or

4. by the Board of Directors of I-T-E or by the Board of Directors of Imperial if, in its judgment, the exposure of the Surviving Corporation to liability for payment of the fair value of shares of dissenting shareholders of I-T-E and/or Imperial, is so excessive that the merger would not be in the best interests of the Constituent Corporations.

In the event of abandonment by the Board of Directors of either I-T-E or Imperial, as above provided, written notice shall forthwith be given to the other Constituent Corporations, and thereupon this Agreement and Plan of Merger shall become wholly void and of no effect and there shall be no liability on the part of any Constituent Corporation or its Board of Directors or its stockholders, except as provided in the following paragraph.

If the merger becomes effective, the Surviving Corporation shall assume and pay all expenses in connection therewith not theretofore paid by the respective parties. If for any reason the merger shall not become effective, each of the parties shall pay all expenses incurred by it in connection with the proceedings taken in respect of this Agreement and Plan of Merger or relating thereto.

ARTICLE XII

Any notices hereunder shall be sufficiently given if sent by certified mail, postage prepaid, addressed as follows: Imperial-Eastman Corporation, 6300 West Howard Street, Niles, Illinois—Attention: Mr. William C. Musham, President (copies to Mr. John A. Powers, Winston, Strawn, Smith & Patterson, 1400 First National Bank Building, Chicago, Illinois); and I-T-E Circuit Breaker Company, 1900 Hamilton Street, Philadelphia, Pennsylvania—Attention: Mr. Derald H. Ruttenberg, Chairman (copies to Mr. Grayson M-P. Murphy, Shearman & Sterling, 20 Exchange Place, New York, N. Y.); or such other address as shall be furnished in writing by any such party, and such notice shall be deemed to have been given as of the date so mailed.

In Witness Whereof, the undersigned parties hereto have duly executed this Agreement *and Plan of Merger as of April 1, 1968.*

I-T-E Circuit Breaker Company

By .....
Chairman

Attest: .....
Secretary

Imperial-Eastman Corporation

By .....
President

Attest: .....
Secretary

I-T-E Imperial Corporation

By .....
President

Attest: .....
Secretary

EXHIBIT A

CERTIFICATE OF INCORPORATION

OF

I-T-E IMPERIAL CORPORATION

FIRST. The name of the corporation is "I-T-E IMPERIAL CORPORATION."

SECOND. The address of its registered office in the State of Delaware is No. 100 West Tenth Street, in the City of Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

THIRD. The purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware including, without limiting the generality of the foregoing, manufacturing, processing, research and development.

FOURTH. The total number of shares of stock which the corporation shall have authority to issue is Ten Million, Sixty Four Thousand, One Hundred and Sixty (10,064,160) of which stock Ten Million (10,000,000) shares of the par value of One Dollar ($1) each shall be common stock (hereinafter called "Common Stock") and of which Sixty Four Thousand, One Hundred and Sixty (64,160) shares of the par value of Fifty Dollars ($50) each shall be preferred stock (hereinafter called "Preferred Stock").

FIFTH. The designations and the powers, preferences and rights, and the qualifications, limitations or restrictions of the Common Stock and the Preferred Stock are as follows:

1. *Issuance of Preferred Stock in Series.* The shares of Preferred Stock may be divided into and issued in series. Each series shall be so designated as to distinguish the shares thereof from the shares of all other series. All shares of Preferred Stock shall be identical except as to the following relative rights and preferences in respect to any or all of which there may be variations between different series, namely, the rate of dividend, the amounts of the premiums, if any, over and above $50 per share which the holders shall be entitled to receive upon the redemption thereof or upon the voluntary liquidation of the corporation, the terms and conditions upon which shares may be redeemed, sinking fund provisions, if any, for the redemption or purchase of shares and the terms and conditions on which shares may be converted in the event that the shares of any series are issued with the privilege of conversion.

The Board of Directors is hereby expressly vested with authority, by resolution, to divide the Preferred Stock into such series and, within the limitations prescribed by law and by this Certificate of Incorporation, to fix, and determine at the time of the establishment of any series the foregoing relative rights and preferences of any series so established, provided, however, that the rights and preferences of the 4.60% Preferred Stock shall be as set forth in subparagraphs 2 and 9 of this Paragraph FIFTH. If the Board provides that shares of any series may be converted into Common Stock, the terms and conditions fixed and determined by the Board on which such conversion may be made may include, without limitation thereof, provision for the protection of the conversion right against dilution because of the issue by the corporation of additional Common Stock and against dilution in any other manner whatsoever, and provision as to the effect upon the conversion right of any merger or consolidation of the corporation into or with any other corporation.

2. *Dividends.* The holders of shares of Preferred Stock of each series shall be entitled to receive, when and as declared by the Board of Directors, dividends at the rate which shall have been fixed and determined with respect to such series and no more. Dividends on shares of the 4.60% Preferred Stock

shall be payable quarterly beginning July 15, 1968. Dividends on shares of each other series shall be payable quarterly beginning on the fifteenth day of the second calendar month after the month in which any shares of such series outstanding on such initial dividend payment date were first issued, so that dividends on all shares of such series shall be payable on the same quarterly dates. With respect to the 4.60% Preferred Stock, dividends shall be cumulative from April 15, 1968. With respect to each other series, such dividends on the first group of shares thereof which are issued shall be cumulative from the fifteenth day of the calendar month next preceding the calendar month in which they are issued, and such dividends on any additional shares of the series shall be cumulative from the quarterly dividend payment date for such series next preceding the date of issue of such additional shares, unless the date of issue is a quarterly dividend payment date, in which event such dividends on such shares shall be cumulative from the date of issue. In case dividends for any quarterly dividend period are not paid in full, all shares of Preferred Stock of all series shall participate ratably in the payment of dividends for such period in proportion to the full amounts of dividends for such period to which they are respectively entitled. No dividends shall be paid or set apart for payment or declared on the Common Stock or on any other class of stock of the corporation ranking as to dividends subordinate to the Preferred Stock (other than dividends payable in Common Stock or in any other class of stock of the corporation ranking as to dividends and assets subordinate to the Preferred Stock), and no payment shall be made to any sinking fund for the Preferred Stock or for any other class of stock of the corporation ranking as to dividends or assets on a parity with or subordinate to the Preferred Stock, until dividends payable for all past quarterly dividend periods on all outstanding shares of Preferred Stock have been paid, or declared and set apart for payment, in full.

3. *Liquidation of the Corporation.* In the event of voluntary or involuntary liquidation of the corporation, the holders of shares of Preferred Stock of each series shall be entitled to receive from the assets of the corporation (whether capital or surplus), prior to any payment to the holders of Common Stock or of any other class of stock of the corporation ranking as to assets subordinate to the Preferred Stock, the sum of $50 for each share thereof, plus an amount equal to the accrued and unpaid dividends thereon computed to the date on which payment thereof is made available, whether or not earned or declared, plus, in the event the liquidation is voluntary, a premium of such additional amount, if any, per share as shall have been fixed and determined with respect to such series. After such payments to the holders of shares of Preferred Stock, any balance then remaining shall be paid to the holders of the Common Stock or of any other class of stock of the corporation ranking as to assets subordinate to the Preferred Stock, as they may be entitled. If, upon liquidation of the corporation, its assets are not sufficient to pay in full the amounts so payable to the holders of shares of Preferred Stock, all shares of Preferred Stock of all series shall participate ratably in the distribution of assets in proportion to the full amounts to which they are respectively entitled.

4. *Redemption and Acquisition of Preferred Stock.* The corporation, at its option to be exercised by its Board of Directors, may redeem the whole or any part of the Preferred Stock or of any series thereof at any time, or from time to time, at a price for each share thereof equal to $50 per share, plus an amount equal to the accrued and unpaid dividends thereon computed to the date fixed for redemption, whether or not earned or declared, plus a premium of such additional amount, if any, per share as shall have been fixed and determined with respect thereto (hereinafter collectively called the "redemption price"); provided that the foregoing option to redeem a part of the Preferred Stock may be exercised only if dividends payable for all past dividend periods on all outstanding shares of each series of Preferred Stock have been paid, or declared and set apart for payment, in full. If at any time less than all of the Preferred Stock then outstanding is to be called for redemption, the Board may select one or more series of Preferred Stock to be redeemed, or may select the shares to be redeemed from one or more series by lot or by such other equitable method as the Board in its discretion may determine. Notice of every redemption, stating the date fixed for redemption, the redemption price, and the place of payment thereof, shall be given by mailing a copy of such notice not later than the thirtieth day and not earlier than the sixtieth day prior to the date fixed for redemption to the holders of record of the shares to be redeemed at their addresses as the same shall appear on the books of the corporation. The corporation upon or after

mailing notice of redemption as aforesaid or upon or after irrevocably authorizing the bank or trust company hereinafter mentioned to mail such notice, may deposit or cause to be deposited in trust with a bank or trust company in the City of Philadelphia, Pennsylvania, an amount equal to the redemption price of the shares to be redeemed, which amount shall be payable to the holders of such shares upon surrender of certificates therefor on or after the redemption date or prior thereto if so directed by the Board. Upon such deposit, or if no such deposit is made then from and after the date fixed for redemption unless the corporation shall default in making payment of the redemption price upon surrender of certificates as aforesaid, the shares called for redemption shall cease to be outstanding and shall be deemed to have been acquired by the corporation and the holders thereof shall cease to be shareholders with respect to such shares and shall have no interest in or claim against the corporation with respect to such shares other than the right to receive the redemption price from such bank or trust company or from the corporation, as the case may be, without interest thereon, upon surrender of certificates as aforesaid; provided that conversion rights of shares called for redemption shall terminate at the close of business on the day prior to the date fixed for redemption or at such later time as may have been fixed and determined at the time of the establishment of the series of which such shares are a part. In case any holder of shares of Preferred Stock which have been called for redemption shall not, within six years after the date of such deposit, have claimed the amount deposited with respect to the redemption thereof, such bank or trust company, upon demand, shall pay over to the corporation such unclaimed amount and shall thereupon be relieved of all responsibility in respect thereof to such holder, and thereafter such holder shall look only to the corporation for payment thereof. The corporation shall be entitled to any interest which may be paid on funds so deposited.

The corporation shall have the right to acquire shares of Preferred Stock of any series, at a price not in excess of the redemption price thereof in effect on the date of acquisition; provided that unless dividends payable for all past dividend periods on all outstanding shares of each series of Preferred Stock have been paid, or declared and set apart for payment, in full, the corporation shall not acquire for value any shares of Preferred Stock except in accordance with an offer (which may vary as to terms offered with respect to shares of different series but not with respect to shares of the same series) made in writing or by publication (as determined by the Board of Directors) to all holders of record of shares of Preferred Stock.

Preferred Stock redeemed or acquired on conversion shall be cancelled and retired and shall not be reissued.

5. *Action by Corporation Requiring Approval of Preferred Stock.* The corporation shall not, without the affirmative vote of the holders of at least two-thirds of the then outstanding Preferred Stock given at a meeting:

(a) change the preferences, qualifications, privileges, limitations, restrictions, or other special or relative rights granted to or imposed upon the shares of Preferred Stock in any material respect adverse to the holders thereof, provided that if any such change will affect any particular series materially and adversely as contrasted with the effect thereof upon any other series, no such change may be made without, in addition, such vote of the holders of at least two-thirds of the then outstanding shares of the particular series which would be so affected; or

(b) create or increase the authorized number of shares of any class of stock ranking as to dividends or assets prior to the Preferred Stock; or

(c) permit any Domestic Subsidiary to issue or reissue any preferred stock other than to the corporation or a Wholly-owned Domestic Subsidiary (except for the purpose of acquiring or retiring an equal or greater amount of then outstanding Funded Debt, Preferred Stock, preferred stocks of Domestic Subsidiaries or stock of the corporation ranking as to dividends or assets prior to or on a parity with the Preferred Stock); or

(d) permit any Domestic Subsidiary to create, issue, incur, assume or guarantee any Funded Debt other than to the corporation or a Wholly-owned Domestic Subsidiary (except for the purpose of extending, renewing or refunding an equal or greater amount of then outstanding Funded Debt).

The restrictions in the preceding subparagraphs (c) and (d) shall apply equally to the sale, pledge or other disposal by the corporation or any Domestic Subsidiary of any preferred stock of a Domestic Subsidiary or any Funded Debt of a Domestic Subsidiary. Subparagraph (d) shall apply only to Funded Debt which constitutes indebtedness for money borrowed, and such indebtedness shall not include indebtedness secured by purchase money mortgages given by a Domestic Subsidiary or by liens on property at the date of acquisition thereof by a Domestic Subsidiary, or accounts payable incurred by a Domestic Subsidiary in the ordinary course of business.

The corporation shall not, without the affirmative vote of the holders of at least a majority of the then outstanding Preferred Stock given at a meeting:

(e) sell, lease or exchange (which terms shall not include a mortgage or pledge) all or substantially all of its property and assets (and determination by the Board of Directors as to whether substantially all of its property and assets is involved shall be conclusive); or

(f) create any class of stock ranking as to dividends or assets on a parity with the Preferred Stock or increase the authorized number of shares of the Preferred Stock or of any class of stock ranking as to dividends or assets on a parity with it; or

(g) pay or declare any dividend, or declare or make any other distribution, on the Common Stock or on any other stock of the corporation ranking as to dividends subordinate to the Preferred Stock (other than a dividend or distribution payable in Common Stock or in any other stock of the corporation ranking as to dividends and assets subordinate to the Preferred Stock), or make any payment to any sinking fund for, or purchase or redeem, or permit any Subsidiary to purchase, any shares thereof, if the sum of (x) all dividends declared or paid and all distributions made by the Predecessor Corporation subsequent to December 31, 1952, on any stock of the Predecessor Corporation other than on its 4.60% Preferred Stock or declared or paid by the corporation on the Common Stock or any other stock of the corporation ranking as to dividends or assets subordinate to the Preferred Stock, including the proposed dividend or distribution (except dividends and distributions in common stock of the Predecessor Corporation or in Common Stock or in any other stock of the corporation ranking as to dividends and assets subordinate to the Preferred Stock), and (y) all amounts expended by the Predecessor Corporation subsequent to December 31, 1952 or by the corporation, including the proposed expenditure, for the purpose of acquiring or redeeming shares of any stock of the Predecessor Corporation other than its 4.60% Preferred Stock or shares of Common Stock or in shares of any other stock of the corporation ranking as to dividends or assets subordinate to the Preferred Stock, shall exceed the sum of (1) Consolidated Earned Surplus accumulated after December 31, 1952, and (2) the net cash proceeds and the Fair Value of consideration other than cash (in the event of conversion the par or stated value of the shares of stock converted) received by the Predecessor Corporation or by the corporation from the issue or sale subsequent to June 30, 1953, of shares of common stock of the Predecessor Corporation or in Common Stock or shares of any other stock of the corporation ranking as to dividends or assets subordinate to the Preferred Stock (including any such shares which may be issued on conversion of shares of the Preferred Stock or of shares of any other class of stock of the corporation ranking as to dividends and assets prior to or on a parity with the Preferred Stock), and (3) $2,000,000; or

(h) issue or reissue any Preferred Stock or any stock ranking as to dividends or assets prior to or on a parity with the Preferred Stock (except for the purpose of acquiring or retiring an equal or greater amount of then outstanding Funded Debt, Preferred Stock, preferred stocks of Wholly-owned Domestic Subsidiaries or stock of the corporation ranking as to dividends or assets prior to or on a parity with the Preferred Stock) unless:

(A) Consolidated Net Earnings Before Interest On Consolidated Funded Debt for any twelve consecutive months within the eighteen months preceding the date of issuance or reissuance or the annual average of such Consolidated Net Earnings Before Interest On Consolidated Funded Debt for the three fiscal years preceding the date of issuance or reissuance shall have been equal to at least twice the sum of the following, computed as of that date: (1) total

annual interest requirements on all Funded Debt and (2) total annual dividend requirements on all Preferred Stock and on all preferred Stocks of Subsidiaries and on all stock of the corporation ranking as to dividends or assets prior to or on a parity with the Preferred Stock, and

(B) Consolidated Net Tangible Assets as of a date not more than six months prior to the date of issuance or reissuance of the stock proposed to be issued or reissued, plus the Fair Value of the consideration to be received upon the issuance or reissuance thereof (and not then proposed to be applied to the acquisition or retirement of then outstanding Funded Debt, Preferred Stock, preferred stocks of Subsidiaries or stock of the corporation ranking as to dividends or assets prior to or on a parity with the Preferred Stock) shall have been equal to at least twice the sum of the following, computed as of the date of issuance or reissuance: (1) all outstanding Funded Debt, and (2) the total outstanding amount of all Preferred Stock and of all preferred stocks of Subsidiaries and of all stock of the corporation ranking as to dividends or assets prior to or on a parity with the Preferred Stock, and (3) in the case of all such stocks which are redeemable, an amount equal to the premium, if any, which would be payable if they were being redeemed on the date of issuance or reissuance.

In applying the provisions of (A) and (B) appropriate adjustments shall be made to reflect the proposed issuance or reissuance of stock and any acquisition or retirement of Funded Debt, Preferred Stock, preferred stocks of Subsidiaries or stock of the corporation ranking as to dividends or assets prior to or on a parity with the Preferred Stock to be effected in connection therewith.

The tests and restrictions in the preceding subparagraph (h) shall apply equally to the sale, pledge or other disposal by the corporation or any Subsidiary of any Preferred Stock or any stock ranking as to dividends or assets prior to or on a parity with the Preferred Stock.

6. *Merger or Consolidation.* If, at the time of a merger or consolidation of the corporation, any holder of Preferred Stock does not have under applicable law the right to demand and receive payment in cash of the then value of his shares of Preferred Stock as determined by independent appraisal, such holder shall be entitled to receive payment in cash of an amount equal to that to which he would then be entitled upon a voluntary liquidation of the corporation under the provisions of subparagraph 3, unless by the terms of the merger or consolidation he is entitled to shares or securities (which may be his shares of Preferred Stock) of the corporation resulting from the merger or consolidation which have a relative position and priority, and rights and preferences, at least equal to those of his shares of Preferred Stock immediately prior to the merger or consolidation.

Notwithstanding any provisions of subparagraph 5 of this Paragraph FIFTH, the holders of Preferred Stock shall have no voting rights with respect to any merger or consolidation of the corporation, except as required by law.

7. *Voting Rights.* The holders of shares of Preferred Stock shall have no right to vote and shall not be entitled to notice of any meeting of shareholders of the corporation nor to participate in any such meeting, except as required by law or as herein otherwise expressly provided.

If the corporation shall have failed to pay, or declare and set apart for payment, dividends on all outstanding shares of Preferred Stock in an amount equal to six quarterly dividends (one of which may be the dividend that accrues on April 15, 1968) at the rates payable upon such shares, the number of Directors of the corporation shall be increased by two at the first annual meeting of the shareholders of the corporation held thereafter (and the by-laws of the corporation shall be deemed to be amended as of the time of any election under this subparagraph 7 so as to provide for the required increase), and at such meeting and at each subsequent annual meeting until dividends payable for all past quarterly dividend periods (including the dividend that accrues on April 15, 1968) on all outstanding shares of Preferred Stock shall have been paid, or declared and set apart for payment, in full, the holders of shares of

Preferred Stock shall have the right, voting as a class, to elect such two additional Directors to hold office for a term of one year. Upon such payment, or such declaration and setting apart for payment, in full, the terms of the two additional Directors so elected shall forthwith terminate, and the number of Directors of the corporation shall be reduced by two, and such voting right of the holders of shares of Preferred Stock shall cease, subject to increase in the number of Directors as aforesaid and to revesting of such voting right in the event of each and every additional failure in the payment of dividends in an amount equal to six quarterly dividends as aforesaid.

Except as otherwise specifically provided in this Paragraph FIFTH, the holders of Common Stock shall have the exclusive voting power.

8. *Definitions.* As used in this Paragraph FIFTH:

(a) The term "Funded Debt" shall mean any indebtedness issued, assumed or guaranteed by the corporation or any Subsidiary which matures by its terms more than twelve months from the date of issuance, assumption or guarantee. The term "Funded Debt" shall not include guaranteed indebtedness on which neither the corporation nor any Subsidiary is currently required to pay interest pursuant to the guaranty, or indebtedness by its terms maturing within twelve months from the date of its creation, but extendible or renewable at the option of the obligor to a date more than twelve months from the date of the original creation thereof but not more than twelve months from the date of the original maturity or renewal maturity thereof.

(b) The term "Consolidated Earned Surplus accumulated after December 31, 1952" shall mean the consolidated earned surplus of the corporation and its Subsidiaries accumulated after such date as determined in accordance with generally accepted accounting principles (including the application of such principles to mergers) and reflecting all proper credits or charges (except charges representing dividends and distributions on, or acquisitions of, the Common Stock or any other stock of the corporation ranking as to dividends or assets subordinate to the Preferred Stock or to the 4.60% Preferred Stock of the Predecessor Corporation), such credits or charges including, without limitation, allowances for or reductions of reserves for all assets of doubtful value, depreciation, obsolescence and all contingent liabilities of which the corporation has knowledge. All credits and charges referred to shall be reflected in the accumulation of Consolidated Earned Surplus after December 31, 1952, regardless of the accounting period to which such credits or charges may apply, provided that in no event shall any credits be included if they arise from restoration to surplus of reserves except those created after December 31, 1952, or from write-ups in the book value of either (i) good will, patents, and other intangible items, or (ii) such items as are properly carried as plant, property and equipment on the balance sheet of the corporation or a Subsidiary or as investments in any Subsidiary.

(c) The term "Consolidated Net Earnings Before Interest On Consolidated Funded Debt" shall mean the consolidated gross operating and non-operating income of the corporation and its Subsidiaries after deducting all costs, expenses, charges and taxes, including, without limitation, proper provisions for amortization and reserves determined in accordance with methods regularly followed by the corporation and its Subsidiaries, proper deductions for amortization of debt discount and expense, if any, all income and profits taxes (other than taxes on undistributed profits), if any, interest on all indebtedness (including guaranteed indebtedness of others) other than Funded Debt, income applicable to minority interests in common stocks of Subsidiaries, and all other proper deductions and charges. In so computing such Consolidated Net Earnings Before Interest On Consolidated Funded Debt there may be included the net earnings or losses (computed in the same manner as are Consolidated Net Earnings Before Interest On Consolidated Funded Debt), if any, arising from any property for which the additional stock is to be issued.

(d) The term "Consolidated Net Tangible Assets" shall mean the excess of all assets (except contracts, patents, trade-marks, copyrights, trade names, good will, unamortized debt discount and expense, and other like intangibles) of the corporation and its Subsidiaries over the sum of (1) all direct liabilities (which term does not include capital stock or surplus) other than Funded Debt,

(2) reserves for depreciation, depletion or amortization, (3) reserves in such amounts as may be determined by the Board of Directors to be reasonably necessary or prudent for known or anticipated contingencies, whether or not reflected in the accounts of the corporation and its Subsidiaries, and (4) appropriate adjustments on account of the interests, if any, of persons (other than the corporation or any Subsidiary) holding stock (other than preferred stock) in any Subsidiary, except as qualifying shares.

(e) The term "Subsidiary" shall mean any corporation (i) a majority of whose outstanding shares of common stock (other than qualifying shares, if any) shall at the time be directly or indirectly owned by the corporation or by one or more Subsidiaries or by the corporation and one or more Subsidiaries, and (ii) whose accounts are consolidated with those of the corporation in accordance with the accounting methods regularly employed by the corporation. The term "Domestic Subsidiary" shall mean a Subsidiary having physical assets in the United States of America or Territories thereof, the value of which represents more than half of the value of all its physical assets.

(f) The term "Wholly-owned" with reference to a Subsidiary shall mean the direct or indirect ownership of all the outstanding shares of common stock (other than qualifying shares, if any) of such Subsidiary by the corporation or by one or more Wholly-owned Subsidiaries or by the corporation and one or more Wholly-owned Subsidiaries.

(g) As used with reference to stock of a Subsidiary, the term "common stock" shall mean all classes of capital stock entitled to vote for directors, except any class of stock entitled so to vote only upon the happening of some contingency, and the term "preferred stock" shall mean any stock ranking as to dividends or assets prior to the common stock of such Subsidiary.

(h) For the purpose of subparagraphs 5(c), (d) and (h), the "amount" of any shares shall be the amount payable in respect thereof on involuntary dissolution, liquidation or winding up, plus any unpaid accumulated dividends thereon accrued to the last preceding dividend payment date or dates.

(i) The term "outstanding" as applied to Funded Debt or to shares of stock of any class or series of any corporation shall be deemed to exclude all such debt and shares of stock at the time held by or for the account of the corporation or any Subsidiary.

(j) A certificate of the independent public or independent certified public accountants employed by the corporation to audit or verify the financial statements of the corporation shall be conclusive evidence of the amount of "Funded Debt", "Consolidated Earned Surplus accumulated after December 31, 1952", "Consolidated Net Earnings Before Interest On Consolidated Funded Debt" or "Consolidated Net Tangible Assets" or the "amount" of any shares or any "outstanding" amount.

(k) Wherever the term "Fair Value" is used such fair value shall be determined by the Board of Directors, whose determination, in the absence of fraud, shall be conclusive.

(l) The term "Predecessor Corporation" shall mean I-T-E Circuit Breaker Company, a Pennsylvania Corporation, prior to its merger into the Corporation.

For the purposes of the definitions in this subparagraph 8 the Predecessor Corporation (rather than the corporation itself) shall be deemed to have been the corporation prior to the merger of the Predecessor Corporation into the corporation. If the Predecessor Corporation shall be merged into the corporation such definitions shall be construed in such manner as shall be necessary in order that the shares of 4.60% Preferred Stock shall have a relative position and priority, and rights and preferences, at least equal to those of the 4.60% Preferred Stock of the Predecessor Corporation immediately prior to the merger of the Predecessor Corporation into the corporation.

9. *Series of 4.60% Preferred Stock.* A series of the authorized shares of Preferred Stock of the corporation is hereby established and designated as 4.60% Preferred Stock, which series shall consist of and be limited to 44,160 shares; and the shares of this series shall have, in addition to the rights and privileges granted by law and by subparagraphs 1 through 8 of this Paragraph FIFTH, the following relative rights and preferences, which are hereby fixed and determined:

(a) The initial dividend shall be 57½¢ per share, payable on July 15, 1968. The rate of dividend shall thereafter be 4.60% per annum of the par value thereof.

(b) In the event that any shares of this series shall be redeemed otherwise than out of the retirement fund, the premium which the holders of such shares shall be entitled to receive shall be $1.50 per share if the redemption date is not later than May 1, 1969; and $1.00 per share if the redemption date is thereafter.

(c) In the event of voluntary liquidation of the corporation, the premium which the holders of shares of this series shall be entitled to receive shall be an amount equal to the premium which would be payable if the shares were being redeemed otherwise than out of the retirement fund on the date of the approval by the shareholders of such liquidation.

(d) Shares of this series shall have no conversion privileges.

(e) The sinking fund provisions for the redemption or purchase of shares of this series shall be as follows except as provisions more beneficial to holders of shares of this series may be required by law:

(1) On April 15, 1968, and on April 15 of each year thereafter so long as any shares of this series shall be outstanding, the corporation shall set apart on its books in a separate account, designated as a retirement fund for shares of this series for the 12 months beginning with such April 15, an amount equal to the sum of:

(i) $100,000, and

(ii) $150,000 on April 15, 1968, $150,000 on April 15, 1969 and on each April 15 thereafter the lesser of $150,000 or an amount equal to 10% of the excess, if any, of Consolidated Net Income (as defined in subparagraph (7) of this subparagraph 9(e)) for the preceding fiscal year over $1,000,000.

The corporation may elect to credit against the retirement fund requirement for the 12 month period beginning with such April 15 an amount equal to the cost to the corporation or the Predecessor Corporation (not including accrued dividends, brokerage and other expenses) of shares of this series purchased by the corporation or the Predecessor Corporation (not including redeemed shares) during the 24 months preceding such April 15 otherwise than out of the retirement fund for any period, which the corporation or the Predecessor Corporation has not already used as the basis for a credit against the retirement fund requirement for any period; but the amount of such credit with respect to any share shall not exceed the retirement fund redemption price applicable on such April 15.

(2) The retirement fund redemption price referred to herein shall be $50 per share.

(3) Notwithstanding the provisions of subparagraph (1) of this subparagraph 9(e), amounts shall be set apart in the retirement fund for a particular 12 month period beginning April 15 only when and to the extent that, before the end of such period, the corporation has an excess of net assets over stated capital after dividends payable for all past quarterly dividend periods on all outstanding shares of Preferred Stock have been paid, or declared and set apart for payment, in full. If fully meeting the retirement fund requirement of subparagraph (1) of this subparagraph 9(e) for the 12 month period is delayed, the corporation shall not, before the date such requirement is fully met or April 16 of the next year (whichever is earlier), pay or declare any dividend, or declare or make any other distribution, on the Common Stock or

on any other stock of the corporation ranking as to dividends subordinate to the Preferred Stock (other than a dividend or distribution payable in Common Stock or in any other stock of the corporation ranking as to dividends and assets subordinate to the Preferred Stock), or make any payment to any sinking fund for, or purchase or redeem, or permit any Subsidiary to purchase, any shares thereof.

(4) If dividends for all past dividend periods on all outstanding shares of Preferred Stock have been paid, or declared and set apart for payment, in full, the amount required by this subparagraph 9(e) to be set apart in the retirement fund for a particular 12 month period beginning April 15, may be applied by the corporation from time to time during that period to the purchase of shares of this series at prices not exceeding the retirement fund redemption price applicable during that period (exclusive of accrued dividends, brokerage and other expenses, which shall be paid by the corporation out of its general funds and not out of the retirement fund).

(5) If the balance of such amount at the end of the 12 month period, after deducting amounts applied in accordance with subparagraph (4) of this subparagraph 9(e), does not exceed $10,000, it shall be added to and applied with the retirement fund for the next 12 month period, but if such balance exceeds $10,000 and if and to the extent that the corporation has an excess of net assets over stated capital after dividends for all past dividend periods on all outstanding shares of Preferred Stock have been paid, or declared and set apart for payment, in full, such balance shall be applied by the corporation, as nearly as may be, to the redemption of shares of this series on or before the next June 1 at the retirement fund redemption price applicable on the date fixed for redemption, plus an amount (which shall be paid by the corporation out of its general funds and not out of the retirement fund) equal to the accrued and unpaid dividends thereon computed to the date fixed for redemption, whether or not earned or declared. Except as to the amount of the redemption price, the provisions of subparagraph 4 of this Paragraph FIFTH relating to redemption of Preferred Stock at the option of the corporation, shall apply to redemption of shares of this series out of the retirement fund. All or any portion of such balance which is not so applied to redemption of shares on or before such June 1 because the corporation does not have a sufficient excess of net assets over stated capital after dividends for all past dividend periods on all outstanding shares of Preferred Stock have been paid, or declared and set apart for payment, in full, shall be so applied as soon thereafter as that condition has been fulfilled, on the basis of the retirement fund redemption price which was applicable on such June 1.

(6) Shares used as the basis for credit against the retirement fund's requirement for any period and shares purchased or redeemed out of the retirement fund, shall be cancelled and retired and shall not be reissued.

(7) As used in subparagraph (1) of this subparagraph 9(e) the term "Consolidated Net Income" shall mean the consolidated net income, transferred to surplus, of the corporation and its Subsidiaries for a fiscal year as reported to stockholders of the corporation, and as certified to or verified, for the purpose of such report, by an independent firm of public accountants selected by the Board of Directors of the corporation. The corporation shall cause such report for each fiscal year, and such certificate or verification, to be made not later than April 15 of the following year, so long as any shares of this series shall be outstanding.

(8) The corporation's fiscal year is now the calendar year. If the corporation changes its fiscal year, corresponding changes and apportionments shall be made with respect to all dates and periods relating to the retirement fund requirements of this subparagraph 9(e), in such manner as not to retard the rate of retirement of shares of this series.

SIXTH. The name and mailing address of the sole incorporator is Thomas Joyce, 20 Exchange Place, New York, N. Y. 10005.

SEVENTH. In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, alter or repeal the By-Laws of the corporation.

EIGHTH. The corporation reserves the right to amend, alter, change or repeal any provision contained in this certificate of incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

CERTIFICATE OF INCORPORATION

OF

I-T-E IMPERIAL CORPORATION

FIRST. The name of the corporation is "I-T-E IMPERIAL CORPORATION."

SECOND. The address of its registered office in the State of Delaware is No. 100 West Tenth Street, in the City of Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

THIRD. The purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware including, without limiting the generality of the foregoing, manufacturing, processing, research and development.

FOURTH. The total number of shares of stock which the corporation shall have authority to issue is ten shares of Common Stock of the par value of One Dollar ($1) each.

FIFTH. The name and mailing address of the sole incorporator is Thomas Joyce, 20 Exchange Place, New York, N. Y. 10005.

SIXTH. In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, alter or repeal the By-Laws of the corporation.

SEVENTH. The corporation reserves the right to amend, alter, change or repeal any provision contained in this certificate of incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

I, THE UNDERSIGNED, being the incorporator hereinbefore named, for the purpose of forming a corporation pursuant to the General Corporation Law of the State of Delaware, do make this certificate, hereby declaring and certifying that this is my act and deed and the facts herein stated are true, and accordingly have hereunto set my hand this 21st day of February, 1968.

Thomas Joyce

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

BE IT REMEMBERED, that on this 21st day of February, 1968, personally came before me, GILBERT H. BLEICH, a Notary Public in and for the said State and County, THOMAS JOYCE, the Incorporator named in the foregoing Certificate, known to me personally to be such and acknowledged this Certificate to be his act and deed and that the facts stated therein are true.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first aforesaid.

Notary Public

GILBERT H. BLEICH
Notary Public, State of New York
No. 24-0318850 Qual. in Kings Co.
Certificate filed in New York County
Commission Expires March 30, 1969

State of Delaware

Office of Secretary of State.

I, Elisha C. Dukes, Secretary of State of the State of Delaware, do hereby certify that the above and foregoing is a true and correct copy of Certificate of Incorporation of the "I-T-E IMPERIAL CORPORATION", as received and filed in this office the twenty-third day of February, A.D. 1968, at 10 o'clock A.M.

In Testimony Whereof, I have hereunto set my hand and official seal at Dover this twenty-third day of February in the year of our Lord one thousand nine hundred and sixty-eight.

Elisha C Dukes

Secretary of State

Ass't Secretary of State

FORM 121

18 007 225

Certificate Number 981

STATE OF ILLINOIS

OFFICE OF THE SECRETARY OF STATE

To all to whom these Presents Shall Come, Greeting:

Whereas, *Articles of* Merger *duly signed and verified of* EASTMAN MANUFACTURING COMPANY, a Wisconsin corporation merged into IMPERIAL BRASS MANUFACTURING COMPANY, an Illinois corporation, and name of surviving corporation changed to IMPERIAL-EASTMAN CORPORATION *have been filed in the Office of the Secretary of State on the* 31st *day of* October *A.D. 19* 60 *, as provided by* "THE BUSINESS CORPORATION ACT" *of Illinois, in force July 13, A.D. 1933, as amended;*

Now Therefore, I, CHARLES F. CARPENTIER, *Secretary of State of the State of Illinois, by virtue of the powers vested in me by law, do hereby issue this certificate of* merger *and attach thereto a copy of the Articles of* Merger *of the aforesaid corporation.*

18 007 225

In Testimony Whereof, *I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois.*

Done at the City of Springfield this 31st *day of* October *AD 19* 60 *and of the Independence of the United States the one hundred and* 85th.

Charles F. Carpentier

SECRETARY OF STATE

FORM F-D

(Do not write in this space)

Date Paid 10-31-60

Filing Fee $ 20 -

Clerk T

ARTICLES OF MERGER ~~CONSOLIDATION~~ OF DOMESTIC AND FOREIGN CORPORATION

(Strike Inapplicable Words)

18 007 225

To CHARLES F. CARPENTIER, Secretary of State,

The undersigned corporations, pursuant to Section 69a of "The Business Corporation Act" of the State of Illinois, hereby execute the following articles of merger ~~consolidation~~ :

ARTICLE ONE

The names of the corporations proposing to merge ~~consolidate~~ and the names of the States under the laws of which such corporations are organized, are as follows:

Name of Corporation	State of Incorporation
The Imperial Brass Manufacturing Company	Illinois
Eastman Manufacturing Company	Wisconsin

ARTICLE TWO

The laws of Wisconsin, the State under which such foreign corporation is ~~corporations are~~ organized, permit such merger ~~consolidation~~

ARTICLE THREE

The name of the surviving ~~new~~ corporation shall be Imperial-Eastman Corporation and it shall be governed by the laws of the State of Illinois

ARTICLE FOUR

The plan of merger ~~consolidation~~ is as follows:

SEE PLAN AND AGREEMENT OF MERGER ATTACHED

ARTICLE FIVE

As to each corporation, the number of shares outstanding, the number of shares entitled to vote, and the number and designation of the shares of any class entitled to vote as a class, are:

Name of Corporation	Total Number of Shares Outstanding	Total Number of Shares Entitled to Vote	Designation of Class Entitled to Vote as a Class (if any)	Number of Shares of Such Class (if any)
The Imperial Brass Manufacturing Company	250,320	250,320		
Eastman Manufacturing Company	100,000	100,000		

ARTICLE SIX

As to each corporation, the number of shares voted for and against the plan, respectively, and the number of shares of any class entitled to vote as a class voted for and against the plan, are:

Name of Corporation	Total Shares Voted for	Total Shares Voted Against	Class	Shares Voted for	Shares Voted Against
The Imperial Brass Manufacturing Company	229,590	None			
Eastman Manufacturing Company	98,632	None			

ARTICLE SEVEN

All provisions of the laws of the State of Illinois and the State of Wisconsin applicable to the proposed merger ~~consolidation~~ have been complied with.

PLAN AND AGREEMENT OF MERGER

between

THE IMPERIAL BRASS MANUFACTURING COMPANY

(An Illinois Corporation)

and

EASTMAN MANUFACTURING COMPANY

(A Wisconsin Corporation)

THIS PLAN AND AGREEMENT OF MERGER made and entered into on September 15, 1960, by and between THE IMPERIAL BRASS MANUFACTURING COMPANY, an Illinois corporation (herein sometimes called "IMPERIAL" or "Surviving Corporation"), and EASTMAN MANUFACTURING COMPANY, a Wisconsin corporation (herein sometimes called "EASTMAN"), said corporations being hereinafter sometimes referred to collectively as the "Constituent Corporations".

WITNESSETH:

IMPERIAL is a corporation duly organized and existing under the laws of the State of Illinois, having its principal office in the State of Illinois at 6300 West Howard Street, Chicago 48, Illinois.

The aggregate number of shares which IMPERIAL has authority to issue is five hundred thousand (500,000) common shares of the par value of Twenty Dollars ($20.00) each of which two hundred fifty thousand three hundred twenty (250,320) such shares are issued and outstanding.

EASTMAN is a corporation duly organized and existing under the laws of the State of Wisconsin, having its principal office in the State of Wisconsin at 1440 North 24th Street, Manitowoc, Wisconsin.

The aggregate number of shares which EASTMAN has authority to issue is one hundred two thousand five hundred (102,500) comprised of two thousand five hundred (2,500) preferred shares of the par value of One Hundred Dollars ($100.00) each and one hundred thousand (100,000) common shares of the par value of Ten Dollars ($10.00) each of which one thousand five hundred eighty-three (1,583) preferred shares heretofore issued and outstanding (being all of said preferred shares issued and outstanding) have heretofore been called for redemption on September 23, 1960, and one hundred thousand (100,000) common shares are issued and outstanding.

The boards of directors of IMPERIAL and EASTMAN have, respectively, determined that it is advisable that EASTMAN be merged into IMPERIAL on the terms and conditions hereinafter set forth, in accordance with the applicable provisions of the statutes of the States of Illinois and Wisconsin which permit such merger; and said boards of directors have, by resolutions adopted by each such board, approved and adopted this Plan and Agreement of Merger and all the terms and conditions thereof.

NOW, THEREFORE, in consideration of the premises and of the agreements, covenants and provisions hereinafter contained, IMPERIAL and EASTMAN have agreed and hereby agree each with the other as follows:

ARTICLE I

IMPERIAL and EASTMAN shall be merged into a single corporation, in accordance with the applicable provisions of the laws of the State of Illinois and of the State of Wisconsin, by EASTMAN merging into IMPERIAL, so that IMPERIAL shall be the surviving corporation.

ARTICLE II

Upon the merger being effected as provided in the applicable laws of the State of Illinois and of the State of Wisconsin (the time when the merger shall have so been effected under the laws of both such States being sometimes herein referred to as the "effective time of merger"):

18 001 225

1. The Constituent Corporations shall be a single corporation, which shall be IMPERIAL as the Surviving Corporation, and the separate existence of EASTMAN shall cease except to the extent provided by the laws of the State of Wisconsin in the case of a corporation after its merger into another corporation.

2. The corporate name of IMPERIAL shall thereupon and thereafter be Imperial-Eastman Corporation.

3. The Surviving Corporation shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises, as well of a public as of a private nature, of each of the Constituent Corporations; and all property, real, personal, and mixed, and all debts due to either of the Constituent Corporations on whatever account, including subscriptions to shares, and all other choses in action, and all and every other interest, of or belonging to or due to each of the Constituent Corporations, shall be taken and deemed to be transferred to and vested in the Surviving Corporation without further act or deed, and be as effectually the property of the Surviving Corporation as they were of each of the Constituent Corporations; and the title to any and all real estate, or any interest therein, vested in each of the Constituent Corporations shall vest in the Surviving Corporation and shall not revert or be in any way impaired by reason of the merger.

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4. The Surviving Corporation shall thenceforth be responsible and liable for all of the liabilities and obligations of each of the Constituent Corporations; and any claim existing or action or proceeding pending by or against each of the Constituent Corporations may be prosecuted to judgment as if the merger had not taken place, or the Surviving Corporation may be substituted in their place, and neither the rights of creditors nor any liens upon the property of either of the Constituent Corporations shall be impaired by the merger.

5. The aggregate amount of the net assets of IMPERIAL and the net surplus of EASTMAN, which were available for the payment of dividends immediately prior to the effective time of the merger, to the extent that the value thereof is not transferred to stated capital by the issuance of shares or otherwise, shall continue to be available for the payment of dividends by the Surviving Corporation.

6. The By-Laws of IMPERIAL, as existing and constituted immediately prior to the effective time of merger, shall be and constitute the By-Laws of the Surviving Corporation.

7. The board of directors of the Surviving Corporation shall consist of the persons who are directors of IMPERIAL immediately prior to the effective time of merger, each of which directors shall hold office until his respective successor is duly elected and qualified.

ARTICLE III

At the effective time of the merger, the Articles of Incorporation of IMPERIAL shall be amended by changing the name of the Surviving Corporation to Imperial-Eastman Corporation, and as so amended, shall constitute the Articles of Incorporation of the Surviving Corporation.

ARTICLE IV

1. The issued and outstanding common shares of EASTMAN immediately prior to the effective time of merger shall be converted into common shares of the Surviving Corporation at the effective time of the merger in the following manner and on the following basis:

(a) Each one and four-tenths (1.4) common shares of EASTMAN shall be converted into one (1) fully paid and non-assessable common share of the Surviving Corporation and each holder of such shares of EASTMAN, upon surrender to the Surviving Corporation for cancellation of one or more certificates representing such shares, shall thereafter be entitled to receive one or more certificates representing the number of full common shares of the Surviving Corporation to which such holder is entitled. Until so surrendered, each outstanding certificate which, prior to the effective time of merger, represented common shares of EASTMAN shall be deemed, for all corporate purposes, to represent the ownership of common shares of the Surviving Corporation on the basis hereinabove provided.

(b) No fractional common shares or scrip of the Surviving Corporation shall be issued, and no cash shall be paid by the Surviving Corporation in lieu thereof, in connection with the merger;

provided that if on the basis provided for in (a) next above a common shareholder of EASTMAN would otherwise be entitled to, in addition to full common shares of the Surviving Corporation, a fractional common share of the Surviving Corporation of at least one-half (½) of a common share, such shareholder shall receive one (1) additional fully paid and nonassessable common share of the Surviving Corporation; otherwise such fractional common share shall be disregarded.

2. All preferred shares of EASTMAN shall be redeemed in their entirety for cash by EASTMAN prior to the effective time of the merger.

3. Each common share of IMPERIAL issued and outstanding immediately prior to the effective time of merger shall remain unchanged as one (1) fully paid and nonassessable common share of the Surviving Corporation.

ARTICLE V

The Surviving Corporation shall pay all expenses of carrying this Plan and Agreement of Merger into effect and accomplishing the merger herein provided for. In the event of abandonment of the merger in accordance with the provisions of ARTICLE VII hereof, each of the Constituent Corporations shall pay its own expenses, provided that this provision shall not in any way release or diminish the liability of either of the Constituent Corporations to the other under the provisions of ARTICLE VII hereof.

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ARTICLE VI

If at any time the Surviving Corporation shall consider or be advised that any further assignment or assurance in law is necessary or desirable to vest in the Surviving Corporation the title to any property or rights of EASTMAN, the proper officers and directors of EASTMAN shall and will execute, make and deliver all such proper assignments and assurances in law and do all things necessary or proper to vest such property or rights in the Surviving Corporation, and otherwise to carry out the purposes and terms and conditions of this Plan and Agreement of Merger.

ARTICLE VII

This Plan and Agreement of Merger shall be submitted to the shareholders of each of the Constituent Corporations, as provided by law, and shall take effect, and be deemed and be taken to be the Plan and Agreement of Merger of said Corporation, upon the approval thereof by the shareholders of each of the Constituent Corporations in accordance with the requirements of the laws of the State of Illinois and of the State of Wisconsin, respectively, and upon the execution, acknowledgment, delivery, filing and recording of such documents and upon the doing of such other acts and things as shall be required for accomplishing and effecting the merger under the provisions of the applicable statutes of the State of Illinois and of the State of Wisconsin.

Anything herein or elsewhere to the contrary notwithstanding, this Plan and Agreement of Merger, and the merger herein provided for, may be abandoned (A) by either the board of directors of IMPERIAL or the board of directors of EASTMAN if this Plan and Agreement of Merger is not duly approved by the shareholders of IMPERIAL and by the shareholders of EASTMAN on or prior to November 25, 1960, or such later date as may be mutually agreed upon by such boards of directors, or (B) at any time before the expiration of ten (10) days after due approval of this Plan and Agreement of Merger by the shareholders of IMPERIAL and by the shareholders of EASTMAN, whichever shall last take place:

1. By mutual consent of the board of directors of IMPERIAL and the board of directors of EASTMAN;

2. By the board of directors of IMPERIAL or by the board of directors of EASTMAN in the event of a material inaccuracy, breach or failure to perform, as the case may be, of the representations, warranties and agreements of the other party hereto contained in or made pursuant to paragraphs 4, 5, 6, 7 and 8 of that certain agreement dated July 22, 1960 by and between the parties hereto described as a "Letter of Intent" and dealing with the contemplated merger of EASTMAN into IMPERIAL;

3. By the board of directors of IMPERIAL or by the board of directors of EASTMAN in the event that subsequent to the date hereof, in its judgment, there shall be a materially adverse change in the financial condition of the other party hereto, or the properties or business of the other party hereto shall be materially and adversely affected, as a result of fire, explosion, strike, accident, confiscation of governmental authority or Act of God, or there shall be any litigation materially and adversely affecting the other party, or the properties or business of the other party, or the advisability of the merger, pending or threatened; or

4. By the board of directors of IMPERIAL or by the board of directors of EASTMAN if, in its judgment, the exposure of the Surviving Corporation to liability for payment of the fair value of shares of dissenting shareholders of either or both of the Constituent Corporations is excessive and would not be in the best interests of the Surviving Corporation.

In the event of abandonment, as aforesaid, this Plan and Agreement of Merger shall become and be wholly void and of no effect, and there shall be no liability to anyone on account thereof on the part of IMPERIAL or EASTMAN, or their respective boards of directors, or their respective shareholders except in the case of abandonment by one party hereto on account of a material misrepresentation, breach of a warranty or failure to perform of an agreement of the other party hereto contained in or made pursuant to paragraphs 4, 5, 6, 7 and 8 of the above mentioned Letter of Intent dated July 22, 1960. Unless abandoned pursuant to this ARTICLE, this Plan and Agreement of Merger and the merger herein contemplated shall be consummated, in any case, promptly after expiration of the above-specified period of ten (10) days following approval by shareholders of IMPERIAL and of EASTMAN, as aforesaid. Prior to expiration of such period of ten (10) days, the board of directors of IMPERIAL and the board of directors of EASTMAN may mutually agree to consummate this Plan and Agreement of Merger forthwith whereupon all of the aforesaid rights of abandonment shall be deemed to be waived. Action by the board of directors of IMPERIAL or by the board of directors of EASTMAN, as contemplated by this ARTICLE, shall be evidenced by a resolution duly adopted, and a copy thereof certified by the Secretary or an Assistant Secretary of IMPERIAL or EASTMAN, as the case may be; and the same shall be promptly delivered to the office of the Secretary of the other party.

IN WITNESS WHEREOF, IMPERIAL and EASTMAN have caused this Plan and Agreement of Merger to be signed in their respective corporate names by their respective Presidents or Vice Presidents, and their respective corporate seals to be hereunto affixed and attested by their respective Secretaries or Assistant Secretaries, all as of the day and year first above written.

THE IMPERIAL BRASS MANUFACTURING COMPANY
(An Illinois Corporation)

By W.C. Musham
Its _____ President

ATTEST:

F.G. Harris
Its _____ Secretary

(Corporate Seal)

EASTMAN MANUFACTURING COMPANY
(A Wisconsin Corporation)

By W.C. Schuknecht
Its _____ President

ATTEST:

M.W. Brose
Its _____ Secretary

(Corporate Seal)

18 007 225

ARTICLE EIGHT

(Delete this article if surviving or new corporation is to be governed by the laws of the State of Illinois.)

~~It is agreed that, upon and after the issuance of a certificate of~~ merger / consolidation ~~by the Secretary of State of the~~ State of Illinois:

1. The surviving / new corporation may be served with process in the State of Illinois in any proceeding for the enforcement of any obligation of any corporation organized under the laws of the State of Illinois which is a party to the merger / consolidation, and in any proceeding for the enforcement of the rights of a dissenting shareholder of any such corporation organized under the laws of the State of Illinois against the surviving or new corporation;

2. The Secretary of State of the State of Illinois shall be and hereby is irrevocably appointed as the agent of the surviving / new corporation to accept service of process in any such proceeding; and

3. The surviving / new corporation will promptly pay to the dissenting shareholders of any corporation organized under the laws of the State of Illinois which is a party to the merger / consolidation the amount, if any, to which they shall be entitled under the provisions of "The Business Corporation Act" of the State of Illinois with respect to the ~~rights of dissenting shareholders.~~

IN WITNESS WHEREOF each of the undersigned corporations has caused these articles of merger ~~consolidation~~ to be executed in its name by its president or vice president and its corporate seal to be hereunto affixed, attested by its secretary or assistant secretary, as of the 26th day of October, 19 68

The Imperial Brass Manufacturing Company

Place (Corporate Seal) Here

By _____

Its ~~XXXXXXX~~ ~~XXX~~ President

ATTEST:

_____

Its ~~XXXXXXX~~ ~~XXX~~ Secretary

Place (Corporate Seal) Here

Eastman Manufacturing Company

By _____

Its President ~~XXXXXXX~~ ~~XXX~~ President

ATTEST:

_____

Its Secretary ~~XXXXXXXXXXXX~~

STATE OF Illinois
COUNTY OF Cook } ss.

I, Henry A. Kulas, a Notary Public, do hereby certify that on the 26th day of October, A.D. 1960, personally appeared before me W. C. Musham, who declares that he is the President of The Imperial Brass Manufacturing Company, one of the corporations executing the foregoing documents, and being first duly sworn, acknowledged that he signed the foregoing articles of merger ~~consolidation~~ in the capacity therein set forth and declared that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year before written.

Place (Notarial Seal) Here

Henry A. Kulas, Notary Public
Cook County, Illinois
My Commission Expires ~~[illegible]~~ 1961

STATE OF WISCONSIN
COUNTY OF MANITOWOC } ss.

I, Jean Sydow, a Notary Public, do hereby certify that on the 26th day of October, A.D. 1960, personally appeared before me W. C. Schuknecht, who declares that he is the President of Eastman Manufacturing Company, one of the corporations executing the foregoing documents, and being first duly sworn, acknowledged that he signed the foregoing articles of merger ~~consolidation~~ in the capacity therein set forth and declared that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year before written.

JEAN SYDOW NOTARY PUBLIC MANITOWOC COUNTY, WIS.

(Notarial Seal)

Jean Sydow, Notary Public
Manitowoc County, Wisconsin. My Commission Expires July 15, 1962.

18 007 225

Form F-D

Box 947 File 29

ARTICLES OF MERGER ~~CONSOLIDATION~~ OF THE IMPERIAL BRASS MANUFACTURING COMPANY AND EASTMAN MANUFACTURING COMPANY

FILED
OCT 31 1960
Secretary of State.

(File in Duplicate)
Filing Fee $20.00

(46030—5M—10-56)

12.25

Certificate of

MERGER

of

EASTMAN MANUFACTURING COMPANY,
a Wisconsin corporation,

into

THE IMPERIAL BRASS MANUFACTURING
COMPANY, an Illinois corporation,

and change of name to:

IMPERIAL-EASTMAN CORPORATION

Mail to:

C. Lysle Smith, Esq.,
Room 1776
38 South Dearborn Street
Chicago 3, Illinois

MAIL

STATE OF ILLINOIS,

Office of the

Secretary of State

MAIL

16007225

Edmund J Kucharski

RECORDER OF DEEDS
COOK COUNTY, ILLINOIS
FILED FOR RECORD

1960 NOV 2 PM 2 35

NOV-2-60 198881 • 16007225 ~ D = —

12.30

NOTICE TO CORPORATIONS

Every corporation organized under "The Business Corporation Act" is required to make and file in the office of the Secretary of State in February of each year an annual report and severe penalties are provided by statute for failure to do so.

Corporations are also required to file all amendments to their articles of incorporation.

The certificate of incorporation, all amendments thereto and articles of merger or consolidation must be recorded in the office of the County Recorder of the County in which the business office of the corporation is located within fifteen days from the issuance thereof.

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STATE OF DELAWARE

OFFICE OF SECRETARY OF STATE

I, MICHAEL HARKINS, Secretary of State of the State of Delaware, do hereby certify that the Certificate of Incorporation of the "NATIONAL BATTERY COMPANY", was received and filed in this office the fifteenth day of October, A.D. 1928, at 11 o'clock A.M.

And I do hereby further certify that the said "NATIONAL BATTERY COMPANY", filed a Certificate of Change of Agent and Location of Principal Office, on the tenth day of August, A.D. 1931, at 9 o'clock A.M.

And I do hereby further certify that the said "NATIONAL BATTERY COMPANY", filed a Certificate of Retirement of Preferred Shares, on the eighteenth day of February, A.D. 1935, at 9 o'clock A.M.

And I do hereby further certify that the said "NATIONAL BATTERY COMPANY", filed a Certificate of Retirement of Preferred Shares, on the twenty-first day of April, A.D. 1938, at 1 o'clock P.M.

And I do hereby further certify that the said "NATIONAL BATTERY COMPANY", filed a Certificate of Amendment, on the fourteenth day of October, A.D. 1939, at 9 o'clock A.M.

And I do hereby further certify that the said "NATIONAL BATTERY COMPANY", filed a Certificate of Retirement of Preferred Shares, on the twenty-sixth day of June, A.D. 1940, at 9 o'clock A.M.

And I do hereby further certify that the said "NATIONAL BATTERY COMPANY", filed a Certificate of Retirement of Preferred Shares, on the twelfth day of June, A.D. 1941, at 9 o'clock A.M.

And I do hereby further certify that the said "NATIONAL BATTERY COMPANY", filed a Certificate of Retirement of Preferred Shares, on the sixth day of July, A.D. 1942, at 9 o'clock A.M.

And I do hereby further certify that the said "NATIONAL BATTERY COMPANY", filed a Certificate of Amendment, on the twentieth day of July, A.D. 1942, at 9 o'clock A.M.

And I do hereby further certify that the said "NATIONAL BATTERY COMPANY", filed a Certificate of Amendment, on the twenty-second day of August, A.D. 1945, at 9 o'clock A.M.

And I do hereby further certify that the said "NATIONAL BATTERY COMPANY", filed a Certificate of Amendment, on the sixth day of August, A.D. 1948, at 9 o'clock A.M.

And I do hereby further certify that the said "NATIONAL BATTERY COMPANY", filed a Certificate of Amendment, changing its corporate title to "GOULD-NATIONAL BATTERIES, INC.", on the second day of August, A.D. 1950, at 9 o'clock A.M.

And I do hereby further certify that the said "GOULD-NATIONAL BATTERIES, INC.", filed a Certificate of Designation, on the fourth day of September, A.D. 1951, at 12 o'clock Noon.

And I do hereby further certify that the said "GOULD-NATIONAL BATTERIES, INC.", filed a Certificate of Retirement of Preferred Shares, on the twentieth day of August, A.D. 1952, at 9 o'clock A.M.

And I do hereby further certify that the said "GOULD-NATIONAL BATTERIES, INC.", filed a Certificate of Amendment, on the tenth day of August, A.D. 1953, at 9 o'clock A.M.

And I do hereby further certify that the said "GOULD-NATIONAL BATTERIES, INC.", filed a Certificate of Amendment, on the fifteenth day of October, A.D. 1956, at 9 o'clock A.M.

And I do hereby further certify that the said "GOULD-NATIONAL BATTERIES, INC.", filed a Certificate of Retirement of Preferred Shares, on the eleventh day of June, A.D. 1959, at 9 o'clock A.M.

And I do hereby further certify that the said "GOULD-NATIONAL BATTERIES, INC.", filed a Certificate of Amendment, on the seventh day of August, A.D. 1959, at 9 o'clock A.M.

And I do hereby further certify that the said "GOULD-NATIONAL BATTERIES, INC.", filed a Certificate of Amendment, on the fourth day of August, A.D. 1960 at 9 o'clock A.M.

And I do hereby further certify that the said "GOULD-NATIONAL BATTERIES, INC.", filed a Certificate of Change of Agent and Location of Principal Office, on the seventeenth day of October, A.D. 1962, at 10 o'clock A.M.

And I do hereby further certify that the said "GOULD-NATIONAL BATTERIES, INC.", filed a Certificate of Amendment, on the twenty-fourth day of March, A.D. 1969, at 10 o'clock A.M.

And I do hereby further certify that the said "GOULD-NATIONAL BATTERIES, INC.", filed a Certificate of Agreement of Merger, on the twenty-ninth day of April, A.D. 1969, at 10 o'clock A.M.

And I do hereby further certify that the said "GOULD-NATIONAL BATTERIES, INC.", filed a Restated Certificate of Incorporation, changing its corporate title to "GOULD INC.", on the twenty-fifth day of June, A.D. 1969, at 10 o'clock A.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Agreement of Merger, on the thirty-first day of July, A.D. 1969, at 3:30 o'clock P.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Agreement of Merger, on the nineteenth day of December, A.D. 1969, at 10 o'clock A.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Agreement of Merger, on the second day of June, A.D. 1972, at 12 o'clock Noon.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Ownership, on the twenty-second day of June, A.D. 1972, at 10 o'clock A.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Agreement of Merger, on the twenty-second day of December, A.D. 1972, at 11:30 o'clock A.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Amendment, on the twenty-ninth day of October, A.D. 1973, at 10 o'clock A.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Designation, on the nineteenth day of December, A.D. 1973, at 8:30 o'clock A.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Ownership, on the twentieth day of February, A.D. 1974, at 10 o'clock A.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Agreement of Merger, on the fourth day of June, A.D. 1974, at 11:45 o'clock A.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Designation, on the second day of July, A.D. 1974, at 3 o'clock P.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Ownership, on the twenty-sixth day of August, A.D. 1974, at 10 o'clock A.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Designation, on the first day of November, A.D. 1974, at 10 o'clock A.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Merger, on the fifth day of June, A.D. 1975, at 12 o'clock Noon.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Ownership, on the thirtieth day of December, A.D. 1976, at 10 o'clock A.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Merger, on the thirty-first day of May, A.D. 1977, at 12:30 o'clock P.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Merger, on the thirtieth day of June, A.D. 1977, at 2:30 o'clock P.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Merger, on the thirtieth day of June, A.D. 1977, at 4 o'clock P.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Amendment, on the twenty-fifth day of July, A.D. 1977, at 1 o'clock P.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Merger, on the twenty-seventh day of January, A.D. 1978, at 10:30 o'clock A.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Merger, on the eighth day of February, A.D. 1978, at 12 o'clock Noon.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Merger, on the first day of November, A.D. 1978, at 12:30 o'clock P.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Reduction of Capital, on the eighteenth day of December, A.D. 1978, at 10 o'clock A.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Agreement of Merger, on the seventh day of May, A.D. 1980, at 2:10 o'clock P.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Ownership, on the twenty-seventh day of June, A.D. 1980, at 10 o'clock A.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Agreement of Merger, on the twenty-seventh day of June, A.D. 1980, at 12:15 o'clock P.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Agreement of Merger, on the twenty-third day of January, A.D. 1981, at 12:30 o'clock P.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Agreement of Merger, on the twenty-third day of February, A.D. 1981, at 11 o'clock A.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Agreement of Merger, on the twenty-first day of August, A.D. 1981, at 12 o'clock Noon.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Ownership, on the fourth day of December, A.D. 1981, at 3 o'clock P.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Ownership, on the twenty-third day of December, A.D. 1981, at 2 o'clock P.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Agreement of Merger, on the eleventh day of February, A.D. 1982, at 2 o'clock P.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Ownership, on the twenty-eighth day of July, A.D. 1982, at 10 o'clock A.M.

And I do hereby further certify that the said "GOULD INC.", filed a Restated Certificate of Incorporation, on the twenty-sixth day of August, A.D. 1982, at 2 o'clock P.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Amendment, on the ninth day of May, A.D. 1983, at 2 o'clock P.M.

And I do hereby further certify that a Certificate of Change of Location of Registered Office of the companies represented by "The Corporation Trust Company", as it applies to "GOULD INC.", was received and filed in this office the twenty-seventh day of July, A.D. 1984, at 4:30 o'clock P.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Amendment, on the first day of May, A.D. 1985, at 10 o'clock A.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Ownership, on the twenty-third day of December, A.D. 1985, at 10 o'clock A.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Ownership, on the twenty-third day of December, A.D. 1985, at 10:01 o'clock A.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Ownership, on the eighth day of October, A.D. 1986, at 3:15 o'clock P.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Amendment, on the sixth day of May, A.D. 1987, at 10 o'clock A.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Designation, on the tenth day of May, A.D. 1988, at 12:20 o'clock A.M.

And I do hereby further certify that the said "GOULD INC.", filed a Certificate of Ownership, on the first day of November, A.D. 1988, at 10:05 o'clock A.M.

And I do hereby further certify that the aforesaid Certificates are the only Certificates on record of the aforesaid Corporation.

And I do hereby further certify that the aforesaid Corporation is duly incorporated under the laws of the State of Delaware and is in good standing and has a legal corporate existence not having been cancelled or dissolved so far as the records of this office show and is duly authorized to transact business.

And I do hereby further certify that the Annual Reports have been filed to date.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Dover this eighth day of December in the year of our Lord one thousand nine hundred and eighty-eight.

IMPERIAL EASTMAN CORPORATION
EXHIBIT 1-A

STATE OF ILLINOIS
DEPARTMENT OF STATE

James A. Rose — **Secretary of State**

To all to whom [illegible] Presents Shall Come Greeting:

Whereas, a [illegible], duly signed and acknowledged, has been filed in the Office of the [illegible] of State, on the 7th day of January AD 1905 for the orga[illegible] the The Imperial [illegible] Manufacturing Company

under and in acc[illegible] the provisions of "AN ACT CONCERNING CORPORATIONS" approved April [illegible] in force July 1, 1872, and all acts amendatory thereof, a copy of [illegible] ment is hereto attached;

And Whereas, a [illegible] ng been issued to Charles McNellis, Joseph [illegible] and Frank McNellis

as Commissione[illegible] for subscription to the capital stock of the said Company,

And Whereas, [illegible] issioners have, on the twenty-fourth day of Janua[illegible] filed in the office of the Secretary of State, a report of their proceedi[illegible] License, a copy of which report is hereto attached.

Now Therefo[illegible] J[illegible] A. ROSE, Secretary of State of the State of Illinois, by virtue of [illegible] ted in me by law, do hereby certify that the said The Imp[illegible] Brass Manufacturing Company

is a lega[illegible] Corporation under the laws of this State.

[illegible]n Testimony Whereof, I hereto set my hand and cause to be affixed the great Seal of State.

Done at the City of Springfield this 24th day of January AD 1905 and of the Independence of the United States the one hundred and 29th

James A. Rose

SECRETARY OF STATE.

R.F. Pinckerne & Co., Chicago

5M

(001)

STATE OF ILLINOIS,
Cook County, } ss

Incorporation Fees:

$2,500 or less	$30.00
$2,500 to $5,000	50.00
Each additional thousand	1.00

To JAMES A. ROSE, Secretary of State:

We, the undersigned Charles McNellis
Joseph Mestran and
Frank McNellis

propose to form a corporation under an Act of the General Assembly of the State of Illinois, entitled, "An Act Concerning Corporations," approved April 18, 1872, and all acts amendatory thereof; and, for the purpose of such organization we hereby state as follows, to-wit:

1. *The name of such corporation is* The Imperial Brass Manufacturing Company

2. *The object for which it is formed is* to deal in and manufacture, repair, sell and handle all kinds of Brass bronze and metal goods and other materials and everything of every name and nature whatsoever connected with or pertaining thereto

3. *The capital stock shall be* Fifty-five Thousand Dollars.

4. *The amount of each share is* One Hundred Dollars

5. *The number of shares* Three Hundred and Fifty

6. *The location of the principal office is in* ____ *in the County of* Cook and *State of Illinois.*

7. *The duration of the corporation shall be* Ninety-nine *years.*

Charles McNellis
Joseph Mestran
Frank McNellis

STATE OF ILLINOIS,

County of Cook } *ss.*

I, Joseph B. Burtt

a Notary Public in and for the County and State aforesaid, do hereby certify that on the Sixth *day of* January *A. D.* 1905 *personally appeared before me* Charles McNellis, Joseph Meskay and Frank McNellis

to me personally known to be the same persons who executed the foregoing statement, and severally acknowledged that they executed the same for the purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year above written.

Seal

Joseph B. Burtt
Notary Public.

Filed
Jan 7-1905
James A. Rose
Sec'y of State

oration for Pecuniary Profit.

ES PAYABLE IN ADVANCE.

Statement of Incorporation

—OF THE—

003

To JAMES A. ROSE,

Secretary of State of the State of Illinois:

The Commissioners, *duly authorized to open Books of Subscription to the Capital Stock of* The Imperial Brass Manufacturing Company *pursuant to license heretofore issued, bearing date the* 7th *day of* February *A. D.* 1905 *do hereby report that they opened Books of Subscription to the Capital Stock of said Company, and that the said Stock was fully subscribed; that the following is a true copy of such subscription, viz:*

We, the undersigned, hereby severally subscribe for the number of shares set opposite our respective names, to the Capital Stock of The Imperial Brass Manufacturing Company *and we severally agree to pay the said Company, for each share, the sum of* One Hundred *Dollars.*

NAME	SHARES	AMOUNT
Charles McNellis	180	18000 00
Joseph Meskan	20	2000 00
Frank McNellis	150	15000 00

That on the 23rd day of January A. D. 1905 at the City of Chicago Illinois, at the hour of 1 o'clock P. M., they convened a meeting of the subscribers aforesaid pursuant to notice required by law, which said notice was deposited in the postoffice, properly addressed to each subscriber, ten days before the time fixed therein, a copy of which said notice is as follows, to-wit:

To Joseph Meskan

You are hereby notified that the Capital Stock of The Imperial Brass Manufacturing Company has been fully subscribed and that a meeting of the subscribers of such stock will be held at room 45 No. 70 La Salle Street, Chicago Illinois on the 23rd day of January A. D. 1905, at one o'clock P. M., for the purpose of electing a Board of Directors for said Company and for the transaction of such other business as may be deemed necessary.

Signed,

Charles McNellis
Joseph Meskan
Frank McNellis
} Commissioners.

That said subscribers met at the time and place in said notice specified, and proceeded to elect Directors and that the following persons were duly elected for the Term of one year, viz:

Charles McNellis	one year
Joseph Meskan	one year
Frank McNellis	one year

And that the postoffice address of the business office of said Company is at Number 245 So. Jefferson Street in the City of Chicago in the County of Cook and State of Illinois.

Charles McNellis
Joseph Meskan
Frank McNellis
} Commissioners.

STATE OF ILLINOIS }
County of Cook } ss.

On this 23rd day of January A. D. 1905, personally appeared before me, a Notary Public, in and for said County, in said State

Charles McNellis,
Joseph Meskan and
Frank McNellis

and made oath that the foregoing report by them subscribed is true in substance and in fact.

Seal

Joseph B. Burtt
Notary Public.

MAIL TO

STATE OF ILLINOIS } S.S. No 3647475
COOK COUNTY }
FILED FOR RECORD
JAN. 25 A.D. 1905 at 4 P.M.
AND RECORDED IN BOOK 115 of
OF RECORDS PAGE 311
corp Abel Davis
RECORDER

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St.

B

ATTACHMENT B – Responsive to Requests for Information Nos. 3, 4, 5, 6, 8, and 9

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AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER, dated August 30, 1988 (the "Agreement"), among NIPPON MINING COMPANY, LIMITED, a Japanese corporation (the "Parent"), NIPPON MINING U.S. INC., a Delaware corporation and a wholly-owned subsidiary of the Parent (the "Subsidiary"), and GOULD INC., a Delaware corporation (the "Company"). The Company and the Subsidiary are hereinafter sometimes collectively referred to as the "Constituent Corporations."

The respective Boards of Directors of the Parent, the Subsidiary and the Company have approved the acquisition of the Company by the Parent. In furtherance thereof, the Subsidiary will make a tender offer (the "Offer") for all shares of the Company's common stock, par value $4 per share (the "Common Stock"), and if the Subsidiary purchases Common Stock pursuant to the Offer, the Subsidiary will be merged into the Company (the "Merger"), in each instance upon the terms of and subject to the conditions set forth in this Agreement.

At the request of the Parent, as a condition to its willingness to enter into this Agreement, the Board of Directors of the Company has approved an amendment to

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a Joint Venture Agreement dated February 27, 1981, as previously amended (the "Amendment") giving Parent the option (the "Joint Venture Purchase Option") under certain circumstances to purchase the Company's stock of the corporation formed under that agreement, which Amendment is being executed simultaneously with this Agreement.

Accordingly, the parties hereto agree as follows:

ARTICLE I

THE TENDER OFFER

1.1 The Offer. Provided that none of the events set forth on Exhibit A has occurred, the Subsidiary shall, as soon as practicable after the date hereof (but in no event later than September 6, 1988), commence a cash tender offer for all of the issued and outstanding shares of the Common Stock (the "Shares") at a price of $23.25 per Share net to the seller in cash, or such higher price as may be paid pursuant to the Offer, (the "Price Per Share") and subject to a minimum of not fewer than 23,500,000 Shares being validly tendered and not withdrawn (the "Minimum Condition"). The obligations of the Subsidiary to consummate the Offer and to pay for any of the Shares tendered shall be subject only to the conditions set forth in Exhibit A (including the Minimum

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Condition), which shall be included in substantially the form of Exhibit A in the Offer to Purchase pursuant to which the Offer is to be made and, subject to such conditions, the Subsidiary shall use all reasonable efforts (except as otherwise provided in this Agreement) to consummate the Offer. Without the written consent of the Company, neither the Parent nor the Subsidiary will waive the Minimum Condition, decrease the Price Per Share below $23.25 per Share net to the seller in cash, change the form of consideration or amend any other material term of the Offer in a manner adverse to the holders of the Shares.

1.2 Company Action. The Company hereby consents to the Offer and represents and warrants that (i) its Board of Directors has approved the Offer and the Merger, determined that they are fair and will be in the best interest of the Company and its stockholders, and resolved to recommend acceptance of the Offer and approval of the Merger by the stockholders of the Company and (ii) The First Boston Corporation has rendered to the Board of Directors an opinion, as of the date hereof, stating that the Price Per Share to be received in the Offer and the Merger is fair to holders of Shares from a financial point of view. Upon commencement of the Offer,

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the Company shall file with the Securities and Exchange Commission ("SEC") and mail to the holders of Shares a Solicitation/Recommendation Statement on Schedule 14D-9 reflecting such recommendation and shall permit the Subsidiary to distribute a copy of such Schedule 14D-9, or a summary thereof, with the Offer to Purchase and the Letter of Transmittal (collectively, the "Offer Documents"). The Company hereby consents to the inclusion in the Offer Documents of its recommendation. Notwithstanding the foregoing provisions of this Section 1.2, the Board of Directors may withdraw, modify or change any recommendation regarding the Offer or the Merger if, in the opinion of the Board of Directors after consultation with its counsel, failure to do so would be inconsistent with the directors' fiduciary duties under applicable law. In connection with the Offer, the Company will promptly furnish the Subsidiary with such information, including current lists of the stockholders of the Company, mailing labels and lists of security positions, and such assistance as the Subsidiary or its agents may reasonably request in communicating the Offer to the Company's stockholders.

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1.3 Compliance with Exchange Act. The Parent and the Subsidiary agree, as to the Offer Documents and other documents referred to in Section 6.10, and the Company agrees, as to the Schedule 14D-9, that such documents shall, in all material respects, comply with the requirements of the Exchange Act and the rules and regulations thereunder and other applicable laws. The Company and its counsel, as to the Offer Documents and other documents referred to in Section 6.10, and the Parent and the Subsidiary and their counsel, as to the Schedule 14D-9, shall be given an opportunity to review such documents prior to their being filed with the SEC.

1.4 Board of Directors. At all times after the Subsidiary acquires Shares through the Offer, Parent will, subject to compliance with the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and any other applicable laws, be entitled to designate a number of members of the Company's Board of Directors, rounded up to the nearest whole number, which is the same percentage of all the members of the Company's Board of Directors that the number of shares of Common Stock of the Company owned by Parent and all its directly or indirectly owned subsidiaries (including the Subsidiary) is of all the outstanding Common Stock of the Company. At

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the request of Parent, the number of persons constituting the entire Board of Directors will be increased (and, if necessary, the Company's By-laws will be amended to permit the increase) so that there will be a sufficient number of vacancies to allow persons designated by Parent to be elected to the number of places on the Board of Directors for which Parent is entitled to designate members, and persons designated by Parent will be elected to those places. The Parent and the Subsidiary will supply to the Company any information relating to the Parent or its designees required by Section 14(f) of the Exchange Act and Rule 14f-1 thereunder, and the Company will take such action to effect the foregoing as may be necessary under Section 14(f) of the Exchange Act and Rule 14f-1 thereunder.

ARTICLE II

THE MERGER

2.1 The Merger. At the Effective Time (as hereinafter defined), subject to the terms and conditions of this Agreement, the Subsidiary shall be merged with and into the Company, which shall be the surviving corporation (the "Surviving Corporation").

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2.2 Effective Time. The Merger shall become effective at the date and time of filing of a certificate of merger with the Secretary of State of the State of Delaware in accordance with the provisions of the Delaware General Corporation Law ("DGCL"). The date and time when the Merger shall become effective is herein referred to as the "Effective Time."

2.3 Effect of the Merger. The Merger shall have the effects set forth in Section 259 of the DGCL.

2.4 Certificate of Incorporation. The Certificate of Incorporation of the Subsidiary, as in effect immediately prior to the Effective Time, shall be the Certificate of Incorporation of the Surviving Corporation until thereafter amended as provided by law. As of the Effective Time, the name of the Surviving Corporation shall be "Gould Inc."

2.5 By-Laws. The By-Laws of the Subsidiary, as in effect immediately prior to the Effective Time, shall be the By-Laws of the Surviving Corporation until thereafter amended as provided by law.

2.6 Directors. The Directors of the Subsidiary immediately before the Effective Time shall be the directors of the Surviving Corporation, each to hold

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office from the Effective Time until their respective successors are duly elected and qualify.

2.7 Meeting of the Company's Stockholders; Proxy or Information Statement.

If required to permit the Merger to take place, promptly after the Offer expires, the Company will take all necessary action, including filing a proxy statement or information statement with the SEC, to enable its stockholders, with or without a meeting, to consider and vote upon the Merger. All of the shares of Common Stock then owned by the Parent or the Subsidiary or any direct or indirect subsidiary of the Parent will be voted in favor of the Merger. Subject to the following sentence, the Board of Directors of the Company will recommend that the Company's stockholders vote in favor of the Merger and the approval and adoption of this Agreement. Notwithstanding the foregoing, nothing in this Section 2.7 shall require the Board of Directors to act, or refrain from acting, in the future in any manner which, in the opinion of the Board of Directors after consultation with its counsel, would be inconsistent with the directors' fiduciary duties under applicable law.

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ARTICLE III

CONVERSION OF SECURITIES

3.1 Common Stock.

3.1.1 At the Effective Time, each Share issued and outstanding immediately prior to the Effective Time (except for Shares then owned beneficially or of record by the Parent, the Subsidiary or any subsidiary of the Parent or the Subsidiary (together, the "Parent Companies") and except for Dissenting Shares (as hereinafter defined) in respect of which appraisal rights are properly exercised and perfected) shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted into the right to receive the Price Per Share in cash payable to the holder thereof, without interest, upon surrender of the certificate representing such Share.

3.1.2 Each Share which is owned beneficially or of record by the Parent Companies immediately prior to the Effective Time, shall, by virtue of the Merger and without any action on the part of the holder thereof, be cancelled without any conversion thereof.

3.1.3 Each Share held in the Company's treasury immediately prior to the Effective Time shall,

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by virtue of the Merger, be cancelled without any conversion thereof.

3.2 Dissenting Shares. Notwithstanding anything in this Agreement to the contrary, Shares which immediately prior to the Effective Time are held by stockholders who have properly exercised and perfected appraisal rights under Section 262 of the DGCL (the "Dissenting Shares"), shall not be converted into the right to receive cash as provided in Section 3.1, but the holders of Dissenting Shares shall be entitled to receive such consideration as shall be determined pursuant to Section 262 of the DGCL; provided, however, that, if any such holder shall have failed to perfect or shall withdraw or lose his right to appraisal and payment under the DGCL, such holder's Shares shall thereupon be deemed to have been converted as of the Effective Time into the right to receive the Price Per Share, without any interest thereon, as provided in Section 3.1, and such Shares shall no longer be Dissenting Shares. The Company will not agree upon the consideration to which a holder of Dissenting Shares is entitled without the prior written approval of the Parent.

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3.3 Subsidiary Common Stock. At the Effective Time, each share of common stock of the Subsidiary issued and outstanding immediately prior to the Effective Time shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted into one share of common stock of the Surviving Corporation.

3.4 Exchange of Common Stock.

3.4.1 Promptly after the Effective Time, the Surviving Corporation shall cause the Paying Agent to mail to each person who was a record holder of Shares at the Effective Time (other than the Parent Companies), a form of letter of transmittal and instructions for use in effecting the surrender of certificates which immediately prior to the Effective Time represented Shares ("Certificates") for payment. Upon surrender of a Certificate, together with a duly executed letter of transmittal, the holder of the Certificate shall be entitled to receive in exchange therefor cash in an amount equal to the product of the number of Shares represented by the Certificate and the Price Per Share. The Parent will make available to the Paying Agent from time to time funds sufficient to enable the Paying Agent to make payments promptly after certificates are surrendered. No interest will be paid or accrued on the cash payable upon the surrender of the

Certificates. If the payment is to be made to a person other than the person in whose name a Certificate surrendered is registered, it shall be a condition of payment that (a) the Certificate so surrendered shall be properly endorsed or otherwise in proper form for transfer and that (b) the person requesting such payment shall pay any transfer or other taxes required by reason of the payment to a person other than the registered holder of the Certificate surrendered or establish to the satisfaction of the Parent or the Paying Agent that such tax has been paid or is not applicable. After the Effective Time, until surrendered in accordance with the provisions of this Section 3.4, a certificate shall represent only the right to receive the Price Per Share in cash multiplied by the number of Shares evidenced by such Certificate, without any interest thereon.

3.4.2 After the Effective Time there shall be no transfers on the stock transfer books of the Surviving Corporation of the Shares which were outstanding immediately prior to the Effective Time. If, after the Effective Time, Certificates are presented to the Surviving Corporation for transfer or for any other reason, they shall be cancelled and exchanged for cash as provided in this Article III.

3.5 Stock Options. After the Effective Time, each option (a "Stock Option") which has been granted under the Company's 1979 Stock Option Plan, 1981 Incentive Stock Option Plan and 1981 Non-Qualified Stock Option Plan (together, the "Option Plans") and is outstanding at the Effective Time will be exchanged for, and the holder of each such Stock Option will be entitled to receive upon surrender of the Stock Option for cancellation, cash equal to the product of (a) the difference between the Price Per Share and the exercise price of each such Stock Option and (b) the number of Shares covered by such Stock Option.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF THE PARENT AND THE SUBSIDIARY

The Parent and the Subsidiary, jointly and severally, represent and warrant to the Company as follows:

4.1 Organization and Good Standing. The Parent is a duly incorporated and validly existing corporation in good standing under the laws of Japan with all requisite corporate power and authority to own its properties and conduct its business as it is now being conducted. The Subsidiary is a duly incorporated and valid-

ly existing corporation in good standing under the laws of the State of Delaware. The Subsidiary is a newly formed, wholly-owned subsidiary of the Parent and, except for activities incident to the acquisition of the Company, has not engaged in any business activities of any type or kind whatsoever.

4.2 Authorization; Binding Agreement. Each of the Parent and the Subsidiary has the requisite corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action on the part of the Parent and the Subsidiary. This Agreement has been duly executed and delivered by the Parent and the Subsidiary and constitutes a legal, valid and binding agreement of the Parent and the Subsidiary, enforceable against each of them in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium or other laws affecting creditors' rights generally or by principles governing the availability of equitable remedies.

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4.3 Absence of Breach. Neither the execution and delivery by the Parent and the Subsidiary of this Agreement, nor the performance by the Parent and the Subsidiary of their respective obligations hereunder, will (a) conflict with or result in a breach of any of the provisions of Parent's Articles of Incorporation (Teikan) or Regulations of the Board of Directors (Torishimariyakukai Kisoku) or the Subsidiary's Certificate of Incorporation or By-Laws, (b) subject to the obtaining of the governmental and other consents referred to in Section 4.4, contravene any law, rule or regulation of Japan, the United States, or any political subdivision thereof or therein, or any order, writ, judgment, injunction, decree, determination or award currently in effect, or (c) constitute a breach of any agreement to which the Parent or the Subsidiary is a party or by which either of them is bound which could materially affect the consummation of the transactions contemplated by this Agreement.

4.4 Governmental Approvals. No consent, approval or authorization of or declaration or filing with any governmental agency or regulatory authority, domestic or foreign, on the part of the Parent or the Subsidiary that has not been obtained or made is required in connection with the execution or delivery by the Parent and the

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Subsidiary of this Agreement or the consummation by the Parent and the Subsidiary of the transactions contemplated by this Agreement, other than (i) the filing of a certificate of merger with the Secretary of State of the State of Delaware, (ii) filings with the SEC and any applicable national securities exchange, (iii) filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("HSR Act"), (iv) filings, if any, required to be made in Japan regarding the Parent's use or transfer of funds, (v) any filings which are required because aspects of the Company's business involve United States national defense, and (vi) filings, authorizations, consents or approvals relating to matters which, in the aggregate, are not material to the consummation of the transactions contemplated by this Agreement.

4.5 Financing. Parent has, and has accepted, a financing commitment, a copy of which has previously been delivered to the Company, which, together with funds which Parent presently has available to it, would provide sufficient funds to enable the Subsidiary to pay for the Shares to be purchased by the Subsidiary pursuant to the Offer, and to make the necessary payment in respect of the Merger.

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4.6 Investment Bankers' Fees. Neither the Parent nor the Subsidiary has incurred or will incur any liability for any investment banking, business consultant, brokerage or finders' fees or commissions in connection with the transactions contemplated by this Agreement, except for fees payable to The Industrial Bank of Japan, Limited and IBJ Schroder Bank & Trust Company, all of which fees shall be paid by the Parent or the Subsidiary.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants to the Parent and the Subsidiary as follows:

5.1 Organization. Each of the Company and The Meadows Indemnity Company Limited (the "Company Subsidiary") (that being the only subsidiary of the Company which constitutes a significant subsidiary as that term is defined in Regulation S-X promulgated by the SEC or, other than Nikko Gould Foil Company, Limited, which is material to the Company's Foil Division) is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and each has all requisite corporate power and authority

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lease and operate its properties and to carry on siness as now being conducted. Schedule 5.1 sets the jurisdictions of organization of the Company he Company Subsidiary and the jurisdictions where Company or the Company Subsidiary is qualified to act business. The Company and the Company Subsidiary each is duly qualified or licensed and in good standing to do business in each jurisdiction in which such qualification or licensing is necessary, except where the failure to be so duly qualified or licensed and in good standing would not have a material adverse effect, individually or in aggregate, on the business or financial condition of the Company and its subsidiaries taken as a whole or on the business or financial condition of the Company's Foil Division ("Material Adverse Effect").

5.2 Capitalization. The authorized capital stock of the Company consists of 100 million shares of Common Stock and 6 million shares of preferred stock, par value $1 per share (the "Preferred Stock"). As of the date hereof, (a) 45,035,791 Shares of Common Stock were issued and outstanding, (b) 3,620,391 Shares of Common Stock were reserved for issuance upon the exercise of outstanding Stock Options, (c) 1,000,000 shares of Series

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A Junior Participating Preferred Stock were reserved for issuance pursuant to the Rights Agreement dated May 3, 1988 (the "Rights Agreement") between the Company and Morgan Shareholder Services Trust Company, as Rights Agent, and (d) no shares of Preferred Stock were issued. No other capital stock of the Company is authorized or issued. All issued and outstanding shares of capital stock of the Company are validly issued, fully paid, nonassessable and free of preemptive rights. Except for the Stock Options and the Rights Agreement there are not, and at the Effective Time there will not be, any options, warrants, convertible or exchangeable securities, or other agreements or arrangements under which the Company is, or may become, obligated to issue any of its capital stock or any securities which are convertible into, or exchangeable for, any of its capital stock.

5.3 Subsidiaries. The Company owns all the capital stock of the Company Subsidiary (other than directors' qualifying shares) free and clear of any liens, encumbrances or restrictions on sale (except restrictions on sale imposed by law). There are no proxies or agreements which allow any person to vote, or direct the voting of, any stock of the Company Subsidiary. There are not, and at the Effective Time there will not be, any

options, warrants, convertible or exchangeable securities, or other agreements or arrangements, under which the Company or any subsidiary is or may become, obligated to issue or transfer any capital stock of the Company Subsidiary or to issue any securities which are convertible into, or exchangeable for, any capital stock of the Company Subsidiary.

5.4 Authority Relative to this Agreement. The Company has full corporate power and authority to execute and deliver this Agreement and, subject to any requisite stockholder approval of the Merger, to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action on the part of the Company, other than approval of the Merger by the stockholders of the Company. This Agreement has been duly and validly executed and delivered by the Company and constitutes a legal, valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, except to the extent that enforceability may be limited by bankruptcy, insolvency, moratorium or other laws affecting the enforcement of credi-

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tors' rights generally or by principles governing the availability of equitable remedies.

5.5 Absence of Breach. Neither the execution and delivery of this Agreement by the Company, nor the performance by the Company of its obligations hereunder, will (a) conflict with or result in a breach of any provisions of the Company's Certificate of Incorporation or By-Laws, (b) subject to obtaining the governmental consents referred to in Section 5.6, contravene any law, rule or regulation of the United States or any other nation, or any political subdivision thereof or therein, or any order, writ, judgment, injunction, decree, determination or award currently in effect, (c) except as shown on Schedule 5.5, constitute a breach of, or a default under, or accelerate the rights of any party to, any agreement to which the Company or any of its subsidiaries is a party or by which any of them is bound, or (d) result in the loss of licenses or permits, except as to each of the matters set forth in clauses (a), (b), (c) and (d) where the execution and delivery of this Agreement or performance by the Company of its obligations hereunder would not have a Material Adverse Effect.

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5.6 Consents and Approvals; No Violations. Except for filings described in Section 4.4, no consent or approval of or declaration or filing with any governmental agency or regulatory authority, domestic or foreign, on the part of the Company is required in connection with the execution and delivery of this Agreement or the consummation by the Company of the transactions contemplated by this Agreement, except where the failure to obtain any such consent or approval or make such declarations or filings would not have a Material Adverse Effect.

5.7 SEC Filings. The Company has delivered to the Parent true and complete copies of (i) its Annual Report on Form 10-K for the year ended December 31, 1987 (the "1987 10-K"), and (ii) all other reports, statements and registration statements (including Quarterly Reports on Form 10-Q for the periods ended March 31, 1988 and June 30, 1988 and Current Reports on Form 8-K) filed by the Company with the SEC since January 1, 1988, each in the form in which it was filed with the SEC (collectively, the "SEC Filings"). As of its date, each of the SEC Filings (including all exhibits and schedules thereto and documents incorporated by reference therein) contained in all material respects all the information required to be

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included in it, did not contain any untrue statement of a material fact, and did not omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The financial statements of the Company and its subsidiaries included or incorporated by reference in the SEC Filings were prepared in accordance with generally accepted accounting principles applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and fairly present the consolidated assets, liabilities and financial position of the Company and its consolidated subsidiaries as of the dates, and the consolidated results of their operations and changes in financial position for the periods, to which they relate (subject, in the case of any unaudited interim financial statements, to normal year-end adjustments).

5.8 Absence of Certain Changes or Events. Since June 30, 1988, there has not been: (i) any event or combination of events which has had a Material Adverse Effect; (ii) any declaration, payment or setting aside for payment of any dividend or distribution to stockholders or any redemption, purchase or other acquisition of any shares of capital stock or securities of the Company;

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(iii) a general increase in the compensation of its officers or employees, except for reasonable increases in the ordinary course of business consistent with past practice; or (iv) except as otherwise provided in this Agreement, any agreement to take any action, which, if taken prior to the Effective Time, would breach the covenants contained in Article VI in any material respect. Except as set forth in Schedule 5.8, since June 30, 1988, the Company and its subsidiaries have conducted their respective businesses only in the ordinary course and consistent with past practice, except as contemplated by this Agreement. Schedule 5.8 includes a description of all events which have occurred since December 31, 1987 (other than the transactions contemplated by this Agreement and the Amendment) which would be required to be disclosed in the discussion of the development of the registrant's business included in response to Item 1 of Form 10-K in an Annual Report on Form 10-K of the Company for the year ended on the date of this Agreement.

5.9 Compliance with Law. The Company and its subsidiaries are in compliance in all material respects with all laws and governmental regulations applicable to the Company and its subsidiaries and their properties, assets and business operations, and the Company and its

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subsidiaries have all licenses and permits from all governmental authorities necessary to permit the Company and its subsidiaries to conduct their business as that business is being conducted at the date of this Agreement, except where the failure to do so would not have a Material Adverse Effect.

5.10 Taxes. Since January 1, 1980, the Company and its subsidiaries have filed when due all United States Federal and other national, state and local tax returns that any of them is required to file in the United States and elsewhere and have paid all taxes shown on those returns to be due, except where the failure to do so would not have a Material Adverse Effect. The Company has delivered or made available to the Parent true and complete copies of its United States Federal corporate income tax returns for each of the five years ended December 31, 1983 through December 31, 1987.

5.11 Legal Proceedings. Except as discussed in the SEC Filings, at the date of this Agreement neither the Company nor any subsidiary is a party to any court or other governmental proceeding, nor to the best of the Company's knowledge is any court or other governmental proceeding threatened against the Company or any of its

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subsidiaries, other than proceedings which are not likely to have a Material Adverse Effect.

5.12 Employee Agreements and Plans. Schedule 5.12(a) is a complete list of all written plans and agreements, including employment agreements, severance agreements and indemnification agreements and arrangements to which the Company or any of its subsidiaries is a party at the date of this Agreement under which it provides benefits to current employees ("Plans"), which are not described in the Company's proxy statement dated March 25, 1988 (the "Proxy Statement"), or the 1987 10-K. Copies of all the Plans described in Schedule 5.12(a), the Proxy Statement or the 1987 10-K, as amended to the date of this Agreement, have been delivered or made available to Parent. Except as disclosed in Schedule 5.12(b), there are no commitments to amend any of those Plans. Except as described on Schedule 5.12(c) or in the Proxy Statement or the 1987 10-K, neither the Company nor any of its subsidiaries has any "employee pension plan" as that term is defined in the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Except with respect to current summary plan descriptions, the Company and its subsidiaries have complied in all material respects with the requirements of

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ERISA with regard to all plans subject to ERISA, and with applicable law with respect to all other Plans. Using a 9.9% interest rate assumption, all the Plans which are defined benefit Plans subject to Section 412 of the Internal Revenue Code of 1986, as amended (the "Code") are fully funded as of December 31, 1987 on a collective, but not individual, basis. The Company or a subsidiary has received a favorable determination letter from the Internal Revenue Service with regard to each Plan which is intended to be qualified under Section 401(a) of the Code, and the Company is not aware of any circumstances likely to result in revocation of any of those favorable determination letters. As of the date hereof, there is no pending or, to the knowledge of the Company, threatened material litigation with regard to any of the Plans. Except as set forth in Schedule 5.12(d), there have been no reportable events (as that term is used in Section 4043) as to which the 30-day notice requirement has not been waived involving the Company or any of its subsidiaries, any predecessor of the Company or a subsidiary or any entity with which the Company or a subsidiary is considered to be a single employer, which have occurred during the three years prior to the date of this Agreement.

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5.13 Compliance with Agreements. The Company and its subsidiaries are in compliance in all material respects with all agreements to which any of them is a party, except agreements the cancellation of which would not have a Material Adverse Effect. At the date of this Agreement, none of the Company's Chairman of the Board, President and Chief Executive Officer, Vice President-Finance, Senior Vice President - Administration and General Counsel or Executive Vice President - Materials and Components (together the "Senior Executives") has been informed that the Company has been notified by a party to any agreement which is material to the Company and its subsidiaries taken as a whole or to the Company's Foil Division, or by any governmental agency which is a party to any agreement with the Company or any subsidiary (whether or not that agreement is material to the Company and its subsidiaries taken as a whole or to the Company's Foil Division), that that party intends to seek to terminate that agreement, whether because the Company or a subsidiary is not in compliance with the agreement, because of the circumstances surrounding that party's entering into the agreement, or for any other reason.

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5.14 Investment Bankers' Fees. The Company has not incurred, and will not incur, any liability for any investment banking, business consultant, brokerage or finders' fees or commissions in connection with the transactions contemplated herein, except for fees payable to The First Boston Corporation, all of which fees have been, or will be, paid by the Company. The Company has no obligation to use the services of, or enter into transactions involving, The First Boston Corporation after the Effective Time.

5.15 Intangible Property. The Company or a subsidiary owns, or has the right to use, all patents, trademarks, service marks, trade names, copyrights and franchises, the absence of which would have a Material Adverse Effect. None of the Senior Executives has been informed that the Company or a subsidiary has received written notice of any claim by any person that the Company or a subsidiary is breaching any patent, trademark, service mark or trade name right, or right to confidential information, of any other person, the loss of which would have a Material Adverse Effect, and none of the Senior Executives knows of any basis for any such charge or claim.

5.16 Insurance. Schedule 5.16 is a summary of all insurance maintained by the Company and its subsidiaries at the date of this Agreement. The financial statements included or incorporated in the SEC Filings reflect the cost of that insurance during the periods to which they relate.

5.17 DOD Meeting. At a meeting between representatives of the Company and representatives of the United States Department of Defense ("DOD") held on August 26, 1988, (i) the representatives of the DOD were told, in general terms, that the transactions which are the subject of this Agreement were being considered, including the identity and nation of incorporation of Parent, and (ii) while the representatives of the DOD were not asked to, and did not, express their views about the effect of those transactions, nothing was said at that meeting by the representatives of the DOD which led the representatives of the Company to believe it is unlikely that it will be possible for the Company to formulate a plan of action, of the type contemplated by Section 8.1, which will enable the Company or its subsidiaries to maintain after the Subsidiary purchases Shares pursuant to the Offer and after the Effective Time the facility security clearances for contracts currently held by the Company or its subsidiaries.

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ARTICLE VI

COVENANTS

6.1 Conduct of Business of the Company. From the date of this Agreement to the Effective Time, the Company will, and will cause each of its subsidiaries to, except with the written consent of the Parent or as set forth on Schedule 6.1:

(a) Operate its business only in the ordinary course of business consistent with past practice.

(b) Use all reasonable efforts to preserve intact its business organization and to maintain satisfactory relationships with customers, suppliers, licensors, licensees and other who have business relationships with it.

(c) At its expense, maintain its property consistent with past practice in substantially the same condition as that in which it is at the date of this Agreement, reasonable wear and use and damage by fire and unavoidable casualty excepted.

(d) Not sell any of its stock, except pursuant to Stock Options outstanding on the date hereof, or issue any options, warrants or convertible securities, or enter into any agreements, under which it may be re-

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quired, upon the payment of money, the passage of time or otherwise, to issue any of its stock.

(e) Not make any borrowings except in the ordinary course of business and consistent with past practice.

(f) Not amend its Certificate of Incorporation or By-laws (except as required by Section 1.4).

(g) Except as contemplated by the Company's Capital Expenditure Budget for 1988, which has been provided to Parent, and, if the Company's Capital Expenditure Budget for 1989 has been provided to Parent prior to the execution of this Agreement and is applicable, as contemplated by that Capital Expenditure Budget, not enter into any contractual commitments involving capital expenditures, long term leases, loans or advances and not voluntarily incur any contingent liabilities, except in each case in the ordinary course of business and consistent with past practice.

(h) Maintain its books of account and records in their usual manner, in accordance with generally accepted accounting principles applied on a consistent basis.

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(i) Comply in all material respects with all applicable laws and regulations of governmental agencies the violation of which could have a Material Adverse Effect.

(j) Not sell, dispose of or encumber any property or assets except in the ordinary course of business and consistent with past practice.

(k) Except with regard to the redemption of rights issued under the Rights Agreement, not declare or pay any dividends or make any distributions with regard to the outstanding stock of the Company or repay any indebtedness to stockholders of the Company.

(l) Not amend any of the Plans.

(m) Not take any action that will make a representation or warranty contained in Article V untrue.

6.2 Notification of Certain Matters. The Company shall give prompt notice to the Parent and the Subsidiary of: (i) the occurrence or failure to occur of any event, which occurrence or failure to occur would cause any representation or warranty contained in this Agreement to be untrue or inaccurate in any material respect as of the date of such notification, (ii) any notice or other communication from any third party of which any Senior Executive becomes aware alleging that

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the consent of such third party is or may be required in connection with the transactions contemplated by this Agreement, including the Merger and the Offer; (iii) any notice or other communication from any regulatory authority of which any Senior Executive becomes aware in connection with the transactions contemplated by this Agreement; or (iv) any notice or other communication of which any Senior Executive becomes aware from any governmental agency to the effect that it intends to seek to terminate an agreement with the Company or a subsidiary because of the circumstances surrounding that governmental agency's entering into the agreement.

6.3 Access and Information. Between the date of this Agreement and the Effective Time, the Company will give the Parent, the Subsidiary and their authorized representatives (including their accountants and legal counsel) at all reasonable times access to the properties, contracts and books and records (including tax returns) of the Company and its subsidiaries and during such period, the Company shall (and shall cause its subsidiaries to) furnish promptly to Parent all information concerning its business as Parent may reasonably request; provided, however, that no investigation pursuant to this

Section 6.3 shall affect or be deemed to modify any representation or warranty made by the Company.

6.4 Confidentiality Agreement. The Confidentiality Agreement dated August 10, 1988 between the Company and Parent shall remain in full force and effect until the Effective Time.

6.5 Redemption of Rights. If so requested by Parent, immediately prior to the acceptance for payment by Subsidiary of Shares tendered pursuant to the Offer, the Company will redeem the rights issued under the Rights Agreement, so that the Company will have no obligations under those rights or the Rights Agreement, other than the obligation to pay the redemption price of $.01 per right.

6.6 Antitakeover Laws. If any action or approval by the Company is required to eliminate or minimize the effects of any "fair price," "moratorium," "control share acquisition" or other antitakeover statute which may become applicable to any of the transactions contemplated by this Agreement, the Company will take that action or give that approval. Notwithstanding the foregoing, nothing in this Section 6.6 will require the Board of Directors to act in a manner which, in the opinion of the Board of Directors after consultation with its

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counsel, would be inconsistent with the directors' fiduciary duties under applicable law.

6.7 Fulfillment of Conditions. Subject to the limitations contained in Article VIII, each of the parties hereto will use all reasonable efforts to cause the conditions in Article VII to the obligations of the other party to be fulfilled. Notwithstanding the foregoing, nothing in this Section 6.7 shall require the Board of Directors to act, or refrain from acting, in the future in any manner which, in the opinion of the Board of Directors after consultation with its counsel, would be inconsistent with the directors' fiduciary duties under applicable law.

6.8 Parent and Subsidiary Filing Obligations. The Parent and Subsidiary will (a) as promptly as practicable make the filings they are required to make under the HSR Act and the Foreign Exchange and Foreign Trade Control Laws of Japan with regard to the transactions which are the subject of this Agreement, (b) furnish all reasonable cooperation to the Company in connection with the filings it is required to make under the HSR Act with regard to the transactions which are the subject of this Agreement, and (c) take all reasonable steps, including providing additional information to the Department of

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Justice or the Federal Trade Commission, to cause the waiting period under the HSR Act to be terminated or expire as early as possible.

6.9 Company Filing Obligations. The Company will (a) as promptly as practicable make the filing it is required to make under the HSR Act with regard to the transactions which are the subject of this Agreement, (b) furnish all reasonable cooperation to the Parent in connection with the filings it and the Subsidiary are required to make under the HSR Act, and (c) take all reasonable steps, including providing information to the Department of Justice or the Federal Trade Commission, to cause the waiting period under the HSR Act to be terminated or expire as early as possible.

6.10 Offer Documents; Proxy Statement; Other Information. None of the information supplied by the Parent, the Subsidiary or the Company for inclusion in the Offer Documents (including any amendments or supplements thereto and including Statements on Schedules 14D-1 and 14D-9) will, at the respective times the Offer Documents or any amendments or supplements thereto are filed with the SEC, contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in light of the

circumstances under which they were made, not misleading. None of the information relating to the Parent or the Subsidiary, on the one hand, and the Company, on the other, supplied for inclusion in the Proxy or Information Statement will, at the time the Proxy or Information Statement is mailed to stockholders of the Company, and in the case of the Proxy or Information Statement at the time of the meeting of stockholders to which the Proxy or Information Statement relates, be false or misleading with respect to any material fact, or omit to state any material fact required to be stated therein or necessary in order to make the statements therein not misleading.

6.11 Consent of the Parent. The Parent, as the sole stockholder of the Subsidiary, by executing this Agreement consents to the execution, delivery and performance of this Agreement by the Subsidiary, and such consent shall be treated for all purposes as a vote duly adopted at a meeting of the stockholders of the Subsidiary held for such purpose.

6.12 Subsidiary Fulfillment of Obligations. The Parent will cause the Subsidiary to fulfill, and hereby guarantees the performance by the Subsidiary of, all its obligations under this Agreement.

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6.13 No Inconsistent Activities. The Company will not, and will direct its officers, directors and other representatives not to, directly or indirectly, solicit, encourage, or participate in any way in discussions or negotiations with, or provide any information or assistance to, any third party (other than the Parent or the Subsidiary) concerning any acquisition of shares of capital stock of the Company or any significant portion of the total assets of the Company or any subsidiary or division of the Company (whether by merger, purchase of assets, tender offer or otherwise). The Company will promptly communicate to the Parent the terms of any proposal or contact it may receive in respect of any such transaction. The Company agrees not to release any third party from any confidentiality or standstill agreements to which the Company is a party. Notwithstanding the foregoing, nothing in this Section 6.13 shall require the Board of Directors to act, or refrain from acting in the future in any manner which, in the opinion of the Board of Directors after consultation with its counsel, would be inconsistent with the directors' fiduciary duties under applicable law.

6.14 Treatment of Employee Benefits.

The Company and the Parent and the Subsidiary agree as follows:

(a) Schedule 6.14(a) is a list of arrangements with current employees into which the Company expects to enter (with other terms and conditions consented to by Parent, which consent shall not be unreasonably withheld).

(b) All written contracts, agreements and arrangements of the Company (or any of its subsidiaries) in effect as of the date hereof and listed on Schedule 6.14(b) shall continue in full force and effect after the Effective Time in accordance with their terms without any reduction of benefits or other amendment or modification (except to the extent necessary to comply with applicable law or consented to by the other party or parties to particular contracts, agreements or arrangements).

(c) Subject to there not being a material adverse change in the results of operations or financial condition of the Company, for a period of two years immediately following the Effective Time, the Parent shall take all necessary corporate action to cause the Surviving Corporation and its subsidiaries to provide employee benefit and welfare plans, programs, contracts, agree-

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ments, policies and executive perquisites, other than plans or other arrangements providing for grants of equity or equity-based awards, for the benefit of active employees of the Company and its subsidiaries which in the aggregate provide benefits that are no less favorable than the benefits provided to such active employees (except for employees covered by collective bargaining agreements) on the date hereof.

6.15 Indemnification and Insurance. (a) The Parent shall cause the Surviving Corporation to honor the terms of the indemnification agreements between the Company and the directors of the Company (the "Indemnification Agreements"). In addition, for not less than seven years after the Effective Time, the Parent shall cause the Surviving Corporation to indemnify, defend and hold harmless the present and former officers and directors of the Company and its subsidiaries (each an "Indemnified Party") against all losses, claims, damages, or liabilities arising out of actions or omissions occurring at or prior to the Effective Time to the fullest extent permitted under Delaware law or the Company's Certificate of Incorporation or By-Laws in effect at the date of this Agreement (to the extent consistent with applicable law), including, without limitation, provisions relating to

advances of expenses incurred in the defense of any action or suit. Any determination required to be made with respect to whether an Indemnified Party's conduct complies with the standards set forth under Delaware law, the Company's Certificate of Incorporation and By-Laws and the Indemnification Agreements, shall be by counsel chosen by the Indemnified Party and reasonably satisfactory to the Surviving Corporation. The Parent hereby (i) guarantees to each person to whom the Surviving Corporation has obligations under this Section 6.15(a) that the Surviving Corporation will fulfill those obligations and (ii) agrees that each of those persons is an intended beneficiary of that guarantee, and has the right to enforce it against Parent, with regard to himself or herself.

(b) The Surviving Corporation shall maintain the Company's existing officers' and directors' liability insurance for a period of not less than three years after the Effective Time; provided, that (i) the Surviving Corporation may substitute therefor policies of at least the same coverage containing terms and conditions which are no less advantageous to the beneficiaries thereof, and (ii) the Surviving Corporation shall not be required to expend more with regard to any year to main-

tain or procure officers' and directors' liability insurance than 200% of the amount per year being paid for the officers' and directors' liability insurance in effect at the date of this Agreement.

(c) The Subsidiary and Parent each agrees that neither Article Tenth of the Company's Certificate of Incorporation nor Articles VII or X of the By-Laws of the Company will be amended and that the Certificate of Incorporation and the By-Laws of the Surviving Corporation will contain provisions identical to such Article Tenth and Articles VII and X for a period of not less than seven years after the Effective Time.

ARTICLE VII

CONDITIONS

7.1 Conditions to Obligations to Effect the Merger.

The obligations of the respective parties to effect the Merger shall be subject to the fulfillment at or prior to the Effective Time of the following conditions:

(a) The Subsidiary shall have made the Offer and purchased Shares pursuant to the Offer; provided, that the failure of the Subsidiary to purchase Shares pursuant to the Offer in breach of the terms of this

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Agreement or the Offer shall not give the Subsidiary or the Parent the right to assert this condition as a condition to its obligations hereunder;

(b) If the Merger cannot be consummated pursuant to Section 253 of the DGCL, this Agreement shall have been adopted by the vote of the stockholders of the Company required by applicable law and the Company's Certificate of Incorporation and By-Laws;

(c) No order shall have been entered by any court or governmental authority in the United States, Japan or elsewhere and be in force, and no statute shall have been enacted, that prohibits or prevents the consummation of the Merger, provided, however, that the parties hereto shall use their best efforts to have any such order vacated; and

(d) The waiting period applicable to the consummation of the Merger under the HSR Act shall have expired or been terminated and, other than the filing provided for in Section 2.2 hereof, all filings required pursuant to Section 4.4 hereof, and all material consents, approvals, and authorizations required to be obtained prior to the Effective Time by the parties hereto from governmental and regulatory authorities to consum-

mate the Merger, shall have been made or obtained, as the case may be.

7.2 Condition to Parent and Subsidiary Obligations. The obligation of Parent and Subsidiary to effect the Merger shall be subject to the condition that if none of the Parent's designees are serving on the Company's Board of Directors prior to the Effective Time, the Company shall have fulfilled in all material respects its obligations under Sections 6.1(d), (f), (j) and (k) and 6.5 which are required to have been fulfilled at or before the Effective Time.

ARTICLE VIII

DEFENSE MATTERS

8.1 Filing With and Commitments to Department of Defense. The Company will promptly take any action required under applicable DOD Industrial Security Regulations in connection with the transactions contemplated by this Agreement and in formulating (in consultation with the Parent) and submitting to the DOD a plan of action to preclude the Parent or its representatives from access to classified information as a result of this Agreement or any of the transactions contemplated hereby to the extent necessary to maintain (after the consummation of such transactions) the facility security clearances currently

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held by the Company. Such plan may include transferring to a Company subsidiary or subsidiaries one or more of the Company's businesses or portions thereof requiring facility security clearances and establishing voting trust or proxy agreement arrangements with respect to the shares of such subsidiaries acceptable to the DOD; provided, that without the express written consent of the Parent, no commitments or undertakings with the DOD regarding the transfer or disposition of any portion of the Company's Foil Division shall be made, and without the express written consent of Parent, which consent will not be unreasonably withheld, no commitments or undertakings with the DOD regarding the disposition of any other assets of the Company, shall be made.

ARTICLE IX

TERMINATION AND ABANDONMENT

9.1 Termination. This Agreement may be terminated at any time prior to the Effective Time, whether before or after approval by the stockholders of the Company:

9.1.1 by mutual consent of the Parent and the Company;

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9.1.2 by the Company if the Subsidiary does not commence the Offer within five business days from the public announcement of this Agreement or if the Offer expires or is terminated without the purchase of any Shares by the Subsidiary pursuant to the Offer;

9.1.3 by either the Parent or the Company if the Offer expires or is terminated without the Subsidiary's buying any Shares because of the occurrence of any events set forth in Exhibit A;

9.1.4 by either the Parent or the Company if a court of competent jurisdiction or other governmental body shall have issued an order, decree or ruling or taken any other action restraining, enjoining or otherwise prohibiting the Merger and such order, decree, ruling or other action shall have become final and nonappealable; or

9.1.5 by either the Parent or the Company if the Offer does not expire on or before December 31, 1988, or the Effective Time does not occur on or before March 31, 1989.

9.2 Procedure and Effect of Termination. In the event of termination and abandonment of the Merger by the Parent or by the Company pursuant to Section 9.1, written notice thereof shall forthwith be given to the

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other and this Agreement shall terminate and the Merger shall be abandoned without further action by any of the parties hereto. The Subsidiary agrees that any termination by the Parent shall be conclusively binding upon it, whether given expressly on its behalf or not, and the Company shall have no further obligation with respect to it. Except as set forth in Section 9.3, if this Agreement is terminated as provided herein no party hereto shall have any liability or further obligation to any other party under the terms of this Agreement except for willful breach by any party.

9.3 Payment to Parent under Certain Circumstances. If (i) within six months after the date hereof any corporation, partnership, person, other entity or group (as defined in Section 13(d)(3) of the Exchange Act) other than the Parent or the Subsidiary or any of their respective subsidiaries or affiliates (collectively, a "Person") shall have become the beneficial owner of more than 50% of the outstanding Shares, (ii) the Minimum Condition or the condition in paragraph (e) of Exhibit A shall not have been satisfied, (iii) neither the Parent nor the Subsidiary is in breach in any material respect of any of its material obligations under this Agreement and (iv) the Offer is terminated without the purchase of

any Shares thereunder, then the Company, if requested by the Parent, shall promptly, but in no event later than two days after the date of such request, pay the Parent $11,000,000, in same day funds. The Company acknowledges that the agreements contained in this Section 9.3 are an integral part of the transactions contemplated in this Agreement, and that, without these agreements, the Parent and the Subsidiary would not enter into this Agreement.

ARTICLE X

MISCELLANEOUS

10.1 Amendment and Modification. Subject to applicable law, this Agreement may be amended, modified or supplemented only by a written agreement of the Parent and the Subsidiary, on the one hand, and the Company, on the other hand, at any time prior to the Effective Time with respect to any of the terms contained herein; provided, however, that no such amendment or modification shall (i) alter or change the kind of, or decrease, the consideration to be delivered to the stockholders of the Company, or (ii) alter or change any of the terms or conditions of this Agreement if such alteration or change would adversely affect the stockholders of the Company. Notwithstanding anything in this Agreement to the contrary, prior to the Effective Time, the affirmative vote

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of a majority of the members of the Board of Directors in office on the date hereof shall be required to (i) amend or terminate this Agreement by the Company, (ii) exercise or waive any of the Company's rights or remedies hereunder, (iii) extend the time for performance of the obligations of the Parent or the Subsidiary hereunder or (iv) take any other action by the Company in connection with this Agreement required to be taken by the Board of Directors.

10.2 Waiver of Compliance; Consents. Any failure of the Parent or the Subsidiary, on the one hand, or the Company, on the other hand, to comply with any obligation, covenant, agreement or condition herein may be waived by the Company or the Parent, respectively, only by a written instrument signed by the party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. Whenever this Agreement requires or permits consent by or on behalf of any party hereto, such consent shall be given in writing in a manner consistent with the requirements for a waiver of compliance as set forth in this Section 10.2. The Subsidiary hereby agrees that any

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consent or waiver of compliance given by the Parent hereunder shall be conclusively binding upon it, whether given expressly on its behalf or not.

10.3 Investigations; Survival of Warranties. The respective representations and warranties of the Parent, the Subsidiary and the Company contained herein or in any certificates or other documents delivered prior to or at the Effective Time shall not be deemed waived or otherwise affected by any investigation made by any party hereto. Each and every such representation and warranty shall expire with, and be terminated and extinguished by, the earlier of (i) the ownership by the Parent or the Subsidiary of more than 50% of the Shares of the Company, (ii) the Merger, or (iii) the termination of this Agreement pursuant to Section 9.1; and thereafter neither the Parent, the Subsidiary nor the Company, nor any officer or director thereof shall be under any liability whatsoever with respect to any such representation or warranty. This Section 10.3 shall have no effect upon any other obligation of the parties hereto, whether to be performed before or after the Effective Time.

10.4 Notices. All notices and other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given when

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delivered in person, by cable, telegram or telex or registered or certified air mail (postage prepaid, return receipt requested) or by facsimile transmission (upon receipt of confirmation of delivery thereof) to the respective parties at the following addresses (or at such other address for a party as shall be specified by like notice):

10.4.1 if to the Parent or the Subsidiary, to:

Nippon Mining Company, Limited
Ark Mori Building
12-32, Akasaka 1-Chome
Minato-Ku, Tokyo 107
Japan
Telecopy: 3-505-8692
Attention: President

with copies to:

Junji Masuda, Esq.
Masuda & Ejiri
3 fl, Shosen Mitsui Bldg.
1-1 Toranomon 2-chome
Minato-ku, Tokyo 105
Japan
Telecopy: 3-505-1333

and

David W. Bernstein, Esq.
Rogers & Wells
200 Park Avenue
New York, New York 10166
U.S.A.
Telecopy: 212-878-8375

10.4.2 if to the Company to:

Gould Inc.
10 Gould Center
Rolling Meadows, Illinois 60008
Telecopy: 312-640-4500
Attention: General Counsel

with a copy to:

Charles W. Mulaney, Jr., Esq.
Skadden, Arps, Slate, Meagher & Flom
333 West Wacker Drive
Chicago, Illinois 60606
Telecopy: 312-407-0411

10.5 Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto without the prior written consent of the other parties, nor, except as otherwise provided in this Agreement, is this Agreement intended to confer upon any other person except the parties hereto any rights or remedies hereunder; provided, however, that the rights of the Subsidiary may be transferred in whole or in part to any direct

or indirect wholly-owned subsidiary of the Parent. In the event of a sale of all or substantially all of the assets of the Company or a merger with the Company in which the Company is not the surviving corporation, the ultimate transferee of such assets or the surviving corporation in such merger, as the case may be, shall be required to assume the obligations of the Parent and the Subsidiary under Sections 6.14 and 6.15.

10.6 Expenses. Except as provided in Section 9.3, all expenses in connection with the transactions contemplated by this Agreement shall be borne by the party incurring such expenses.

10.7 Announcements. Promptly after this Agreement is executed, the Parent and the Company will issue a joint press release approved by both of them relating to this Agreement and the transactions contemplated by it. Neither party will issue any other announcements or press releases regarding those transactions except as permitted by a Confidentiality Agreement dated August 10, 1988 between the Company and the Parent (the "Confidentiality Agreement").

10.8 Extension or Termination of Confidentiality Agreement. If this Agreement is terminated and the Merger does not take place, the Confidentiality Agreement

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will remain in effect after the date this Agreement is terminated, but each provision of the Confidentiality Agreement which states it will be in effect for two years after the date of the Confidentiality Agreement will be deemed amended so it will remain in effect for two years after the date this Agreement is terminated. If the Merger takes place, at the Effective Time the Confidentiality Agreement will automatically terminate and be of no further effect.

10.9 Disclosure in Representations and Warranties. Any fact disclosed in the SEC Filings or in any Schedule hereto will be deemed to have been disclosed for the purposes of, and to the extent applicable to qualify, all the representations and warranties of that party in this Agreement.

10.10 Governing Law. This Agreement shall be governed by the laws of the State of Delaware applicable to agreements made and to be performed entirely within such State, except as to matters of internal corporate law applicable to the Parent, which shall be governed by the laws of Japan. Any action or proceeding relating to this Agreement or the transactions contemplated by it may be brought in any Delaware state court. The Parent, the Subsidiary and the Company each consents to the jurisdic-

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tion of the courts of the State of Delaware in any such actions or proceedings and agrees that process in any such actions or proceedings may be served by registered mail or in any other manner permitted by the rules of the court in which the action or proceeding is brought.

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

10.12 Interpretation. The article and section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the parties and shall not in any way affect the meaning or interpretation of this Agreement. As used in this Agreement, (i) the term "person" shall mean and include an individual, a partnership, a joint venture, a corporation, a trust, an unincorporated organization and a government or any department or agency thereof; and (ii) the term "subsidiary" of any specified person shall mean any corporation in which more than 50 percent of the outstanding voting power, or any partnership, joint venture or other entity in which more than 50 percent of the total equity interest, is directly or indirectly owned by such specified person.

10.13 Entire Agreement. This Agreement, including the Exhibit and Schedules to it, the Amendment, the Confidentiality Agreement and the other documents or instruments referred to herein, embodies the entire 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, other than those expressly set forth or referred to herein. This Agreement supersedes all prior agreements and the understandings among the parties with respect to such subject matter. This Agreement is solely for the benefit of the parties to it, and no other person will have any rights under or by reason of this Agreement.

IN WITNESS WHEREOF, the Company, the Parent and the Subsidiary have caused this Agreement to be signed by their respective duly authorized officers on the date first above written.

GOULD INC.

By /s/ James F. McDonald
Name: James F. McDonald
Title: Chairman of the Board, President and Chief Executive Officer

NIPPON MINING COMPANY, LIMITED

By /s/ Yukio Kasahara
Name: Yukio Kasahara
Title: President and Representative Director

NIPPON MINING U.S. INC.

By /s/ Makoto Toyoshima
Name: Makoto Toyoshima
Title: President

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EXHIBIT A

Certain Conditions of the Offer. Notwithstanding any other provision of the Offer and provided that the Subsidiary (sometimes referred to as the "Purchaser") shall not be obligated to accept for payment any Shares until expiration of all applicable waiting periods under the HSR Act, the Subsidiary shall not be required to accept for payment or pay for any Shares, may postpone the acceptance for payment of or payment for tendered Shares, and may terminate or amend the Offer if a minimum of 23,500,000 Shares have not been validly tendered and not withdrawn prior to the Expiration Date, or if, on or after August 30, 1988, and at or prior to the time of payment for any such Shares (whether or not any Shares have theretofore been accepted for payment pursuant to the Offer), any of the following events shall occur:

(a) there shall have occurred (i) any general suspension of trading in, or limitation on prices for, securities on the New York or Tokyo stock exchanges (not including any shortening of trading hours), (ii) a declaration of a banking moratorium or any suspension of payments in respect of banks in the United States or Japan, (iii)

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any limitation (whether or not mandatory) by the United States or Japanese government or a United States or Japanese governmental authority or agency on, or other event which materially and adversely limits the extension of credit by, banks or other lending institutions, (iv) a commencement of a war or armed hostilities or other national or international calamity directly or indirectly involving the United States or Japan, or (v) in the case of any of the foregoing existing at the time of the commencement of the Offer, a material acceleration or worsening thereof;

(b) there shall be any statute, rule, regulation, decree, order or injunction promulgated, enacted, entered or enforced, or any lawsuit commenced, by any United States federal or state or Japanese government, governmental authority or court which would (i) make the acquisition by the Parent or the Purchaser of some or all of the Shares illegal, (ii) otherwise prohibit or restrict consummation of the Offer or the Merger, (iii) require the divestiture by the Parent

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or the Purchaser or the Company or any of their respective material subsidiaries or affiliates of all or a material portion of the business, assets or property of them or of the Shares, (iv) materially restrict the ownership or operations of the Company's business and assets except as contemplated in the Merger Agreement with respect to United States government security clearances) or (v) prohibit the voting of the Shares; provided, however, that the Parent and the Purchaser shall have used their best efforts to have any such order, decree or injunction vacated and provided further that the commencement of any litigation shall only give the Purchaser the right to extend the Offer;

(c) the Company shall have breached in any material respect any of its covenants or agreements expressly set forth in the Merger Agreement, or any representation or warranty of the Company expressly set forth in the Agreement shall have been untrue as of the date of the Agreement or shall have since ceased to be true and correct, which

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breach or breaches or changes in such representations and warranties, in the aggregate, would have a material adverse effect on the business or financial condition of the Company or its Foil Division;

(d) the Agreement shall have been terminated in accordance with its terms or the Company, the Parent and the Purchaser shall have entered into a written agreement that the Offer be terminated; or

(e) the Company's Board of Directors shall have withdrawn, modified or amended in any material respect its recommendations of acceptance of the Offer or shall have resolved to do so.

The foregoing conditions are for the sole benefit of the Purchaser and may be asserted by the Purchaser regardless of the circumstances giving rise to any such condition or may be waived by the Purchaser in whole or in part at any time and from time to time in its sole discretion. The failure by the Purchaser at any time to exercise any of the foregoing rights shall not be deemed a waiver of any such right, the waiver of any such right with respect to particular facts and circumstances shall not be deemed a waiver with respect to any other facts and cir-

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cumstances and each such right shall be deemed an ongoing right which may be asserted at any time and from time to time.

GOULD ELECTRONICS INC.

CERTIFICATION

I, **VINCENTINA P. TIERNAN**, duly elected and qualified Assistant Secretary of **GOULD ELECTRONICS INC.**, a corporation organized and existing in the State of Ohio (the "Company"), do hereby certify that attached hereto as Exhibit A is a true and correct copy of the Articles of Incorporation of the Company as filed with the Secretary of State of Ohio on October 1, 1993 (Charter No. 854834), together with a copy of the Certificate of Adoption of Amendment to the Articles of Incorporation of the Company, as filed with the Secretary of State of Ohio on January 27, 1994, increasing the authorized and outstanding shares of Common Stock, $1.00 par value, to a total of 60,000 shares; and I **CERTIFY FURTHER THAT** such documents are in full force and effect on the date hereof.

DATED:

Vincentina P. Tiernan

VINCENTINA P. TIERNAN
ASSISTANT SECRETARY

certart.gei
with cert of amendment
adopted 01-27-94

COPY OF ARTICLES OF INCORPORATION OF GOULD ELECTRONICS INC.
AS FILED WITH THE SECRETARY OF STATE OF OHIO ON OCTOBER 1, 1993.

UNITED STATES OF AMERICA,
STATE OF OHIO,
OFFICE OF THE SECRETARY OF STATE

I, BOB TAFT, Secretary of State of the State of Ohio, do hereby certify that the foregoing is a true and correct copy, consisting of 3 pages, as taken from the original record now in my official custody as Secretary of State.

WITNESS my hand and official seal at Columbus, Ohio, this 15 day of October A.D. 1993.

Bob Taft

BOB TAFT
Secretary of State

By: D. Krosman

NOTICE: This is an official certification only when reproduced in red ink.

ARTICLES OF INCORPORATION
OF
GOULD ELECTRONICS INC.

The undersigned, Michael C. Veysey, desiring to form a corporation (the "Corporation") for profit under the general corporation laws of Ohio, does hereby certify that:

FIRST: The name of the Corporation shall be Gould Electronics Inc.

SECOND: The principal office of the Corporation in the State of Ohio is to be located in the City of Eastlake, County of Lake.

THIRD: The purpose for which the Corporation is formed is to engage in any lawful act or activity for which corporations may be formed under Sections 1701.01 to 1701.98, inclusive, of the Ohio Revised Code.

FOURTH: The Corporation is authorized to have outstanding 1,000 shares of Common Stock, par value One Dollar ($1.00) per share.

FIFTH: No holders of any class of shares of the Corporation shall have any pre-emptive right to purchase or have offered to them for purchase any shares or other securities of the Corporation.

SIXTH: The Corporation may from time to time, pursuant to authorization by the Board of Directors and without action by the shareholders, purchase or otherwise acquire shares of the Corporation of any class or classes in such manner, upon such

terms and in such amounts as the Board of Directors shall determine; subject, however, to such limitation or restriction, if any, as is contained in the express terms of any class of shares of the Corporation outstanding at the time of the purchase or acquisition in question.

ORIGINAL (Red)

SEVENTH: Any and every statute of the State of Ohio hereafter enacted, whereby the rights, powers or privileges of corporations or of the shareholders of corporations organized under the laws of the State of Ohio are increased or diminished or in any way affected, or whereby effect is given to the action taken by any number, less than all, of the shareholders of any such corporation, shall apply to the Corporation and shall be binding not only upon the Corporation but upon every shareholder of the Corporation to the same extent as if such statute had been in force at the date of filing these Articles of Incorporation of the Corporation in the office of the Secretary of State of Ohio.

Executed this first day of October 1993.

Michael C. Veysey

EXHIBIT B

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CERTIFICATE OF ADOPTION OF AMENDMENT TO THE ARTICLES OF INCORPORATION OF OF GOULD ELECTRONICS INC.

Yasuyuki Shimizu, who is Senior Vice President and Michael C. Veysey, who is Secretary of Gould Electronics Inc., an Ohio for profit corporation (the "Corporation"), which has its principal office in the State of Ohio located at 35129 Curtis Boulevard, Eastlake, Ohio 44095, DO HEREBY CERTIFY THAT:

The following is a true and complete copy of the resolutions adopting an amendment to the Articles of Incorporation of the Corporation pursuant to Ohio Revised Code Section 1701.71, unanimously adopted by the sole shareholder of the Corporation in a writing dated January 27, 1994, duly approved and signed by the sole shareholder in accordance with the provisions of Ohio Revised Code Section 1701.54:

> RESOLVED, that the Articles of Incorporation of GOULD ELECTRONICS INC. be amended by changing ARTICLE FOURTH thereof so that, as amended, said Article shall be read as follows:
>
> "FOURTH: The Corporation is authorized to have outstanding 60,000 shares of Common Stock, par value One Dollar ($1.00) per share."

IN WITNESS WHEREOF, the above-named officers, acting for and on behalf of the Corporation, have subscribed their names this 27th day of January 1994.

GOULD ELECTRONICS INC.

By: Yasuyuki Shimizu
Yasuyuki Shimizu
Senior Vice President

By: Michael C. Veysey
Michael C. Veysey
Secretary

RECEIVED
JAN 27 1994
BOB TAFT
SECRETARY OF STATE

RECEIVED
JAN 27 1994
BOB TAFT
SECRETARY OF STATE

VOL403CL Doc 750911

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT, dated as of January 31, 1994 (this "Agreement"), is made and entered into by and among Gould Inc. ("Gould"), a Delaware corporation and a wholly-owned subsidiary of NMUS (as defined below), Nippon Mining U.S. Inc. ("NMUS"), a Delaware corporation and a subsidiary of J Energy (as defined below) and Nikko Gould (as defined below), and Gould Electronics Inc. ("Buyer"), an Ohio corporation and a wholly-owned subsidiary of J Energy. Gould and NMUS are sometimes referred to collectively as the "Sellers".

WITNESSETH:

WHEREAS, Japan Energy Corporation, formerly known as Nikko Kyodo Company, Limited ("J Energy"), a Japanese corporation, Nikko Gould Foil Company, Limited ("Nikko Gould"), a Japanese corporation and a wholly-owned subsidiary of J Energy, NMUS and Gould have determined that it is advisable to restructure Gould, NMUS and the U.S. and non-U.S. subsidiaries of Gould in order to, among other things, coordinate the business structure with the characteristics of Gould's various businesses and to improve the overall efficiencies and the financial strength of such businesses (the "Restructuring"); and

WHEREAS, pursuant to the Restructuring, and as part of the Restructuring, Buyer intends (i) to purchase all the properties and assets of Gould, including, without limitation, all the outstanding capital stock and other securities held by

Gould, and (ii) to assume all the liabilities and obligations of Gould, other than third party indebtedness of Gould for borrowed money, including interest accrued thereon, and intercompany indebtedness for borrowed money, including interest accrued thereon, of Gould payable to J Energy (the "Gould Asset Transfers"); and

WHEREAS, pursuant to the Restructuring, and as part of the Restructuring, Buyer intends (i) to purchase all of the properties and assets, other than the capital stock of Gould, of NMUS, and (ii) to assume all the liabilities and obligations of NMUS (the "NMUS Asset Transfers"); and

WHEREAS, pursuant to the Restructuring, and as part of the Restructuring, upon the consummation of the Gould Asset Transfers, Gould will enter into and adopt an agreement and plan of liquidation and, in accordance with the requirements of the Delaware General Corporation Law, Gould will (i) file a certificate of dissolution with the Secretary of State of the State of Delaware and (ii) wind-up the remainder of its affairs pursuant to Delaware General Corporation Law; and

WHEREAS, pursuant to the Restructuring, and as part of the Restructuring, upon the consummation of the NMUS Asset Transfers, NMUS will enter into and adopt an agreement and plan of liquidation and, after the dissolution of Gould has been completed and in accordance with the requirements of the Delaware General Corporation Law, NMUS will (i) file a certificate of dissolution with the Secretary of State of the State of Delaware

and (ii) wind-up the remainder of its affairs pursuant to Delaware General Corporation Law; and

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and other good and valuable consideration, the parties hereto hereby agree as follows:

ARTICLE I

PURCHASE AND SALE OF ASSETS FROM GOULD

1.1 Purchase of Assets from Gould. Upon the terms and subject to the conditions of this Agreement at the Closing (as defined herein), Gould shall sell, assign, transfer, deliver and convey to Buyer, and Buyer shall purchase and acquire from Gould, all of the rights, properties and assets of Gould, including, without limitation, the rights, properties and assets described in this Section 1.1 (the "Gould Acquired Assets"); provided, however, that the Gould Acquired Assets shall expressly exclude the Gould Excluded Assets (as defined in Section 1.2 hereof). The Gould Acquired Assets shall include, without limitation, the following:

1.1.1 Owned Real Property. All of Gould's rights and interests in and to the real property identified on Schedule 1.1.1 hereto, together in each case with all buildings, structures, fixtures and improvements thereon and all easements, privileges and appurtenant rights thereto (the "Gould Owned Real Property").

1.1.2 Leased Real Property. All of Gould's rights and interests in and to the leases pertaining to the leased real property identified on Schedule 1.1.2 hereto, and in and to the

real property leased by Gould pursuant to such leases, including all buildings, structures, fixtures and improvements located thereon and all easements, privileges and appurtenant rights thereto (the "Gould Leased Real Property" and, together with the Gould Owned Real Property, the "Gould Real Property").

1.1.3 Owned Tangible Personal Property. (a) All machinery, operating equipment and supplies, office equipment and supplies, furniture, office and telephone equipment, computer hardware and software and other tangible personal property (and not otherwise within the categories described in Section 1.1.3(b) hereof) owned by Gould (the "Gould Personal Property") wherever located, together with all spare, maintenance and replacement parts and accessories to any of the foregoing.

(b) All cars, trucks or other motor vehicles owned by Gould, wherever such motor vehicles may be located (the "Gould Motor Vehicles").

1.1.4 Inventory. All of the finished goods, work-in-progress and raw material inventory owned by Gould (the "Gould Inventory"), including Gould Inventory on order or in transit or on consignment to any third parties or affiliates of Gould.

1.1.5 Customer Contracts. All contracts, agreements or arrangements relating to the governmental, commercial and industrial customer accounts of Gould (the "Gould Customer Contracts") and such other contracts with customers as were entered into by Gould in the ordinary course of business.

1.1.6 Contractual Rights. All rights and interests of Gould in and to other mortgages, leases, licenses, purchase or sales orders, security agreements or other agreements, undertakings, arrangements or contracts, whether written or oral, express or implied, of Gould (such contracts, together with the Gould Customer Contracts, are referred to as the "Gould Assumed Contracts").

1.1.7 Accounts Receivable. All accounts receivable of Gould, including, without limitation, intercompany accounts due Gould from any subsidiaries or any other affiliate of Gould, whether or not actually invoiced as of the Closing Date (the "Gould Accounts Receivable").

1.1.8 Intellectual Property. All of Gould's rights and interests in patents, patent applications, know-how, processes, formulations, trademarks, trademark license agreements, copyrights, trade secrets, technology, confidential or proprietary information, innovations, ideas, improvements, inventions, distributor and customer lists and other intellectual property rights (the "Gould Intellectual Property").

1.1.9 Leased Tangible Personal Property. All rights and interests of Gould in and to (a) the leases relating to tangible personal property leased by Gould from third parties wherever located and (b) the tangible personal property leased pursuant thereto, including, without limitation, any motor vehicles leased by Gould (the "Gould Leased Personal Property").

1.1.10 Licenses, Permits and Approvals. All licenses, permits, emission reduction approvals, classifications,

variances, waivers, consents and qualifications ("Gould Permits") to the extent transferable, issued or granted to Gould by any federal, state or local government or any subdivision, authority, department, commission, board, bureau, agency, court or instrumentality thereof.

1.1.11 Records and Lists. All books, files, documents, sales literature, customer records, operating records, purchasing records and specifications, engineering data, product, material and tooling specifications, equipment lists, service and parts records, warranty records and inventory records, computer programs, instructions, advertising and promotional materials, dealer and distribution lists and other records (the "Gould Records") of Gould.

1.1.12 Certain Claims. All rights to causes of action, suits, proceedings, judgments, claims and demands of any nature, whenever maturing or asserted (the "Gould Claims").

1.1.13 Prepaid Items and Cash. All prepaid expenses and deposits ("Gould Prepaid Items"), including, except as provided in Section 1.2 hereof, all cash on hand and all cash balances in accounts and all accounts, except as provided in Section 1.2 hereto, with financial institutions ("Gould Cash"), of every kind and description, wherever located, of Gould.

1.1.14 Intercompany Notes. Any and all intercompany notes receivable ("Gould Intercompany Notes") held by, or due to, or to become due to, Gould as of the Closing.

1.1.15 Stock of Subsidiaries and Other Securities. Any and all capital stock held by Gould, including, without

limitation, all of the capital stock identified on Schedule 1.1.15(a) hereto (the "Acquired Stock"), and any and all securities, other than Acquired Stock, held by Gould, including, without limitation, the securities identified on Schedule 1.1.15(b) hereto (the "Acquired Securities").

1.1.16 Other. All other properties, assets, rights and interests of every kind and description, wherever located, of Gould, including, without limitation, any construction in progress with respect to assets described in Section 1.1 hereof, and the goodwill relating to the Gould businesses, including the going concern value attributable thereto.

1.2 Excluded Assets. Notwithstanding anything to the contrary contained in this Agreement, Gould shall retain:

(a) the account of Gould, Account No. 2051-03793, in the account of The Industrial Bank of Japan, Chicago Branch, Account No. 1510614, at the First National Bank of Chicago, ABA No. 071000013, together with cash in the aggregate amount of $1,345,872.03 on deposit in such account;

(b) the account of Gould, Account No. 2051-09791, in the account of The Industrial Bank of Japan, Chicago Branch, Account No. 1510614, at the First National Bank of Chicago, ABA No. 071000013, together with cash in the aggregate amount of $0.00 on deposit in such account;

(c) the account of Gould in the account of The Sakura Bank Limited, Chicago Branch, Account No. 1512951, at the First National Bank of Chicago, ABA No. 071000013, together with cash in the aggregate amount of $429,614.58 on deposit in such account;

(d) the account of Gould in the account of The Bank of Tokyo, Limited, Chicago Branch, Account No. 060-003 at Chicago Tokyo Bank, Chicago Branch, ABA No. 071001106, together with cash in the aggregate amount of $1,203,228.29 on deposit in such account;

(e) the account of Gould, Account No. 160048, in the account of The Mitsui Trust and Banking Company Limited, Chicago Branch, Account No. 6024297, at Continental Bank, Chicago, ABA No. 071000039, together with cash in the aggregate amount of $195,617.19 on deposit in such account;

(f) the account of Gould in the account of The Long-Term Credit Bank of Japan, Limited, Chicago Branch, Account No. 544-7-77109, at Chemical Bank, New York, ABA No. 021000128, together with cash in the aggregate amount of $133,333.33 on deposit in such account;

(g) the account of Gould, Account No. 2051-02411, at The Industrial Bank of Japan, New York, ABA No. 026008345, together with cash in the aggregate amount of $47,326.39 on deposit in such account;

(h) the account of Gould, Account No. 62876, at The Sanwa Bank Limited, New York, ABA No. 026009823, together with cash in the aggregate amount of $291,453.01 on deposit in such account;

(i) the account of Gould, Account No. 93996, at The Sanwa Bank Limited, New York, ABA No. 026009823, together with cash in the aggregate amount of $0.00 on deposit in such account;

(j) the account of Gould, Account No. H-10-740-008173, at The Dai-ichi Kangyo Bank Limited, New York, ABA No. 026004307, together with cash in the aggregate amount of $208,228.31 on deposit in such account;

(k) the account of Gould in the account of The Norinchukin Bank, Account No. 544-7-72711, at Chemical Bank, New York, ABA No. 021000128, together with cash in the aggregate amount of $197,460.94 on deposit in such account; and

(l) the account of Gould, Account No. 0455997, at The Industrial Bank of Japan Head Office, Tokyo, together with cash in the aggregate amount of ¥0.00 on deposit in such account; and any and all other funds in any such accounts identified in (a) through (l) above, inclusive, as of the Closing Date and the Spot Contract, Reference No. CS0005330, dated January 27, 1994, between The Industrial Bank of Japan, Limited, Chicago Branch, and Gould (the "Gould Excluded Assets"), and the Gould Excluded Assets shall not be included in the Gould Acquired Assets sold, transferred, assigned, conveyed and delivered to Buyer.

ARTICLE II

PURCHASE AND SALE OF ASSETS FROM NMUS

2.1 Purchase of Assets from NMUS. Upon the terms and subject to the conditions of this Agreement at the Closing, NMUS shall sell, assign, transfer, deliver and convey to Buyer, and Buyer shall purchase and acquire from NMUS, all of the rights, properties and assets of NMUS, including, without limitation, the rights, properties and assets described in this Section 2.1 (the "NMUS Acquired Assets"); provided, however, that the NMUS

Acquired Assets shall expressly exclude the NMUS Excluded Assets (as defined in Section 2.2 hereof). The NMUS Acquired Assets shall include, without limitation, the following:

2.1.1 Owned Real Property. All of NMUS' rights and interests in and to the real property identified on Schedule 2.1.1 hereto, together in each case with all buildings, structures, fixtures and improvements thereon and all easements, privileges and appurtenant rights thereto (the "NMUS Real Property").

2.1.2 Contractual Rights. All rights and interests of NMUS in and to other mortgages, leases, licenses, purchase or sales orders, security agreements or other agreements, undertakings, arrangements or contracts, whether written or oral, express or implied, of NMUS (the "NMUS Assumed Contracts").

2.1.3 Accounts Receivable. All accounts receivable of NMUS whether or not actually invoiced as of the Closing Date (the "NMUS Accounts Receivable").

2.1.4 Licenses, Permits and Approvals. All licenses, permits, emission reduction approvals, classifications, variances, waivers, consents and qualifications ("NMUS Permits") to the extent transferable, issued or granted to NMUS by any federal, state or local government or any subdivision, authority, department, commission, board, bureau, agency, court or instrumentality thereof.

2.1.5 Records and Lists. All books, files, documents, sales literature, customer records, operating records, purchasing records and specifications, engineering data, product,

material and tooling specifications, equipment lists, service and parts records, warranty records and inventory records, computer programs, instructions, advertising and promotional materials, dealer and distribution lists and other records (the "NMUS Records") of NMUS.

2.1.6 Certain Claims. All rights to causes of action, suits, proceedings, judgments, claims and demands of any nature, whenever maturing or asserted (the "NMUS Claims").

2.1.7 Cash. All deposits, including all cash on hand and all cash balances in accounts and all accounts with financial institutions ("NMUS Cash"), of every kind and description, wherever located, of NMUS.

2.1.8 Other. All other properties, assets, rights and interests of every kind and description, wherever located, of NMUS, including, without limitation, the goodwill and going concern value of NMUS.

2.2 Excluded Assets. Notwithstanding anything to the contrary contained in this Agreement, NMUS shall retain all the outstanding capital stock of Gould held by NMUS (the "NMUS Excluded Assets") and the NMUS Asset Purchase Price payable to NMUS pursuant to Section 3.1(b) hereof, and the NMUS Excluded Assets shall not be included in the NMUS Acquired Assets sold, transferred, assigned, conveyed and delivered to Buyer.

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ARTICLE III

PURCHASE PRICE

3.1 Purchase Price. (a) In consideration of the sale, assignment, transfer and conveyance of the Gould Acquired Assets and the other covenants and undertakings of Gould in this Agreement, Buyer hereby agrees at the Closing, to (i) pay to Gould the sum of Six Hundred Forty-Nine Million, Six Hundred Forty-Two Thousand Dollars ($649,642,000) (the "Gould Asset Purchase Price") and (ii) assume the liabilities and obligations of Gould, other than any and all third party indebtedness of Gould for borrowed money, including interest accrued thereon, and intercompany indebtedness for borrowed money, including interest accrued thereon, of Gould payable to J Energy, as provided in Section 4.1(a). The Gould Asset Purchase Price shall be paid by Buyer to Gould at the Closing by (i) delivery of one or more bank checks or certified checks in immediately available funds made payable to the order of Gould or (ii) wire transfer of immediately available funds to one or more accounts designated by Gould.

(b) In consideration of the sale, assignment, transfer and conveyance of the NMUS Acquired Assets and the other covenants and undertakings of NMUS in this Agreement, Buyer hereby agrees at the Closing, to (i) pay to NMUS the sum of Three Hundred Fifty-Eight Thousand Dollars ($358,000) (the "NMUS Asset Purchase Price") and (ii) assume the liabilities and obligations of NMUS, as provided in Section 4.1(b). The NMUS Asset Purchase Price shall be paid by Buyer to NMUS or, at the election of NMUS

on behalf of NMUS, to Gould, at the Closing by (i) delivery of one or more bank checks or certified checks in immediately available funds made payable to the order of NMUS or (ii) wire transfer of immediately available funds to an account designated by NMUS.

ARTICLE IV

ASSUMPTION OF LIABILITIES

4.1 Assumed Liabilities. (a) On the terms and subject to the conditions of this Agreement, except for those liabilities and obligations listed or described on Schedule 4.2(a) hereto, Buyer shall assume from Gould as of the Closing, and thereafter shall pay, perform and discharge, any and all liabilities, indebtedness and obligations of Gould of any nature whatsoever, whether due or to become due, known or unknown, absolute or contingent, direct or indirect, or asserted or unasserted (including, without limitation, any liability, indebtedness or obligation (i) relating to intercompany accounts or notes payable of Gould or (ii) resulting from any Environmental Liability (as defined below) of Gould, including any Environmental Liability relating to any discontinued operation of Gould, or (iii) resulting from or in any way relating to any discontinued operations of Gould, or (iv) relating to the dissolution of Gould, including, without limitation, Gould's obligations to make a reasonable provision to pay all claims and obligations of Gould, including all contingent, conditional or unmatured contractual claims known to

Gould and all claims that have not been made known to Gould or that have not arisen, but that, based on the facts known to Gould, are likely to arise or to become known to Gould, or (v) relating to any federal, state, local or foreign taxes that are or may become due and payable which are attributable to any aspect of Gould's operations or existence as a corporate entity prior to its dissolution, or (vi) resulting from any pending or threatened litigation, proceeding or investigation involving any asserted or unasserted, known or unknown, absolute or contingent, or direct or indirect liability, indebtedness or obligation of Gould, or relating to acts or events occurring or conditions existing with respect to Gould), whether before, on, or after the date hereof, including, without limitation, any and all liabilities and obligations, known or unknown, absolute or contingent, direct or indirect, or asserted or unasserted relating to the Gould Real Property, the Gould Personal Property, the Gould Motor Vehicles, the Gould Inventory, the Gould Assumed Contracts, the Gould Accounts Receivable, the Gould Intellectual Property, the Gould Leased Personal Property, the Gould Permits, the Gould Records, the Gould Claims, the Gould Prepaid Items, the Gould Cash, the Gould Intercompany Notes, the Acquired Stock and the Acquired Securities described in Section 1.1 hereof and the Employees described in Article V hereof (the "Gould Assumed Liabilities").

(b) On the terms and subject to the conditions of this Agreement, except for those liabilities and obligations listed or described on Schedule 4.2(b) hereto, Buyer shall assume from NMUS

as of the Closing, and thereafter shall pay, perform and discharge, any and all liabilities, indebtedness and obligations of NMUS of any nature whatsoever, whether due or to become due, known or unknown, absolute or contingent, direct or indirect, or asserted or unasserted (including, without limitation, any liability, indebtedness or obligation (i) resulting from any Environmental Liability of NMUS or (ii) resulting from or in any way relating to any discontinued operations of NMUS or (iii) relating to the dissolution of NMUS, including, without limitation, NMUS' obligations to make a reasonable provision to pay all claims and obligations of NMUS, including all contingent, conditional or unmatured claims known to NMUS and all claims that have not been made known to NMUS or that have not arisen, but that, based on the facts known to NMUS, are likely to arise or to become known to NMUS, or (iv) relating to any federal, state, local or foreign taxes that are or may become due and payable which are attributable to any aspect of NMUS' operations or existence as a corporate entity prior to its dissolution, or (v) resulting from any pending or threatened litigation, proceeding or investigation involving any asserted or unasserted, known or unknown, absolute or contingent, or direct or indirect liability, indebtedness or obligation of NMUS, or relating to acts or events occurring or conditions existing with respect to NMUS), whether before, on, or after the date hereof, including, without limitation, any and all liabilities and obligations, known or unknown, absolute or contingent, direct or indirect, or asserted or unasserted relating to the NMUS Real Property, the

NMUS Assumed Contracts, the NMUS Accounts Receivable, the NMUS Permits, the NMUS Records, the NMUS Claims and the NMUS Cash described in Section 2.1 hereof (the "NMUS Assumed Liabilities").

(c) For purposes of this Agreement, "Environmental Liability" shall mean any and all liabilities and obligations relating to the requirements of any applicable environmental laws or regulations or, caused by, or arising out of, the generation, storage, transportation, treatment, recycling, reuse, reclamation, disposition or use or handling in any way of (a) any petroleum or petroleum product, (b) any "Hazardous Substances," "Pollutants" or "Contaminants" (as such terms are defined in the Comprehensive Environmental Responses, Compensation and Liability Act of 1980, as amended) and any substances classified as hazardous under any other applicable environmental laws, or (c) any other waste materials.

4.2 Excluded Liabilities. (a) Notwithstanding anything contained herein to the contrary, the liabilities and obligations listed on Schedule 4.2(a), shall not be assumed by Buyer and shall be retained by Gould (the "Gould Excluded Liabilities").

(b) Notwithstanding anything contained herein to the contrary, the liabilities and obligations listed on Schedule 4.2(b), shall not be assumed by Buyer and shall be retained by NMUS (the "NMUS Excluded Liabilities").

ARTICLE V

EMPLOYEE MATTERS

5.1 Employment of Employees; Liability to Employees and Former Employees. Buyer shall employ, effective as of the Closing, all of the employees of Gould, and, as provided in Section 4.1(a), shall assume as of the Closing all of the liabilities and obligations of Gould to or in respect of its employees and former employees and their beneficiaries and dependents ("Employees"). In furtherance of, but without limiting the generality of, the foregoing, as of the Closing Buyer shall assume from Gould, and Gould shall transfer and assign to Buyer, all of Gould's right, title and interest in, all of Gould's obligations with respect to, and sponsorship of, all employee benefit plans (within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended) maintained, or contributed to, by Gould.

5.2 At Will Employment. Nothing in this Article V shall limit the at will nature of the employment of the Employees who are employed by Buyer effective as of the Closing or the right of Gould or Buyer to alter or terminate any employee benefit plan.

ARTICLE VI

CLOSING

6.1 Closing. The closing of the purchases and sales referred to in Section 1.1 and Section 2.1 (the "Closing") shall be held at Gould Inc., 35129 Curtis Boulevard, Eastlake, Ohio 44095 on January 31, 1994 at 10:00 A.M. or such other place and

time as the parties hereto agree. The date on which the Closing actually takes place shall be referred to as the "Closing Date."

6.2 Closing Actions. (a) At the Closing,

(i) Gould shall:

(X) provide Buyer with an executed Bill of Sale, in substantially the form of Exhibit A hereto, and executed deed(s) conveying the Gould Owned Real Property described in Section 1.1.1 hereto, and

(Y) deliver or cause to be delivered all of the Acquired Stock, including all the certificates representing the Acquired Stock duly endorsed in blank or with stock powers attached, duly executed in blank in proper form for transfer;

(Z) deliver or cause to be delivered all of the Acquired Securities, including all certificates representing the Acquired Securities, duly endorsed in blank or with stock powers attached, duly executed in blank in proper form for transfer.

(ii) Buyer shall:

(Y) pay Gould an amount equal to $649,642,000 by delivery of one or more bank checks or certified checks, or by wire transfer of immediately available funds to one or more accounts designated by Gould; and

(Z) deliver an Instrument of Assumption, in substantially the form of Exhibit B hereto.

(b) At the Closing,

(i) NMUS shall provide Buyer with an executed Bill of Sale, in substantially the form of Exhibit C hereto and executed deed(s) conveying the NMUS Real Property described in Section 2.1.1 hereto, and

(ii) Buyer shall:

(Y) pay NMUS or, at the election of NMUS on behalf of NMUS, to Gould, an amount equal to $358,000 by delivery of one or more bank checks or certified checks, or by wire transfer of immediately available funds to an account designated by NMUS; and

(Z) deliver an Instrument of Assumption, in substantially the form of Exhibit D hereto.

6.3 Post-Closing Matters. (a) After the completion of the Gould Asset Transfers and the NMUS Asset Transfers, Gould, NMUS, J Energy and Nikko Gould shall execute an agreement and plan of liquidation, in substantially the form of Exhibit E hereto (the "Gould Agreement and Plan of Liquidation").

(b) After the completion of (i) the Gould Asset Transfers, (ii) the NMUS Asset Transfers and (iii) the execution of the Gould Agreement and Plan of Liquidation, Gould, NMUS, J Energy and Nikko Gould shall execute an agreement and plan of

liquidation, in substantially the form of Exhibit F hereto (the "NMUS Agreement and Plan of Liquidation").

(c) After the completion of (i) the Gould Asset Transfers, (ii) the NMUS Asset Transfers, (iii) the execution of the Gould Agreement and Plan of Liquidation and (iv) the execution of the NMUS Agreement and Plan of Liquidation, Gould shall file or cause to be filed with the Secretary of State of the State of Delaware an executed certificate of dissolution, in substantially the form of Exhibit G hereto (the "Gould Certificate of Dissolution").

(d) After the completion of (i) the Gould Asset Transfers, (ii) the NMUS Asset Transfers, (iii) the execution of the Gould Agreement and Plan of Liquidation, (iv) the execution of the NMUS Agreement and Plan of Liquidation and (v) the filing of the Gould Certificate of Dissolution, NMUS shall file or cause to be filed with the Secretary of State of the State of Delaware an executed certificate of dissolution, in substantially the form of Exhibit H hereto (the "NMUS Certificate of Dissolution").

ARTICLE VII

REPRESENTATIONS AND WARRANTIES OF SELLERS

Sellers each represent and warrant to Buyer as follows:

7.1 Organization and Good Standing. Sellers are each corporations duly organized, validly existing and in good standing under the laws of the State of Delaware.

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ARTICLE VIII

COVENANTS

8.1 Additional Assurance. After the Closing, each of the Sellers shall from time to time at the request of Buyer prepare, execute and deliver to Buyer such other instruments of conveyance and transfer and shall take such other actions as Buyer may reasonably request so as to more effectively sell, transfer, assign, deliver and convey title to and possession of the Gould Acquired Assets or the NMUS Acquired Assets to Buyer, as the case may be, or otherwise to consummate the transactions contemplated hereby.

ARTICLE IX

INDEMNIFICATION

9.1 Indemnification. (a) Buyer shall indemnify and hold harmless the Sellers and their respective successors and assigns, and the respective officers, directors, shareholders, agents, employees and representatives of each of the foregoing (each, an "Indemnified Party") from and against any and all losses, claims, liabilities and damages (including, without limitation, reasonable attorneys' fees) which arise out of or are related to the assets acquired under Section 1.1 or Section 2.1 of this Agreement or the liabilities assumed under Section 4.1 of this Agreement and Buyer will reimburse each Indemnified Party for any legal or other costs and expenses reasonably incurred by such Indemnified Party in connection with any investigation of, or defending against, any such loss, claim, liability, damage, action or proceeding.

(b) In case any proceeding (including any governmental investigation) shall be instituted involving any Indemnified Party, such Indemnified Party shall promptly notify Buyer. In case any such proceeding shall be brought against any Indemnified Party, Buyer shall participate therein and assume the defense thereof, with counsel satisfactory to such Indemnified Party and shall pay as incurred the fees and disbursements of such counsel related to such proceeding.

ARTICLE X

MISCELLANEOUS

10.1 Binding Effect. This Agreement and the rights and duties hereunder shall be binding upon and inure to the benefit of the successors and assigns of each of the parties hereto.

10.2 Entire Agreement. This Agreement and the other documents referred to herein set forth the understanding of the parties with respect to the subject matter hereof and supersede all prior agreements, covenants, arrangements, communications, representations or warranties, whether oral or written, made by the parties or any officer, employee or representative of the parties.

10.3 Amendment. This Agreement may be amended only by a written instrument signed by the parties or their respective successors or assigns.

10.4 Governing Law. This Agreement and (unless otherwise provided) all amendments hereof and waivers and consents hereunder shall be governed by the internal laws of the

State of Ohio, without regard to the conflicts of law principles thereof.

10.5 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original instrument and all of which together shall constitute a single agreement.

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

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GOULD INC.

By: _____
Yasuyuki Shimizu
Senior Vice President and
Chief Financial Officer

NIPPON MINING U.S. INC.

By: _____
Michael C. Veysey
Vice President and Secretary

GOULD ELECTRONICS INC.

By: _____
C. David Ferguson
President and Chief Executive
Officer

State of Delaware

Office of the Secretary of State

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I, WILLIAM T. QUILLEN, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF DISSOLUTION OF "GOULD INC.", FILED IN THIS OFFICE ON THE FIRST DAY OF FEBRUARY, A.D. 1994, AT 9 O'CLOCK A.M.

A CERTIFIED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS FOR RECORDING.

William T. Quillen

William T. Quillen, Secretary of State

0244404 8100

944010750

AUTHENTICATION: 7015561

DATE: 02-01-94

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CERTIFICATE OF DISSOLUTION
OF
GOULD INC.

GOULD INC., a corporation duly organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation"),

DOES HEREBY CERTIFY:

FIRST: That the Board of Directors of the Corporation has authorized (i) the Corporation and certain of its subsidiaries to transfer certain assets and properties and certain liabilities and obligations relating to the Test & Measurement business of the Corporation and its subsidiaries to Gould Instrument Systems, Inc., an Ohio corporation and a wholly-owned subsidiary of Japan Energy Corporation ("J Energy"), a Japanese corporation formerly known as Nikko Kyodo Company, Limited, and its subsidiaries (the "T&M Asset Transfers"), and (ii) the Corporation to transfer all of its remaining properties and assets and all of its remaining liabilities and obligations (other than third party indebtedness for borrowed money, including interest accrued thereon, and intercompany indebtedness for borrowed money, including interest accrued thereon, payable to J Energy) to Gould Electronics Inc., an Ohio corporation and a wholly-owned subsidiary of J Energy (the "Gould Asset Transfers").

SECOND: That, subject to prior completion of the T&M Asset Transfers and the Gould Asset Transfers, the Board of Directors of the Corporation, on September 7, 1993, authorized the dissolution of the corporation provided that the T&M Asset Transfers and the Gould Asset Transfers are completed before the dissolution of the Corporation.

THIRD: That, in lieu of a meeting and vote of the sole stockholder, the sole stockholder has given its unanimous written consent to the dissolution of the corporation in accordance with section 228 of the General Corporation Law of the State of Delaware, subject to prior completion of the T&M Asset Transfers and the Gould Asset Transfers.

FOURTH: That, as a result of the completion of the T&M Asset Transfers and the Gould Asset Transfers, the Corporation has adopted an agreement and plan of liquidation.

FIFTH: That, as a result of the completion of the T&M Asset Transfers and the Gould Asset Transfers on or before January 31, 1994, the dissolution of the Corporation has been duly authorized in accordance with subsections (a) and (b) of Section 275 of the General Corporation Law of the State of Delaware.

SIXTH: That the name and address of the directors and officers of GOULD INC. are as follows:

DIRECTORS

Name	Address
Yasuyuki Shimizu	35129 Curtis Boulevard Eastlake, Ohio 44095
Michael C. Veysey	35129 Curtis Boulevard Eastlake, Ohio 44095

OFFICERS

Yasuyuki Shimizu Senior Vice President and Chief Financial Officer	35129 Curtis Boulevard Eastlake, Ohio 44095
Michael C. Veysey Senior Vice President, General Counsel and Secretary	35129 Curtis Boulevard Eastlake, Ohio 44095
John L. Monaco Vice President - Taxes and Treasurer	35129 Curtis Boulevard Eastlake, Ohio 44095
Thomas N. Rich Vice President - Corporate Controller	35129 Curtis Boulevard Eastlake, Ohio 44095
Nobuo Abe Assistant Secretary	35129 Curtis Boulevard Eastlake, Ohio 44095
Vincentina P. Tiernan Assistant Secretary	35129 Curtis Boulevard Eastlake, Ohio 44095

IN WITNESS WHEREOF, said GOULD INC. has caused this certificate to be signed by Michael C. Veysey, its Senior Vice President, and attested by Vincentina P. Tiernan, its Assistant Secretary, this 1st day of February 1994.

ATTEST:

Vincentina P. Tiernan

VINCENTINA P. TIERNAN
Assistant Secretary

GOULD INC.

By: [signature]
MICHAEL C. VEYSEY
Senior Vice President

VOL40XCL Doc: 66134.13

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ATTACHMENT C – Responsive to Request for Information No. 9

AMERICAN ARBITRATION ASSOCIATION

COMMERCIAL ARBITRATION TRIBUNAL

In the Matter of the Arbitration between

Re: 35 180 00003 97
Gould Electronics, Inc.
vs.
ASEA Brown Boveri, Inc. (ABB)
- Philadelphia, Pennsylvania

ADMINISTRATOR: Jade T. Thai

INTERIM AWARD OF ARBITRATORS

WE, THE UNDERSIGNED ARBITRATORS, having been designated in accordance with the arbitration agreements dated January 31, 1979, and December 18, 1980, entered into by the above-named parties, and having been duly sworn and having duly heard the proofs and allegations of the parties, hereby render this Interim Award as follows:

The panel hereby denies the motion of respondent ABB for summary judgment and rules in favor of claimant Gould Electronics, Inc. ("Gould") on the issue of liability. This ruling is an interim ruling respecting liability only and is without prejudice to the rights of either party on the issue of damages.

The panel retains jurisdiction over the arbitration with further proceedings deferred in order to provide the parties with an opportunity to resolve the issue of damages without the intervention of the panel. In the event the parties fail to resolve the damage issues, the panel will schedule proceedings as are necessary.

The administrative fees and expenses of the American Arbitration Association shall be borne equally.

The compensation and expenses of the arbitrators shall be borne equally.

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Re: 35 180 00003 97
Gould Electronics, Inc.
vs.
ASEA Brown Boveri, Inc. (ABB)
Philadelphia, Pennsylvania

This Award will stay in full force and effect until such time as a final award is rendered by the arbitrators.

SIGNED: Bernard Chanin DATED: 8/20/99
Bernard Chanin, Esq., Arbitrator

SIGNED: Arlin M. Adams DATED: 8/7/99
Honorable Arlin M. Adams, Esq., Arbitrator

SIGNED: _____ DATED: _____
J. Clayton Undercofler, Esq., Arbitrator

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement dated as of April 30, 1987 (this "Agreement) by and between GOULD INC., a Delaware corporation with its principal place of business in Rolling Meadows, Illinois ("Seller") and SPD TECHNOLOGIES INC., a Delaware corporation with its principal place of business in Philadelphia, Pennsylvania ("Purchaser").

WHEREAS, Seller, among other things, is engaged in the business of the design, manufacture, marketing, supply, service, repair, and sale of naval spec switchgear, circuit breakers and related projects, which activity is referred to herein as the "Business";

WHEREAS, the Business is conducted through Seller's Systems Protection Division with headquarters located in Philadelphia, Pennsylvania (the "Division"); and

WHEREAS, Seller desires to sell, and Purchaser desires to buy, all of Seller's assets used or held for use in the conduct of the Business, upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in mutual consideration of the covenants and agreements set forth herein, Seller and Purchaser agree as follows:

1. *ASSETS TO BE SOLD*.

1.1 Assets To Be Transferred. On the Closing Date (as hereinafter defined), Seller will convey, transfer, assign and deliver to Purchaser, free and clear of all liens and

encumbrances, except as set forth in the Disclosure Schedule (as hereinafter defined), and Purchaser will accept and acquire, all the business, property and assets, real and personal, tangible and intangible, of every kind and nature, and wherever situated which are owned by Seller, or in which Seller has any right or interest, and which are used or held for use in the Business, as of the Closing Date, except those provided in paragraph 1.2 (the "Assets"), including, without limiting the generality of the foregoing, the following:

1.1.1 Inventories of raw materials, work-in-process and finished goods (collectively, the "Inventory").

1.1.2 Manufacturing, transportation and distribution equipment, including production, transportation, packing and/or delivery machinery and/or equipment, and spare parts, accessories and supplies relating to the foregoing, dies, tooling, tools, motor vehicles, office equipment and supplies, including furniture and fixtures ("Machinery and Equipment").

1.1.3 Seller's right, title and interest in and to:

(i) United States, state and foreign trademark rights, trademark applications, trademark registrations, service marks and trade names, including associated rights and all associated goodwill;

(ii) United States and foreign copyrights, copyright registrations and copyright applications, including associated rights;

(iii) United States and foreign letters patent and patent applications, including associated proprietary rights;

(iv) Patent, copyright, trademark or other licenses and royalties, processing techniques, formulae, trade secrets, know-how, inventions, discoveries, improvements, drawings, plans, operating data, designs, and shoprights; and

(v) Prototypes, fixtures and special purpose laboratory and technical equipment dedicated to electrical circuit protective devices, together with electrical circuit protective devices research, engineering notebooks and process and idea disclosure presently held or maintained by Seller for the Business. The items listed in subparagraphs (i) - (v) above shall be referred to herein collectively as "Trade Rights."

1.1.4 Customer lists and other customer information, sales literature and other selling material, contracts, commitments or orders for the sale of goods ("Customer Lists").

1.1.5 Supplier lists and contracts, commitments or orders for the purchase of raw materials, supplies, components, equipment, packaging material or other items used in the manufacture, distribution or transportation of goods for sale, which are assignable to Purchaser ("Supplier Lists").

1.1.6 Rights under leases (whether of real or personal property) and leasehold improvements ("Leases") and rights under the contracts, licenses and agreements set forth on the Disclosure Schedule (except those designated as being retained by Seller), including without limitation, the Union Contract (as hereinafter defined), and contracts, licenses and agreements of the Division not required by the terms of this Agreement to be set forth on the Disclosure Schedule. The Leases, the aforesaid contracts,

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licenses and agreements, and the contracts, commitments and orders described in paragraphs 1.1.4 and 1.1.5 hereof are hereafter collectively referred to as the "Contracts."

1.1.7 Goodwill and going concern value connected with the Business ("Goodwill").

1.1.8 Benefits relating to prepaid expenses which are assignable to Purchaser ("Prepaids").

1.1.9 Business records, books of account, files, supplies, petty cash accounts, papers and records ("Records").

1.1.10 Trade and other accounts receivable ("Receivables").

1.1.11 Licenses and permits ("Licenses").

1.1.12 Claims and rights of Seller under contracts, choses in action and other such interests ("Claims"), relating to the Assets or the Assumed Liabilities (as hereinafter defined).

1.1.13 All other properties and assets of Seller reflected on the audited transferable balance sheet of the Division dated December 31, 1986 compiled from the audited balance sheet of the Division for the year ended December 31, 1986 contained in the Financial Statements (as hereinafter defined) included in the Disclosure Schedule (the "Audited Transferable Balance Sheet"), including those items which would be included on the Audited Transferable Balance Sheet except for the fact that such items are fully depreciated or expensed and all other items of a nature customarily carried as assets of Seller of the type reflected on the Audited Transferable Balance Sheet which have been acquired by the Division since December 31, 1986, and except those items which

have been sold or otherwise disposed of in the ordinary course of business since December 31, 1986, and all other properties and assets of Seller reflected on the Final Closing Statement (as hereinafter defined).

1.2 Assets To Be Retained. The provisions of paragraph 1.1 notwithstanding, Seller shall not sell or transfer, and Purchaser shall not purchase or accept:

1.2.1 Cash or cash equivalents of Seller.

1.2.2 Assets of Seller not used or held for use primarily in the Business.

1.2.3 The trade name and trademark "Gould" and "device."

1.2.4 Letter agreement dated September 12, 1986 between Seller and George Gordon, letter agreement dated September 23, 1986 between Seller and Larry Colangelo, and agreement dated July 1, 1986 between Seller and Jack Squires.

1.2.5 Accounts (including interest) which arise out of any transaction between the Division and any other division or affiliate of Seller, and contracts or commitments with or between the Division and any other division or affiliate of Seller, except as disclosed in the Disclosure Schedule or as otherwise set forth in this Agreement.

1.2.6 Books and records of Seller located at its corporate headquarters (provided that Purchaser may obtain copies of books and records relating to the Division, the Business, the Assets or the Assumed Liabilities which are reasonably separable from the books and records of Seller not related to the Division,

the Business, the Assets or the Assumed Liabilities), policies of insurance, contracts and agreements not assumed by Purchaser and Claims which do not relate to the Assets or the Assumed Liabilities.

2. LIABILITIES.

2.1 Excluded Liabilities. Except as set forth in paragraph 2.2 below, Purchaser neither assumes nor agrees to be responsible for any liabilities, obligations, warranties or commitments of any kind or character whatsoever of Seller or for any claims or demands based thereon or attributable thereto (whether accrued, absolute or contingent, whether known or unknown and regardless of when asserted) and all such liabilities, obligations, warranties or commitments and all such claims and demands shall remain the sole obligation and responsibility of Seller, including, without limitation, the following:

2.1.1 United States, foreign, state or local income or similar taxes applicable to, imposed upon or arising out of the transfer of the Assets to Purchaser contemplated by this Agreement.

2.1.2 Liability, cost, obligation or expense of Seller incurred in connection with this Agreement and the transactions contemplated herein.

2.1.3 Liability or obligation under any employment agreement, including without limitation, those agreements set forth in paragraph 1.2.4 hereof, (except under the Collective Bargaining Agreement between Gould, Systems Protection Division

and the United Automobile Aerospace and Agricultural Workers of America (U.A.W.) and its Local No. 1612 Amalgamated, effective from April 15, 1986 through April 17, 1989, as amended by letter agreements numbers 1-26, each dated April 4, 1986 attached thereto (collectively, the "Union Contract") and under the other agreements set forth in the Disclosure Schedule (except those designated as being retained by Seller)) or with respect to employee benefits, pension plans or similar obligations (including any severance pay obligations) to employees of Seller, except as set forth in Article 8 hereof.

2.1.4 Product liability or other claims (including without limitation any such claim described in the Disclosure Schedule) of any description whatsoever in respect of products manufactured, licensed, sold or otherwise disposed of by, and services rendered with respect to or on account of Seller prior to or on the Closing Date, regardless of whether the events giving rise to any such liability shall have occurred prior to the Closing Date, including (except to the extent set forth in paragraph 7.4 hereof) liabilities and obligations for damaged and defective or returned goods or for replacement of goods or allowances with respect to goods sold by or on behalf of Seller.

2.1.5 Liability arising out of any violation or any claimed violation by Seller prior to the Closing Date (including without limitation any such violation or claimed violation described in the Disclosure Schedule) of any applicable federal, state, county, local or foreign government laws, decrees, ordinances or regulations, including without limitation, those

applicable to discrimination in employment; occupational safety and health; trade practices, competition and pricing; product warranties; zoning; building and sanitation; toxic or chemical substances; employment, retirement or labor relations; product advertising; and pollution, discharge, disposal or emission of wastes, materials (including without limitation, asbestos) or other gases into the environment; defense contracting; defense security, clearance procedures, systems or requirements.

2.1.6 Liabilities or obligations arising out of or with respect to:

(i) Purchaser's failure to employ any employee or former employee of Seller; or

(ii) the discharge or termination of any such employee by Seller at any time.

2.1.7 Liabilities and obligations for all federal, state, local, foreign and other governmental taxes imposed on or with respect to the gross or net income of Seller.

2.1.8 Liability arising out of Seller's breach occurring prior to the Closing Date of any Contract to be assumed by Purchaser hereunder (including without limitation any such breach of any Contract described in the Disclosure Schedule).

2.1.9 Liabilities, debts and obligations arising out of or relating to any transaction entered into prior to the Closing Date, any action or omission prior to the Closing Date and any state of facts or conditions existing prior to the Closing Date.

2.2 Assumed Liabilities. On the Closing Date, Purchaser shall by appropriate instruments assume and agree to

pay, perform and discharge when due, the following liabilities and obligations of Seller relating to the Business which are in existence as of the Closing Date:

2.2.1 The following liabilities of the Division, but not in excess of the amount of such liabilities set forth on the liability side of the Final Closing Statement:

(i) all of the Division's trade accounts payable, exclusive of penalties arising from Seller's failure to pay on a timely basis (which Seller shall discharge) or accounts payable arising out of any transaction between the Division and any division or affiliate of Seller;

(ii) accrued and other current liabilities relating to employee compensation and payroll deductions; and

(iii) accrued and current expenses.

Provided, however, all of the liabilities described in subparagraphs (i) - (iii) above shall be of the nature reflected or reserved against in the Audited Transferable Balance Sheet and shall have been incurred in compliance with the representations, warranties and covenants contained in this Agreement.

2.2.2 The obligations of Seller under the Contracts, but excluding any liability or obligation for any breach thereof occuring prior to the Closing Date and any obligation associated with any Contract which is not assignable to Seller to the extent that the benefits thereunder are not made available to Purchaser by reason of the non-assignability thereof.

2.2.3 Liability for certain employee benefits as set forth in Article 8 hereof.

2.2.4 Product warranty expense for repairs, returns, replacements, allowances and related services required by the terms of warranty arrangements of the Division up to an aggregate amount of $1.1 million, as set forth in Section 7.4 hereof.

2.2.5 The liabilities to be assumed by Purchaser described in paragraphs 2.2.1 (i) - (iii) are collectively referred to as the "Balance Sheet Liabilities." The Balance Sheet Liabilities and the liabilities and obligations to be assumed by Purchaser described in paragraphs 2.2.2, 2.2.3 and 2.2.4 are collectively referred to as the "Assumed Liabilities."

3. PURCHASE PRICE.

3.1 Purchase Price. The purchase price for the Assets shall be $22,968,000, adjusted as set forth in paragraph 3.3 (as adjusted, the "Purchase Price").

3.2 Payment of Estimated Purchase Price

3.2.1 At Closing, Purchaser shall make payment to Seller by wire transfer in immediately available funds of an amount equal to the Estimated Purchase Price (as hereinafter defined) at such bank account as Seller may designate in writing prior to the Closing.

3.2.2 Seller shall prepare a balance sheet of the Division as of the end of the month preceding the Closing Date (the "Preliminary Closing Statement"). The Preliminary Closing Statement shall be prepared and the assets and liabilities shall be valued in accordance with the accounting principles, consis-

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tently applied, used in the preparation of the Audited Transferable Balance Sheet.

3.2.3 The difference between the assets and liabilities as reflected on the Preliminary Closing Statement less $50,000 shall be the "Preliminary Net Book Value." The difference between the assets and liabilities reflected on the Audited Transferable Balance Sheet shall be the " Audited December Net Book Value." If the Audited December Net Book Value is less than the Preliminary Net Book Value, the difference shall be added to the amount specified in paragraph 3.1 hereof and the resulting amount shall be the "Estimated Purchase Price." If the Audited December Net Book Value is greater than the Preliminary Net Book Value, the difference shall be subtracted from the amount specified in paragraph 3.1 hereof and the resulting amount shall be the Estimated Purchase Price.

3.3 Adjustment of Purchase Price

3.3.1 Within sixty (60) days after the Closing Date Seller shall deliver to Purchaser an audited balance sheet of the Division as of the close of business on the Closing Date prepared by Ernst & Whinney (the "Final Closing Statement"). The Final Closing Statement shall be prepared and the assets and liabilities shall be valued in accordance with the accounting principles, consistently applied, used in the preparation of the Audited Transferable Balance Sheet, except that the amount of the reserves set forth on Exhibit 3.2.2 attached hereto and made a part hereof shall not be changed from the amount of such reserves on the Audited Transferable Balance Sheet, and shall be based on the

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Inventory Report to be delivered to Purchaser pursuant to paragraph 3.3.2 hereof. After the Closing, Purchaser shall afford Seller access to the facilities and books and records of the Division and the use of its personnel for the purpose of preparing the Final Closing Statement. Seller shall permit Purchaser to review all work papers and computations used by it in preparing the Final Closing Statement.

3.3.2 As of the close of business on the Closing Date Seller shall take a physical inventory of the Inventory. Representatives of Purchaser shall be permitted to observe the taking of such physical inventory. Upon completion of such physical inventory, Seller shall prepare an inventory report setting forth (i) the quantity of the items of Inventory; and (ii) the price extension of the physical inventory ("Inventory Report"). Concurrently with the delivery to Purchaser of the Final Closing Statement pursuant to paragraph 3.3.1 hereof, Seller shall deliver to Purchaser the Inventory Report. The Inventory Report shall be the basis for the Inventory reflected on the Final Closing Statement and shall be prepared in accordance with the Seller's prior inventory practices consistently applied.

3.3.3 Within thirty (30) days after the date the Final Closing Statement is delivered to Purchaser by Seller pursuant to paragraph 3.3.1 hereof (the "Adjustment Period"), Purchaser shall complete its examination of the Final Closing Statement and shall deliver to Seller either (i) the written acknowledgement of Purchaser accepting the Final Closing Statement; or (ii) a written report setting forth any proposed adjustments to the Final Closing

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Statement ("Adjustment Report"). Purchaser's proposed adjustments, if any, shall not contest the validity or appropriateness of the generally accepted accounting principles, consistently applied, with respect to the Division used in the preparation of the Audited Transferable Balance Sheet.

3.3.4 In the event Seller and Purchaser fail to agree on all of Purchaser's proposed adjustments to the Final Closing Statement contained in the Adjustment Report within thirty (30) days after Seller receives the Adjustment Report, then Seller and Purchaser mutually agree that a "big eight" independent accounting firm acceptable to both Seller and Purchaser ("Independent Auditors"), shall make the final determination of the Final Closing Statement in light of the terms and provisions of this Agreement. The decision of the Independent Auditors shall be final and binding on Seller and Purchaser. Purchaser and Seller shall provide the Independent Auditors with access to all of the books, records, facilities, personnel and workpapers necessary for the determination of the Final Closing Statement by the Independent Auditors. The costs and expenses of the Independent Auditors and their services rendered pursuant to this paragraph 3.3.4 shall be borne equally by Seller and Purchaser.

3.3.5 The difference between the assets and liabilities on the Final Closing Statement less $50,000 shall be the "Final Net Book Value." If the Audited December Net Book Value is less than the Final Net Book Value, the difference shall be added to the amount in paragraph 3.1 hereof and the resulting amount shall be the "Unadjusted Purchase Price." If the Audited December Net

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Book Value is greater than the Final Net Book Value, the difference shall be subtracted from the amount specified in paragraph 3.1 and the resulting amount shall be the Unadjusted Purchase Price. Any respective amounts of charges to income of the Division during the period January 1, 1987 through the Closing Date for obsolete or slow-moving inventories and bad debt in excess of $400,000 in aggregate shall be added to the Unadjusted Purchase Price and the resulting amount shall be the "Purchase Price." If such charges did not exceed $400,000, the Unadjusted Purchase Price shall be the "Purchase Price."

3.3.6 Purchaser shall pay to Seller (or Seller shall remit to Purchaser, as appropriate) an amount equal to the difference between the Estimated Purchase Price and the Purchase Price (the "Adjustment Payment") in the manner set forth in paragraph 3.2 hereof.

3.3.7 That portion of the Adjustment Payment not in dispute, shall be paid within ten (10) days following expiration of the Adjustment Period regardless of whether any Adjustment Report is issued. The remainder of the Adjustment Payment required as a result of the resolution of the disputed amount in connection with the Final Closing Statement shall be paid within ten (10) days following resolution of any such dispute, whether by decision of the Independent Auditors or by agreement between the parties hereto. All portions of the Adjustment Payment, whether or not subject to a dispute prior to payment, shall bear interest from the Closing Date through the date of payment at a rate of 10% per annum.

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3.4 Allocation of Purchase Price. The Purchase Price shall be allocated among the Assets in accordance with the allocation schedule attached hereto as Exhibit 3.4. Any adjustment to the Purchase Price shall result in a corresponding pro-rata adjustment to such allocation. All applicable tax returns and other applicable reports to governmental agencies filed by Seller or Purchaser insofar as they involve an allocation of the Purchase Price pursuant to this Agreement shall be based upon and be consistent with the provisions of this paragraph.

4. REPRESENTATIONS AND WARRANTIES OF SELLER.

Seller makes the following representations and warranties to Purchaser, each of which is true and correct on the date hereof, shall be unaffected by any investigation heretofore or hereafter made by Purchaser, or any notice to Purchaser other than in the Disclosure Schedule, and shall survive the Closing and the transactions contemplated hereby. Seller's representations and warranties are subject to, and qualified by, any fact or facts disclosed in the appropriate corresponding section of the separate disclosure schedule (the "Disclosure Schedule") which has been prepared by Seller and delivered to Purchaser contemporaneously with the execution and delivery of this Agreement and acknowledged by an authorized officer of Seller and Purchaser. Disclosure of an item in the Disclosure Schedule referenced by a particular paragraph in this Agreement shall, should the existence of the item or its contents be relevant to any other paragraph, be deemed to be disclosed in that paragraph whether or not an explicit

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cross-reference appears, provided that the nature of any matter disclosed by such item is reasonably apparent from the context of the disclosed item without reference to any collateral document.

4.1 Organization and Authority.

4.1.1 Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware with all requisite corporate power and authority to own, operate and lease its properties and to carry on its business as now being conducted, and is duly qualified and in good standing as a foreign corporation in the Commonwealth of Pennsylvania.

4.1.2 The Business has been and will be conducted until Closing only through the Division and not through any other internal division of Seller or any other corporation or other legal entity.

4.1.3 The execution and delivery of this Agreement does not, and the consummation of the transactions contemplated hereby will not, violate any provision of Seller's certificate of incorporation or bylaws, or result in the acceleration or breach of or cause the termination of any obligation under, any provisions of any mortgage, lien, lease, agreement, instrument, court order, arbitration award, judgment or decree to which Seller is a party, or by which it is bound and will not violate any law, or governmental rule or regulation or other restriction of any kind or character to which it is subject or by which it is bound. This Agreement has been duly authorized, executed and delivered by Seller and constitutes a valid and binding obligation of Seller enforceable in accordance with its terms, except as such

enforceability may be limited by bankruptcy, insolvency, moratorium or other laws of general application relating to or affecting the enforceability of creditors' rights or by general equitable principles.

4.1.4 Seller is not required to submit any notice, report or other filing to any governmental authority with respect to the transactions contemplated by this Agreement, except that a Notification and Report Form under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended ("HSR Act"), is required and has been heretofore filed by Seller.

4.2 Financial.

4.2.1.1 True copies of the audited financial statements of the Division consisting of the balance sheet and the income statement for the year ended on December 31, 1986 and the balance sheet and income statement for the year ended December 31, 1985 ("Financial Statements") are included as part of the Disclosure Schedule. The Financial Statements fairly present the financial condition of the Division as of each of such dates, and the results of operations of the Division for the respective periods covered, in accordance with generally accepted accounting principles consistently applied by Seller in preparation of Division financial records, except as otherwise noted in the Financial Statements.

4.2.1.2 A true copy of the Audited Transferable Balance Sheet is included as part of the Disclosure Schedule. The Audited Transferable Balance Sheet fairly presents the financial condition of the Division as of December 31, 1986, in accordance with

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generally accepted accounting principles consistently applied by Seller in preparation of Division financial records, except that the "Accounts Not Sold" of the Division, reflected on the page following the Audited Transferable Balance Sheet in the Disclosure Schedule have not been included in the Audited Transferable Balance Sheet.

4.2.2 The Receivables as shown on the Audited Transferable Balance Sheet and those arising since the date thereof and to be reflected on the Final Closing Statement are valid receivables and arose or will arise (in the case of the Final Closing Statement) in the ordinary course of business from the sale of goods or services. The Disclosure Schedule contains a true and correct schedule "aged" of Receivables and reflects the payment terms thereof.

4.2.3 The Inventory included in the Audited Transferable Balance Sheet is, and the Inventory to be reflected on the Final Closing Statement will be, valued at cost (in accordance with Seller's first-in, first-out method of accounting principles) or market, whichever is lower, and consists, or will consist (in the case of the Final Closing Statement), of a quality and quantity usable and saleable in the conduct of the ordinary course of the Business, subject to the reserve, if any, for slow moving, obsolete or unuseable items. Seller has not transferred Inventory on consignment or granted return privileges to any purchasers of its goods.

4.2.4 Seller has good and marketable title to the Assets free and clear of any mortgage, lien, pledge, charge, claim

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or encumbrance, except as set forth in the Disclosure Schedule, subject to no restrictions on transferability.

4.2.5 Included in the Disclosure Schedule is an itemized listing of items on the Audited Transferable Balance Sheet classified as "Prepaid expenses" and "Other current assets."

4.2.6 Except as set forth on the Disclosure Schedule, all principal items of Machinery and Equipment are in good operating condition and repair, subject only to ordinary wear and tear, free from defects and fit for their present use. The Assets are sufficient to carry on the Business as conducted in the twelve months prior to the date of this Agreement. The Disclosure Schedule sets forth an itemized list of the principal items of Machinery and Equipment.

4.3 Capital Expenditures. The Disclosure Schedule sets forth an itemized list of all capital expenditure commitments exceeding fifty thousand dollars ($50,000) outstanding as of March 31, 1987.

4.4 Significant Changes. Since December 31, 1986, except as set forth in the Disclosure Schedule, there has not been:

4.4.1 Any material adverse change in the physical condition of the Assets or in the Assumed Liabilities or in the financial condition or operating results of the Business or the Division.

4.4.2 Any material loss, damage or destruction to the Assets or the Business.

4.4.3 Any increase in the salaries or wages of or any bonus or other employee benefit granted, or made to or accrued for

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any employees, agents or former employees or agents of Seller working in the Division, except pursuant to pre-existing plans at pre-established levels or in the ordinary course of business in accordance with past practices.

4.4.4 Any material labor dispute or disturbance, grievance, litigation or other similar event adversely affecting the Business.

4.4.5 Any mortgage, pledge, lien or encumbrance made on any of the Assets.

4.4.6 Any sale, transfer or other disposition of any or all of the Assets, except in the ordinary course of business.

4.4.7 Any individual capital expenditure or commitment by Seller in connection with the Business which is in excess of $50,000.

4.4.8 Any other transaction, event or condition not in the ordinary course of the Business which would have a material adverse affect on the Division or the financial condition or operating results of the Business.

4.5 Undisclosed Liabilities. There were no liabilities of Seller, whether accrued, absolute, contingent or otherwise, which arose or relate to any transaction of Seller, its agents or servants relating to the Business and occurring or existing prior to December 31, 1986, of a type normally set forth in a balance sheet prepared in accordance with generally accepted accounting principles, which are not disclosed by or reflected in the Audited Transferable Balance Sheet. There are no such liabilities occurring since December 31, 1986, other than normal liabilities

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incurred in the normal conduct of the Business, none of which has had a material adverse effect on the financial condition or operating results of the Business or the Division. As of the date hereof, there are no known circumstances, conditions, happenings, events or arrangements, contractual or otherwise, which Seller has reason to believe may hereafter give rise to liabilities, except in the normal course of the Business and consistent with past practices.

4.6 Compliance with Contracts. Except as set forth in the *Disclosure Schedule:*

4.6.1 Seller is not in default under any material Contract nor has any event occurred, which, through the passage of time or the giving of notice, or both, would constitute a default under any material Contract or cause the acceleration of any obligation of Seller or result in the creation of any lien, charge or encumbrance upon any or all of the Assets.

4.6.2 Except as set forth on the Disclosure Schedule, to the knowledge of Seller, no other party is in default under any Contract made with Seller or obligation owed to it, in connection with the Business, nor has any event occurred, which, through the passage of time or giving of notice, or both, would constitute a default under any Contract or any such obligation, or cause the acceleration of any obligation owed to Seller. All Contracts are, except for government contracts which must be novated, assignable or require the consent of the other party thereto to assignment to Purchaser pursuant to this Agreement, which consent and novation Seller shall use its best efforts to obtain.

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4.7 Leases.

4.7.1 The Disclosure Schedule contains a true and correct description of each written lease constituting part of the Assets under which Seller is the lessor or lessee of any personal property involving a consideration of or expenditure in excess of Fifty Thousand Dollars ($50,000) per year or involving performance over a period of more than twelve months, and contains a true and correct description of each oral lease under which Seller is the lessor or lessee of any such property involving a consideration of or expenditure in excess of Ten Thousand Dollars ($10,000) per year or which cannot be terminated without penalty upon thirty days notice.

4.7.2 The Disclosure Schedule contains a true and correct description of each written lease constituting part of the Assets under which Seller is the lessor or lessee of any real property (including railroad sidings or rights of way), and contains a true and correct description of each oral lease under which Seller is the lessor or lessee of any such property involving a consideration of or expenditure in excess of Ten Thousand Dollars ($10,000) per year or which cannot be terminated without penalty upon thirty days notice. Except as set forth in paragraph 14.9 hereof and in the Disclosure Schedule, the premises described in each of such leases are presently occupied or used by Seller as lessor or lessee under the terms of each respective lease.

4.7.3 All leases described in subparagraphs 4.7.1 and 4.7.2 are valid and in full force and effect and Seller's interest under each such lease is free and clear of all liens, claims or

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encumbrances. Seller shall use its best efforts to deliver to Purchaser on or prior to the Closing Date lessors' consents to assignments where required by such leases. All rentals due and payable under said leases have been paid and there exists no default under the terms of any material lease and no event has occurred which, upon the passage of time or giving of notice, or both, would result in any event of default or prevent Seller from exercising and obtaining the benefits of any options or other rights contained therein.

4.8 Compliance.

4.8.1 All material reports and returns required to be filed by Seller with respect to the Division with any governmental agency have been filed. Seller has obtained all material governmental approvals, permits and licenses required for the conduct of the Business as presently conducted. Such approvals, permits and licenses are in full force and effect and are identified in the Disclosure Schedule.

4.8.2 Except as set forth in the Disclosure Schedule, in connection with the Business, Seller has no written notice of any claimed violation of any, and is in compliance in all material respects with all, applicable federal, state, county, local and foreign government laws, decrees, ordinances or regulations, including without limitation, those applicable to trade practices, competition and pricing; product warranties; zoning; building and sanitation; defense contracting; defense security clearance procedures, systems or requirements; toxic or chemical substances; product advertising; pollution, discharge, disposal or emission of

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wastes, materials or other gases into the environment; and occupational safety and/or health standards. Seller has maintained files and records which contain correspondence, notices, applications and other documentation relating to all federal, state, local and foreign governmental, regulatory agency and other licenses, approvals, clearances, safety standards, investigations or recalls affecting or relating to the products, employees or employment practices of the Business, however categorized. All such files and records have been heretofore identified to and made available for review by Purchaser.

4.9 Litigation. Except as set forth in the Disclosure Schedule, there are no legal, administrative or other proceedings, investigations or inquiries, product liability or other claims, judgments, injunctions or restrictions, either threatened (where Seller has reason to believe the threat is likely to result in any such proceeding), pending or outstanding against or involving the Division, the Business, the Assets or the Assumed Liabilities, nor does Seller know, or have reasonable grounds to know, of any basis for any such proceedings, investigations or inquiries, product liability or other claims, judgments, injunctions or restrictions.

4.10 Products; Warranty Provisions; Independent Approvals.

4.10.1 Since December 31, 1986, no event has occurred to suggest that liabilities and obligations for damaged, defective or returned goods, or for replacement of goods or for allowances with respect to goods sold by or on behalf of the Business incurred by Seller or to be incurred by Purchaser will not be consistent with past experience in the Business.

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4.10.2 Seller has not received written notice that subsequent to December 31, 1986 there has been any liability, claim or obligation arising from or alleged to arise from any actual or alleged injury to persons or property or any business loss or interruption as a result of the ownership, possession, or use of any product manufactured or sold in the Business.

4.10.3 All (i) commercial products of Seller produced and sold in the Business have been rated and approved by Underwriters Laboratories, and Seller has no reason to believe such ratings or approvals may be revoked or withdrawn, and meet standards established by National Electrical Manufacturers Association (NEMA) and (ii) military products of Seller produced and sold in the Business meet all military specifications applicable to same.

4.11 Insurance. Set forth in the Disclosure Schedule is a listing of all policies of fire and liability insurance applicable to the conduct of the Business, which are in full force and effect, along with a summary of insurance claims of the Division for the years 1984-1986.

4.12 No Broker. All negotiations relative to this Agreement and the transactions contemplated hereby have been carried on directly by Seller with Purchaser without the intervention of any broker or other third party. Seller has not engaged, consented to or authorized any broker, investment banker or third party to act on its behalf, directly or indirectly, as a broker or finder in connection with the transactions contemplated by this Agreement. Seller has not taken any action which will cause Purchaser to be responsible for any broker's or finder's fee.

4.13 Trade Rights. The Disclosure Schedule lists all Trade Rights presently owned, possessed, used or held (under license or otherwise) by Seller in connection with the Business, including expiration dates thereof, except those specifically excluded from the Assets. Seller owns its interest therein free and clear of all liens, licenses, encumbrances, equities, conditional sales contracts, security interests, charges or restrictions (on transferability or assignability or otherwise), except as set forth in the Disclosure Schedule, and Seller has no notice or knowledge that the use thereof in the Business (including following the Closing where such Trade Rights are employed in the Business by Purchaser in a manner consistent with the conduct of the Business by Seller) did or will infringe the Trade Rights of others. Seller has received no written notice of any inquiries, investigations or pending claims or litigation challenging or threatening to challenge Seller's right, title and interest with respect to continued use of any Trade Right in the Business or right to preclude others from using any Trade Right or right to assign or license any Trade Right to Purchaser. Except as set forth in the Disclosure Schedule, Seller has not granted any license or made any assignment of any of its Trade Rights, nor does it pay any royalties or other consideration for the right to use any Trade Rights.

4.14 Taxes.

4.14.1 All federal, state, foreign, county and local income, ad valorem, excise, profits, franchise, occupation, property, sales, use, gross receipts and other taxes (including

employee withholding taxes); customs, duties or tariffs (including any interest or penalties relating thereto) and assessments which are due and payable with respect to the Business have been duly reported, fully paid and discharged as reported by Seller and there are no such unpaid items which are or could become a lien on the Assets, except taxes (i) provided for in the Audited Transferable Balance Sheet or (ii) incurred in the normal course of the Business since December 31, 1986 (which will be reflected on the Final Closing Statement). All tax returns of any kind required to be filed by Seller with respect to the Division have been filed and the taxes paid or accrued.

4.15 Contracts and Commitments. Except as set forth in the Disclosure Schedule:

4.15.1 Seller has no purchase commitments for Inventory items or supplies (i) involving a consideration or expenditure in excess of Fifty Thousand Dollars ($50,000); or (ii) in excess of six months' normal usage in the Business; or (iii) in excess of the normal, ordinary, usual and current requirements of the Business; or (iv) which are at a price more than five percent (5%) in excess of prices currently available to the Division; or (v) involving performance by the Division over a period of more than twelve months.

4.15.2 Seller has no sales contracts or commitments to customers or distributors of the Business (i) where any one purchase order involves consideration in excess of Fifty Thousand Dollars ($50,000); or (ii) which aggregate in excess of $100,000 to any one customer or distributor (or group of affiliated

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customers or distributors); or (iii) which entail the payment of commissions to any agent, distributor or dealer; or (iv) involving performance by the Division over a period of more than twelve months.

4.15.3 Seller has no contracts or commitments not included in paragraphs 4.15.1 or 4.15.2 (other than leases disclosed pursuant to paragraph 4.7) in connection with the Business involving a consideration or expenditure in excess of fifty thousand dollars ($50,000) per year, or involving performance over a period of more than twelve months.

4.15.4 Seller has no agreements or contracts (whether oral or written) with affiliates, directors, officers, employees, shareholders, or consultants in connection with the Business.

4.15.5 Seller has not given a power of attorney, which is currently in effect, to any person, firm or corporation in connection with the Business for any purpose whatsoever.

4.15.6 In connection with the Business, Seller has no collective bargaining or employment agreements, other than the Union Contract, nor any agreements that contain any severance or termination pay liabilities or obligations, nor any bonus, vacation, deferred compensation, stock purchase, stock option, profit-sharing, pension, retirement or other employee benefit plans.

4.15.7 Seller is not a party to industrial development revenue bond or similar financing in connection with the Business.

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4.16 Employees; Labor Matters.

4.16.1 The Disclosure Schedule contains a true and correct list of all salaried employees to whom Seller is paying compensation and who are considered by Seller to be employees of the Division, and identifies the current annual rate of compensation for each employee who earns $50,000 or more per year, for services rendered in connection with the Business.

4.16.2 No present or former employee of the Division has any valid claim against Seller (whether under foreign, federal or state law, under any employment agreement or otherwise) on account of or for (i) overtime pay, other than overtime pay for the current payroll period, (ii) wages, salaries or profit sharing plan (excluding wages, salaries or profit sharing plan for the current payroll period), (iii) vacations, time off or pay in lieu of vacation or time off, other than vacation or time off (or pay in lieu thereof) earned in respect of Seller's current fiscal year, or (iv) any violation of any statute, ordinance or regulation relating to minimum wages or maximum hours of work.

4.16.3 No person or party (including, but not limited to, governmental agencies of any kind) has made any material claim, and, to the knowledge of Seller, there is no basis or grounds for any material claim, against Seller arising out of the Business based on any federal, state, county, local or foreign statute, ordinance or regulation relating to discrimination to employees; employee practices; or employment, retirement or labor relations.

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4.16.4 There is not pending or, to the knowledge of Seller, threatened any labor dispute, strike or work stoppage which materially affects or interferes or may materially affect or interfere with the Business as presently conducted. There is not now pending or, to the knowledge of Seller, threatened (where Seller has reason to believe the threat is likely to result in any charge) any charge or complaint related to the Business against Seller by or before the National Labor Relations Board, any representative thereof or any comparable state or federal agency or authority. To the knowledge of Seller, no union organizing activities are in process or contemplated and no petitions have been filed for union organization or representation related to the Business. Seller has not committed any unfair labor practices related to the Business which have not heretofore been corrected and fully remedied.

4.17 Real Estate.

4.17.1 The Disclosure Schedule identifies and sets forth a description of the leases or other instruments evidencing Seller's interests in real estate used or held for use in the Business. Except as noted in such leases or other instruments or in the Disclosure Schedule, all such real estate has unqualified access to public roads and all utilities.

4.17.2 Seller does not own any real property which is used or held for use in the Business.

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4.18 Employee Benefit Plans.

4.18.1 As used in this Agreement, the following terms shall have the following definitions:

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

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and all references to sections thereof shall include such sections and any successor thereto containing substantially similar provisions.

"ERISA Affiliate" means each trade or business (whether or not incorporated) which together with Seller would be treated as a single employer under Section 4001(b)(1) of ERISA.

"Multiemployer Plan" means a plan described in Section 3(37) of ERISA.

"IRS" means the Internal Revenue Service.

"PBGC" means the Pension Benefit Guaranty Corporation.

"I-T-E Plan" means the I-T-E Imperial Corporation Retirement Plan, a single-employer defined-benefit pension plan maintained by Seller.

4.18.2 Seller represents as follows:

(i) With respect to all employees and former employees of the Business as such employees or former employees, and except as set forth on the attached "Employee Benefits Schedule," neither the Seller nor any of its subsidiaries presently maintains, contributes to, or has any liability (including current

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or potential multiemployer plan withdrawal liability) under any (A) non-qualified deferred compensation or retirement plan or arrangement which is an "employee pension benefit plan" as such term is defined in Section 3(2) of ERISA, (B) qualified defined contribution retirement plan or arrangement which is an employee pension benefit plan, (C) qualified defined benefit pension plan or arrangement which is an employee pension benefit plan, (D) Multiemployer Plan, (E) funded or unfunded medical, health, or life insurance plan or arrangement for present or future retirees or present or future terminated employees which is an employee welfare benefit plan as defined in Section 3(1) of ERISA, or (F) any other employee welfare benefit plan.

(ii) All employee pension benefit plans listed on the Disclosure Schedule (other than any non-qualified plan listed as such) are substantially in compliance with the applicable requirements of ERISA and each such plan has received a favorable determination letter from the IRS. Neither Seller nor any of its subsidiaries has knowledge of any facts that adversely affect the qualification of such plans, other than changes to such plans required by the Tax Reform Act of 1986. All such employee pension benefit plans were timely amended and filed with the Internal Revenue Service with respect to changes required by the Tax Equity and Fiscal Responsibility Act of 1982, the Retirement Equity Act of 1984, and Tax Reform Act of 1984. All employee welfare benefit plans listed on the Disclosure Schedule and all related trusts, insurance contracts, or other funding arrangements, if any, are

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substantially in compliance with the requirements of ERISA and the Code.

(iii) No accumulated funding deficiency within the meaning of Section 302 of ERISA or Section 412 of the Code has been incurred with respect to any employee pension benefit plan listed on the Disclosure Schedule. With respect to each employee benefit plan listed on the Disclosure Schedule. With respect to each employee benefit plan, if any, listed on the Disclosure Schedule of which Purchaser becomes the sponsor on or after the Closing Date, there have been no prohibited transactions as defined in Section 406 of ERISA or Section 4975 of the Code, and no actions, suits or claims with respect to the assets thereof (other than routine claims for benefits) are pending or threatened, and neither the Seller nor any subsidiary has knowledge of any facts which would give rise to or could reasonably be expected to give rise to, any such actions, suits or claims.

(iv) With respect to all employee benefit plans listed on the Disclosure Schedule, neither the Seller not any of its subsidiaries, nor any of its or their directors, officers, employees or any other "fiduciary," as such term is defined in Section 3(21) of ERISA, has any material liability for failure to comply with ERISA or the Code for any action or failure to act in connection with the administration or investment of the assets of such plans.

(v) With respect to each employee benefit plan listed on the Disclosure Schedule, the Seller or its subsidiaries has furnished the Purchaser true and complete copies, where

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applicable, of (A) the plan documents, (B) the most recent determination letters received from the IRS for such plan, (C) the latest actuarial valuation for such plan, (D) the financial statement for such plan and its related trust (if any) as of the end of the most recent plan year, (E) the most recent Form 5500 Annual Report (including all schedules), and (F) all related trust agreements, insurance contacts or other funding agreements which implement such plan.

(vi) No proceeding by the PBGC to terminate any employee pension benefit plan listed on the Disclosure Schedule pursuant to Subtitle 1 of Title IV of ERISA has been instituted or threatened, there is no pending or threatened legal action, proceeding, or investigation against or involving any such employee pension benefit plan and, to the knowledge of the Seller and its subsidiaries there is no basis for any such legal action, proceeding or investigation.

(vii) With respect to each employee welfare benefit plan listed on the Disclosure Schedule that is funded in whole or in part by an insurance contract, and except as otherwise disclosed on the Disclosure Schedule, the liability for incurred but unpaid claims upon contract termination has been funded through on-going premium payments by the Seller or its subsidiaries, and if the contract is terminated on the Closing Date, the insurance company is therefore responsible to pay all eligible claims incurred while the contract is in effect, whether asserted before or after the Closing Date, without requiring any additional contributions under such contracts.

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4.19 Customers and Vendors.

4.19.1 Included in the Disclosure Schedule is a list of all customers, including distributors, of the Division for the most recent fiscal year where Division sales have exceeded $100,000 to any such customer or distributor in such year. Such list sets forth by customer any terms of sale, pricing, payment or return not in the ordinary course of business. In addition, a list also is provided of each customer to which Division annual sales have been less than $100,000, including terms of sale, where such terms of sale are not generally available to all customers of the Business. Seller has no actual knowledge that any of the 10 largest customers or distributors of the Business per the above list will not continue to be customers of the Business or will not continue to act as distributors of the Business after the Closing.

4.19.2 Included in the Disclosure Schedule is a list of the 25 largest vendors to the Division for each of the two most recent fiscal years determined on the basis of the total dollar amount of purchases from such vendors. Seller has no actual knowledge that any of such vendors will not continue to supply the Business with adequate quantity and quality of goods at competitive prices after the Closing.

4.19.3 The Disclosure Schedule contains a list of all sales commissions paid to any individual or entity of more than $100,000 during either of the two most recent fiscal years with respect to the Business and a description of the present basis of paying any sales commissions.

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4.19.4 The Disclosure Schedule contains a list of the names of the Division's ten largest independent distributors in fiscal 1986, along with a list of the applicable distributor agreements, if any.

4.20 Confidentiality Agreements. Each confidentiality or secrecy agreement obtained by Seller and presently in effect with respect to Trade Rights constituting part of the Assets is identified in the Disclosure Schedule.

4.21 Environmental Matters. Except as set forth in the Disclosure Schedule, (a) all operations relating to the Business have fully complied in all material respects with all applicable federal, state and local laws, regulations and rulings relating to any oil, waste, chemical substance or mixture, or any pollutant, toxic or hazardous substance, mixture or waste (collectively referred to as "Materials") used, generated, managed, handled, treated, stored or disposed of at, or moved or transported from the site in Philadelphia, Pennsylvania where the Business is conducted ("Philadelphia Site"); (b) no Materials have been (i) stored or disposed of in, upon or under the Philadelphia Site or used in the Business (including the groundwater presently or previously thereunder), (ii) stored or disposed of in, upon or under any surface water or real property (including groundwater) adjacent to the Philadelphia Site, (iii) disposed of at a site other than one identified in 40 CFR Section 261.5(f)(3)(i)-(v) or (iv) delivered to any site listed by the United States Environmental Protection Agency or any state as a site that actually or potentially needs investigations or remedial actions; (c) the

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applications for all material environmental permits and licenses relating to operations at, or ownership of, the Assets were true, correct, complete and in compliance with the law when submitted and all such permits and licenses were duly and validly issued; (d) the operation and ownership of the Business is and has been in compliance in all material respects with the terms and conditions of such licenses and permits; and (e) set forth in the Disclosure Schedule is a description of all studies, analyses and test results relating to the Materials.

4.22 Disclosure. Neither this Agreement, nor any of the schedules, attachments or exhibits hereto, contain any untrue statement of a material fact or omit a material fact necessary to make the statements contained herein and therein, in light of the circumstances in which they were made, not misleading. There is no material fact which has not been disclosed to Purchaser of which any corporate officer of Seller is aware and which materially affects adversely the Business' financial condition or operating results or the Assets, excluding facts which affect the United States and world economy generally or the industry of which the Division is a part generally.

5. REPRESENTATIONS AND WARRANTIES OF PURCHASER.

Purchaser makes the following representations and warranties to Seller, each of which is true and correct on the date hereof, shall be unaffected by any investigation heretofore or hereafter made by Seller, or any notice to Seller, and shall survive the Closing and the transactions contemplated hereby.

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5.1 Organization and Good Standing. Purchaser is a corporation duly organized, validly existing and in good standing under the laws of Delaware, is in good standing in the Commonwealth of Pennsylvania and has full power and authority to enter into and perform the transactions contemplated by this Agreement. This Agreement has been duly authorized, executed and delivered by Purchaser and constitutes a valid binding obligation of Purchaser enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, moratorium or other laws of general application relating to or affecting the enforceability of creditors' rights or by general equitable principles.

5.2 Performance of this Agreement. The execution and delivery of this Agreement does not, and the consummation of the transactions contemplated hereby will not, violate any provision of Purchaser's certificate of incorporation or bylaws, or result in the acceleration of any obligations under any provisions of any mortgage, lien, lease, agreement, instrument, court order, arbitration award, judgment or decree to which Purchaser is a party or by which it is bound and will not violate any other restriction of any kind or character to which it is subject or by which it is bound.

5.3 Government Approvals. Purchaser is not required to submit any notice, report or other filing to any governmental authority with respect to the transactions contemplated by this Agreement, except that a Notification and Report Form under the HSR Act is required and has been heretofore filed by Purchaser.

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5.4 No Broker. All negotiations relative to this Agreement and the transactions contemplated hereby have been carried on directly by Purchaser with Seller without the intervention of any broker or other third party except for Grant Thornton, who will receive consulting fees. Purchaser has not engaged, consented to or authorized any broker, investment banker or third party to act on its behalf, directly or indirectly, as a broker or finder in connection with the transactions contemplated by this Agreement, except for Grant Thornton whose consulting fees shall be paid by Purchaser. Purchaser has not taken any action which will cause Seller to be responsible for any broker's or finder's fee.

6. COVENANTS OF SELLER.

Seller hereby covenants and agrees as follows:

6.1 Access to Information. From and after the date of this Agreement and until the Closing Date, Purchaser and its authorized representatives and financing parties shall have full access during normal business hours to all properties, books, records, contracts and documents of Seller relating to the Business, and Seller shall furnish or cause to be furnished to Purchaser and its authorized representatives and financing parties all information with respect to the affairs and business of Seller in connection with the Business as Purchaser may reasonably request. All such information shall be received and held by Purchaser in accordance with and subject to the provisions of the Confidentiality Agreement, dated October 16, 1986 between Seller and George Gordon, which is incorporated herein by reference.

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6.2 Actions Prior to Closing. From and after the date of this Agreement and until the Closing Date, with respect to the Division, the Business, the Assets or the Assumed Liabilities:

6.2.1 Except with the prior written consent of Purchaser, Seller shall carry on the Business diligently and substantially in the same manner as heretofore, and Seller shall not make or institute any unusual or novel methods of purchase, sale, management, accounting or operation or enter into any agreement, contract or commitment for any capital expenditure exceeding $50,000.

6.2.2 Without the prior written consent of Purchaser, Seller will not grant any increase in the rates of pay of its employees, nor grant any increase in the benefits under any pension or welfare plan or other contract or commitment except in the ordinary course of business and consistent with past practices or where Seller is otherwise obligated to do so as of the date hereof by collective bargaining agreements.

6.2.3 Seller shall not enter into any contract or commitment or engage in any transaction not in the usual and ordinary course of business and consistent with practices of the Business without the prior written consent of Purchaser.

6.2.4 Seller shall not incur any liability other than that in the usual and ordinary course of the Business, or incurred pursuant to existing Contracts, or reasonably incurred in doing the acts and things contemplated by this Agreement.

6.2.5 Seller shall maintain current insurance for the Division and such additional insurance in effect as may be reasonably required by increased business and risks in accordance

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with Seller's past practices; and all property shall be used, operated, maintained, repaired and replaced in the ordinary course of the Business in a normal business manner consistent with past practices.

6.2.6 Seller shall use its best efforts (without making any commitments on behalf of Purchaser) to preserve its business organization intact, to keep available to Purchaser the present key employees of the Division, and to preserve for Purchaser the present relationships of Seller with its suppliers, distributors and customers and others having business relations with the Business.

6.2.7 Seller shall not do any act or omit to do any act, or permit any act or omission to act, which will cause a material breach of any contract, commitment or obligation related to the Business.

6.2.8 Seller shall not sell or dispose of Assets except products sold in the ordinary course of business.

6.2.9 Seller shall promptly notify Purchaser of any lawsuits, claims, proceedings or investigations that may be threatened (where Seller has reason to believe the threat is likely to result in any such proceeding), brought, asserted or commenced against it, its officers or directors involving in any way the Business, the Assets or the Assumed Liabilities.

6.2.10 Seller will provide Purchaser with interim monthly financial statements of the Division and any other manage-

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ment reports, or relevant portions thereof, generated in conjunction with normal operations of the Business as and when they are available.

6.2.11 Without the prior written consent of Purchaser, Seller shall not grant credit to any customer or distributor of the Business on terms more favorable than those which have been extended to such customer or distributor in the past, or change the terms of any credit heretofore extended, except in the ordinary course of business.

6.2.12 Prior to Closing, Seller will supplement or amend the Disclosure Schedule with respect to any matter hereafter arising which, if existing or occurring at the date of this Agreement, would have been required to be set forth or described in the Disclosure Schedule.

6.2.13 Seller covenants and agrees to use its best efforts to secure all approvals, consents, assignments, releases and/or waivers, if any, that are necessary to effect the transactions contemplated herein.

6.2.14 Seller shall make and maintain accurate records of goods produced by Seller in the Business consistent with past practices.

6.3 License. On the Closing Date, Seller shall (a) grant Purchaser a license to use and employ the trade name and trademark "Gould" and "device" in connection with the Business as provided in the Trade Name and Trademark License Agreement attached as Exhibit 6.3 hereto and (b) assign to Purchaser its rights under

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the license with regard to the "ITE" trademark (the "ITE License Assignment").

6.4 Registrations.

6.4.1 If any Trade Right is in the process of registration, or entitled to be but has not been registered, with the U.S. Patent and Trademark Office, U.S. Copyright Office, or similar U.S. or foreign patent, trademark or copyright authorities, Seller shall, at the request of Purchaser, assist Purchaser in pursuing and securing any and all such registrations after the Closing.

6.4.2 In connection with the transfer of the Assets contemplated by this Agreement, Seller shall, at Purchaser's expense, take all steps necessary to transfer to Purchaser any such Trade Right and related materials and documentation. Among other things, Seller shall obtain powers of attorney from the inventors of any such Trade Right, assign to Purchaser any applications for Trade Right registration, transfer all files relating to any such Trade Right (including registration activities to date) and send notices requesting the U.S. Patent and Trademark Office, U.S. Copyright Office, or similar U.S. or foreign patent, trademark or copyright authorities to route all future correspondence relating to any such Trade Right to Purchaser.

6.4.3 In addition, Seller shall make available to Purchaser all records, designs and personnel of Seller reasonably necessary in connection with the transfer of any Trade Right registrations.

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6.5 Product Warranty. Seller shall reimburse Purchaser for product warranty claims paid by Purchaser in accordance with Section 7.4 hereof.

6.6 KMIP and DMIP. As soon as practicable following the Closing and in any event within three months following the Closing, Seller shall, pursuant to the terms of Seller's Key Employee Management Incentive Program ("KMIP") and Division Management Incentive Program ("DMIP"), pay to the appropriate Division employees the amounts accrued by Seller with respect to KMIP and DMIP for the period January 1, 1987 to the Closing Date. The amount accrued by Seller with respect to KMIP and DMIP for the Division for the period January 1, 1987 to the Closing Date shall not be included in the Final Closing Statement.

6.7 Second Site License. Prior to the Closing, Seller will use its best efforts to obtain, at Purchaser's expense, second site licenses which shall be assignable to Purchaser with respect to the computer software programs the Division currently uses for general ledger, accounts payable and fixed assets.

6.8 Software License. On the Closing Date, Seller shall (a) enter into a non-exclusive royalty free license with Purchaser with respect to certain software programs of Seller (the "Software License Agreement") and (b) assign its right under a license agreement with Seimens-Allis, Inc. for certain computer software programs used by the Division (the "Software License Assignment").

6.9 Water Treatment Works. Following the Closing, Purchaser and Seller shall cooperate with each other with respect to making any required modifications or adjustments to the Division's water

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treatment works; provided, however, Seller shall be responsible for making any modifications and adjustments to the Division's water treatment works required to comply with existing environmental standards and regulations and shall be responsible for any fines and penalties imposed by governmental and regulatory authorities which arise out of deficiencies in the Division's water treatment works, rather than improper operation of, maintenance of, or input into the Division's water treatment works. Purchaser shall be responsible for all fines and penalties imposed by governmental and regulatory authorities (a) which arise out of improper operation of, maintenance of, or input into the Division's water treatment works or (b) which arise out of inadequate, improper or lack of testing, monitoring and reporting with respect to the Division's water treatment works required by governmental and regulatory authorities. Purchaser agrees to operate the Division's water treatment works in a proper manner and agrees to notify Seller as promptly as possible after discovery of any deficiencies in the Division's water treatment works. Pursuant to paragraph 7.2 hereof, Purchaser shall cooperate with and assist Seller in any governmental or other action pertaining to the Division's water treatment works. Each party agrees to promptly notify the other party in writing of any notices or correspondence it receives with respect to the Division's water treatment works. Purchaser shall not make any settlements or agreements with respect to the Division's water treatment works with any governmental or regulatory authority or other party without Seller's prior written consent which shall not be unreasonably withheld.

7. COVENANTS OF PURCHASER.

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Purchaser hereby covenants and agrees as follows:

7.1 Preservation of Records. Purchaser shall take all reasonable steps in accordance with its normal practices to preserve and maintain Records transferred to Purchaser hereunder for a minimum period of seven (7) years following the Closing Date, and such additional period as required by Purchaser's retention practices as they relate to tax records, and shall grant to Seller access to such Records, including the right to copy such Records, at Seller's expense, at any time during reasonable business hours; provided, however, that Purchaser shall not be liable for inadvertent loss or destruction of any such Records.

7.2 Assistance in Actions.

7.2.1 Upon written request of Seller, Purchaser shall assist Seller in defending any action by a third party with respect to liabilities for which Seller may be liable under Article 11 hereof by making available all records, designs and personnel of Purchaser which are reasonably necessary to such a defense. Seller shall promptly reimburse Purchaser for the reasonable administrative costs of such assistance; provided that this covenant shall not obligate Purchaser to otherwise assist Seller in or bear any of the expenses of any such defense.

7.2.2 Upon written request of Seller, Purchaser shall assist Seller in pursuing any action (including without limitation, any counterclaim) against a third party pertaining to any liabilities of the Division for which Seller may be liable hereunder, by making available all records and personnel of Purchaser

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which are reasonably necessary to such an action. Seller shall promptly reimburse Purchaser for the reasonable administrative costs of such assistance provided that this covenant shall not obligate Purchaser to otherwise assists Seller in or bear any of the expenses of such an action.

7.3 Seller's Employees. Purchaser shall offer employment to all employees actively employed by Seller and considered by Seller to be employees of the Division on the Closing Date.

7.4 Product Warranty. Following the Closing, Purchaser shall satisfy product warranty claims for products of the Division sold by Seller prior to the Closing Date for the respective warranty periods, if any, of such products, to the extent, but only (i) to the extent the Seller would have accepted such products for return, replacement or repair in accordance with its past practices and policies, and then only (ii) to the extent of the aggregate amount of $1.1 million. Seller shall reimburse Purchaser for expenses incurred by Purchaser for product warranty claims in excess of $1.1 million.

8. MUTUAL COVENANTS - EMPLOYEE BENEFIT PLANS.

8.1 Successor Pension Plan.

8.1.1 Within 120 days after the Closing Date, but effective as of that date, Purchaser shall establish or cause to be established a defined benefit pension plan (such plan being hereinafter referred to as the "Successor Plan") to cover on and after the Closing Date the following persons:

(a) those domestic employees of the Division employed by the Purchaser on and after the Closing Date who were participating under the I-T-E Plan immediately prior the Closing Date,

(b) those members of U.A.W. Local 1612 who were domestic employees of the Division within 3 years prior to the Closing Date, who are within the 3-year recall period as of the Closing Date, and who were participating under the I-T-E Plan prior to their date of lay-off,

(c) those salaried domestic employees of the Division laid off or on short-term or long-term disability within one year prior to the Closing Date and who were participating under the I-T-E Plan prior to their date of lay-off (the persons listed in subparagraphs (a), (b), and (c) hereinafter referred to as the "Transferred Employees"), and

(d) those former employees of the Division, or the businesses to which the Division succeeded, who retired or terminated with vested benefits under the I-T-E Plan on or before the Closing Date or who are currently on long-term disability other than Gould (corporate) employees retired prior January 1, 1979 (the "SPD Pensioners").

The Successor Plan shall provide to the Transferred Employees the benefits which they had accrued under I-T-E Plan (whether vested or nonvested) immediately prior to the Closing Date, and shall provide to the SPD Pensioners the benefits in which they were vested under I-T-E Plan immediately prior to the Closing Date. The Successor Plan shall provide that a Transferred Employee's or

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SPD Pensioner's period of employment with Seller and its subsidiaries (including a predecessor business entity of any of the foregoing corporations) for which credit was given under the I-T-E Plan shall be given equivalent credit under the Successor Plan. Purchaser shall establish or cause to be established a pension trust or other funding entity (the "Successor Trust") for the purpose of receiving assets of the I-T-E Plan related to Transferred Employees and SPD Pensioners.

8.1.2 As soon as practicable after adoption of the Successor Plan and Trust, Purchaser shall make application for a determination letter from the IRS finding that the Successor Plan and Trust meet the qualification requirements of the Code.

8.1.3. Seller shall cause to be transferred to the Successor trust an amount equal to the actuarial present value of accumulated benefits (vested and non-vested) under the I-T-E Plan related to Transferred Employees and SPD Pensioners as of the Closing Date (the "Liabilities"). The Liabilities shall be calculated by using the following assumptions:

Interest Rates	As published by the PBGC for use by single employer plans on the Closing Date.
Mortality Rates	
-Healthy Lives:	UP-1984 Male and Female
-Disabled Lives:	1944 RRB Select and Ultimate
Disability Rates	None assumed.
Turnover Rates	None assumed.
Recall from Layoff	None assumed.

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Retirement Age	Age 62, or current age on Closing Date if greater.

In calculating the Liabilities, the following benefits shall be recognized:

(i) Accrued Pension Benefit:

For active participants, both vested and nonvested accrued benefits, equal in each case to the greater of (1) or (2) below:

(1) The career pay accrued benefit as of the Closing Date, estimated by adding to each employee's December 31, 1986 career pay accrued benefit an Estimate of the additional 1987 accrual up to the closing Date, based upon the employee's rate of earnings as of January 1, 1987;

(2) The minimum benefit, if any, as of the Closing Date, based upon Benefit Service and the Minimum Benefit rate as of such date.

Such benefit will be reduced by the regular early retirement reduction factor applicable to each employee at the assumed retirement age. For retirees and survivors receiving benefits as of the Closing Date, the total amount of benefit currently being paid, recognizing the form of payment applicable to each employee. For terminated vested participants as of the Closing Date, the accrued benefit calculated as of the participant's

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termination date, reduced by the applicable early retirement reduction factor at the assumed retirement age.

(ii) Early Retirement Supplement:

For active participants eligible for an early retirement supplement under Section 6.5, a prorata portion of the supplement will be recognized. The portion recognized will be equal to the ratio of service at Closing Date divided by total service at age 59. The value of the supplement will be recognized through a special calculation for all employees who would have 30 years of service at age 59 assuming that 50% of such employees would receive the supplement, payable from age 59 to age 62.

(iii) Special Medicare "Part B" Reimbursement Benefit:

For active employees eligible for Medicare Part B reimbursement under Section 6.10, a prorata portion of the benefit will be recognized. The portion recognized will be equal to the ratio of service at closing divided by total service at age 65. This benefit will be assumed to commence at age 65.

(iv) Disability Benefit:

No disability assumption is being made.

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(v) Additional Retirement Benefit:

For active participants eligible for an Additional Retirement Benefit under the plan supplement for their employing unit as of the Closing Date, the value of an Additional Retirement Benefit equal to employee contributions plus interest at the Closing Date will be recognized with such payment assumed to be made at the assumed retirement age.

(vi) Pre-Retirement Death Benefits:

For active participants assumed to die after 10 years of service but before retirement, the value of the joint and survivor benefit provided under Section 9.1 will be recognized, based upon the accrued pension benefit as of the Closing Date. For this purpose, 80% of all employees will be assumed to be married and females will be assumed to be three years younger than males. For active employees eligible for the Special Death Benefit under Section 9.3(a), an additional lump sum death benefit will be recognized equal to the contributions plus interest at the Closing Date.

(vii) Form of Payment:

For active participants eligible for the Surviving Spouse Option under Section 7.1(c), 60% of such participants will be assumed to elect the Surviving Spouse Option. For determining the age

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of the spouse, females will be assumed to be three years younger than males. For all other active participants and terminated vested participants, a life annuity form of payment will be assumed.

(viii) Negotiated Minimum Benefit Increase

In addition, future minimum benefit increases currently scheduled as of the Closing Date will be recognized by the inclusion of an additional $300,000 of liability.

Provided, however, that the amount so determined or the amount so transferred shall be adjusted as may be required by the PBGC or the IRS. If any such adjustment takes place after the transfer of assets contemplated hereby, such adjustment shall be effected by transfer of assets between the trust for the I-T-E Plan and the Successor Trust and such adjustment shall be in accordance with paragraph 8.1.6 hereof. Assets shall be transferred in cash, or, if the Purchaser agrees, in kind or in any combination of cash and kind.

8.1.4 Within a reasonable period after the Closing Date (but within 120 days in any event), Seller shall furnish the independent actuary or actuaries with respect to the I-T-E Plan (the "Actuary") with appropriate demographic data as of the Closing Date regarding the Transferred Employees and SPD Pensioners who are to be covered by the Successor Plan, and the Actuary shall within a reasonable period after the date Seller furnishes such data (but within 90 days thereafter, unless the Actuary is reasonably delayed and gives at least 10 days' advance written

notice of such delay), at Seller's expense, determine the Liabilities attributable to such employees as of the Closing Date, based upon the actuarial assumptions set forth in paragraph 8.1.3 above, and deliver a report of such determination to Seller. Within 15 days after receipt of such report setting forth the details of the determination and the Liabilities deemed transferred as of the Closing Date, Seller shall deliver a copy of the report to Purchaser for Purchaser's review. Should any questions arise from the Purchaser's review which Seller and Purchaser cannot resolve within a reasonable period, such questions shall be referred to persons representing each of the parties, who will attempt to resolve such questions promptly. Should such persons fail to arrive at a mutually agreeable solution of any issue, they will either (a) in good faith and as soon as possible agree upon a method of resolving such issues or, (b) within a reasonable period appoint an actuarial firm satisfactory to the parties (the cost of which will be shared one-half by the Seller and one-half by the Purchaser) to resolve such questions, which resolutions will be made by such actuarial firm within 30 days and will be binding on both parties.

8.1.5 Within a reasonably short period following the agreement with (or resolution of any issues in connection with) the Actuary's report determining the Liabilities as of the Closing Date, Seller and Purchaser shall provide the required advance notification to the IRS regarding transfers of plan assets. On the later to occur of (i) the last day of the month in which Purchaser appoints an investment manager and such investment

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manager is acceptable to Seller or (ii) May 31, 1987, Seller shall cause to be segregated into a separate account (the "Segregated Account") under the Gould Inc. Master Trust (the "Master Trust") assets, the fair market value of which, equal (a) $22 million divided by (b) the per-unit value as of the Closing Date of the units in the Master Trust, multiplied by (c) the per-unit value as of the date of segregation of such assets in the Master Trust, provided, that the amount of assets to be segregated shall be appropriately adjusted to reflect the proportionate administrative and trust expenses reasonably chargeable to the Master Trust and any payments made from the I-T-E Plan to Transferred Employees or SPD Pensioner's during the period from the Closing Date to the date of segregation. Within 45 days following agreement by Seller and Purchaser with the Actuary's report determining the Liabilities as of the Closing Date, an adjustment shall be made by transferring assets to or from the Segregated Account in accordance with the procedure described in this paragraph 8.1.5 above. After the initial segregation of assets, all administrative and trust expenses and benefits payments associated with the Transferred Employees and SPD Pensioners' shall be charged against the Segregated Account. Within a reasonable period after the later of the required IRS notification, as described above, having been provided by Seller and Purchaser or after Purchaser has delivered to Seller a copy of the IRS favorable determination letter referred to in paragraph 8.1.2, Seller shall cause to be transferred to the Successor Trust all assets in the Segregated Account, as adjusted for expenses and benefit payments.

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8.1.6 The asset allocations and transfers and assumptions of liabilities set forth above shall be subject to the provisions of Section 414(1) of the Code and Section 208 of ERISA, and the Seller and the Purchaser agree to modify such arrangements if required and to the extent necessary to comply with the requirements of such provisions; provided, however, that if modification results in a reduction of the amount of assets to be transferred to the Successor Trust, Seller will pay the amount of such reduction to Purchaser.

8.1.7 Within 10 days after the establishment of the Successor Plan, Purchaser shall furnish Seller in writing the names and addresses of the "Plan Administrator" and "Fiduciaries" under the Successor Plan (as those terms are defined in ERISA). If requested by Purchaser, Seller shall for a reasonable period of time assist the Plan Administrator in the performance of administrative functions for the Successor Plan and Trust, provided Purchaser pays Seller's reasonable expenses in so acting. Seller shall act as an agent and not a fiduciary in performing such functions. The assets required to be transferred to the Successor Plan pursuant to this paragraph 8.1 shall, pending such transfer, be retained, held, invested and distributed under the Gould Inc. Master Trust for the benefit of the participants under the Successor Plan, and Purchaser shall bear its share of the trust expenses.

8.1.8 Purchaser shall hold Seller and its subsidiaries harmless against any and all liabilities and obligations arising (a) by reason of following directions from the Plan Administrator

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as provided in paragraph 8.1.7 hereof, (b) from failure to pay accrued benefits under the Successor Plan as payment of such benefits becomes due, (c) by reason of a termination or amendment of the Successor Plan, (d) by reason of Purchaser's failure to establish the Successor Plan as a qualified plan under Code Section 401(a) or (e) by reason of the creation of the Segregated Account under paragraph 8.1.5 hereof.

8.1.9 Nothing in this agreement shall be construed to require that the Successor Plan provide any particular benefits or benefit levels for service after the Closing Date, to preclude a future termination of the Successor Plan or a future conversion of the Successor Plan into a defined-contribution plan, or otherwise to limit the right and power of the Purchaser to amend or terminate the Successor Plan.

8.2 Successor 401(k) Plan:

8.2.1 The Purchaser may elect in its sole discretion to establish a qualified cash-or-deferred profit-sharing plan for the benefit of some or all of its employees (the "New 401(k) Plan"). If the Purchaser establishes a New 401(k) Plan and a trust or other funding entity for such plan (the "Successor 401(k) Trust") within one hundred twenty (120) days of the Closing Date, and if the Purchaser so request within such time period, the Seller shall cause to be transferred directly to the Successor 401(k) Trust assets in an amount equal to the aggregate account balances under the Gould Inc. Investment Savings and Profit Sharing Plan (the "Gould 401(k) Plan") adjusted as of the most recent plan valuation date immediately prior to the date of transfer with respect to

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each person who is eligible to participate in the New 401(k) Plan, who has an account balance under the Gould 401(k) Plan, and who consents in writing to such direct transfer (the "Account Balances"). Asset shall be transferred in cash, or, if the Purchaser agrees, in kind or any combination of cash and kind.

8.2.2. As soon as practicable after the establishment of the New 401(k) Plan and the Successor 401(k) Trust (if any), Purchaser shall apply for a determination letter from the IRS finding the New 401(k) Plan and the Successor 401(k) Trust to meet the qualification requirements of the Code.

8.2.3. Within a reasonable period after the Purchaser has notified the Seller of its desire to have assets transferred from the Gould 401(k) Plan to the New 401(k) Plan, Seller shall furnish to Purchaser information concerning the Account Balances and Seller and Purchaser shall provide any required advance notification to the IRS regarding such transfer of assets. Within a reasonable period after the later of any such required notification (but not exceeding 60 days thereafter), or after Purchaser has delivered to Seller a copy of the determination letter referred to in paragraph 8.2.2 the Seller shall cause the assets described in paragraph 8.2.2 above to be transferred to the Successor 401(k) Trust, appropriately adjusted to reflect any payments made from the Gould 401(k) Plan to participants or beneficiaries during the period from the valuation of the Account Balances to the date of transfer of the assets.

8.2.4 The asset allocations and transfers set forth above shall be subject to the provisions of Section 414(1) of the

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Code and Section 208 of ERISA, and the Seller and Purchaser agree to modify such arrangements if requited and to the extent necessary to comply with the requirements of such provisions.

8.3 Medical and Other Plans.

8.3.1 As of the Closing Date, the Transferred Employees will participate in Purchaser's welfare benefit plans and programs. Additionally, SPD Pensioners who are participating in Seller's retiree medical benefit or life insurance plans immediately prior to the Closing Date shall as of the Closing Date participate in substantially similar plans established by Purchaser as of such Closing Date; provided however, that with respect to the SPD Pensioners, Seller agrees to retain the liability for post-retirement life insurance through May 31, 1987; provided, further that Seller agrees to retain the liability arising under its employee welfare benefit plans and programs with respect to Incidents occurring before the Closing Date, other than any liability for disability related benefits. For purposes of this paragraph 8.3.1, "Incident" includes, without limitation, death, accident, disease, sickness and injury.

8.3.2 Within a reasonable period after the establishment of such welfare benefit plans and programs, Purchaser shall furnish to Seller in writing the names and addresses of the Plan Administrator and Fiduciaries as it may deem appropriate for such plans and programs. If requested by Purchaser, Seller shall for a reasonable period of time assist such Plan administrator in the performance of administrative functions, provided Purchaser pays

Seller's reasonable expenses in so acting. Seller shall act as an agent and not as a fiduciary in performing such functions.

8.3.3 Purchaser agrees to hold Seller harmless from any and all liabilities and obligations actually incurred by Seller as a consequence of (a) Purchaser's failure to provide at any time on and after the Closing Date for those SPD Pensioners described in the second sentence of Section 8.3.1 retiree medical benefits and life insurance coverage that are substantially similar to those provided by Seller to such SPD Pensioners immediately prior to the Closing Date or (b) Purchaser's failure to pay or provide any disability related benefits for Transferred Employees or SPD Pensioners, including benefits relating to incidents occurring prior to the Closing Date.

9. CONDITIONS TO OBLIGATIONS OF PURCHASER.

Each and every obligation of Purchaser to be performed on or before the Closing Date shall be subject to the satisfaction prior thereto of the following conditions unless waived in writing by Purchaser:

9.1 Truth of Representations and Warranties. The representations and warranties made by Seller in this Agreement or given on its behalf hereunder shall be true and correct in all material respects on and as of the Closing Date with the same effect as though such representations and warranties had been made or given on and as of such date (without taking into account any amendments or supplements to the Disclosure Schedule pursuant to Section 6.2.12 hereof).

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9.2 Compliance with Covenants. Seller shall have performed and complied in all material respects with all its obligations under this Agreement which are to be performed or complied with by it prior to or on the Closing Date.

9.3 Absence of Suit. No action, suit or proceeding before any court or any governmental or regulatory authority shall have been commenced or threatened, and no investigation by any governmental or regulatory authority shall have been commenced, against Purchaser, Seller or any of its affiliates, associates, officers or directors of any of them, seeking to restrain, prevent or change the transactions contemplated hereby, or questioning the validity or legality of any such transactions, or seeking damages in a material amount in connection with any such transactions.

9.4 Receipt of Approvals, Etc. All approvals, consents, assignments, releases, and/or waivers that are necessary to effect the transactions contemplated hereby or that are necessary to prevent the breach, termination or acceleration of any material Contract shall have been received and all applicable waiting periods under the HSR Act shall have expired or been waived.

9.5 No Adverse Change. As of the Closing Date there shall not have occurred any adverse change since the date hereof which materially impairs the financial condition or the operating results of the Assets, the Assumed Liabilities, the Business or the ability of the Purchaser to conduct the Business on the same basis as conducted by Seller in the past.

9.6 Other Documents. Purchaser shall have received and approved documents contemplated by this Agreement, including

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without limitation, the sublease between Purchaser and Seller for the Philadelphia Site (the "Sublease") and the other required documents in connection with the Sublease (the "Sublease Documents").

9.7 Financing. Purchaser shall have obtained financing in an amount sufficient to consummate the transactions contemplated by this Agreement on terms and conditions reasonably satisfactory to Purchaser.

9.8 Real Estate Documents. Seller shall have delivered to Purchaser a commitment for title insurance committing to insure Seller's leasehold interest with respect to the Philadelphia Site in an amount equal to the fair value thereof, subject only to such minor encumbrances or imperfections, if any, which are not substantial in nature or amount and which do not detract from the value of such leasehold as presently used or impair the operations of the Division and such other matters set forth in the Disclosure Schedule or consented to by Purchaser, and with respect to such real estate which is the subject of the lease being subleased to Purchaser under the Sublease, Seller shall have delivered to Purchaser a valid survey disclosing the location of all improvements, easements, party walls, sidewalks, roadways, utility lines, and access to public streets and roads, which survey will not disclose any defect or encroachment from or onto such real estate which has not been cured or insured over prior to the Closing.

9.9 Proceedings and Instruments Satisfactory; Certificates. All proceedings, corporate or otherwise, to be taken in connection with the transactions contemplated by this Agreement shall have

occurred and all appropriate documents incident thereto as Purchaser may reasonably request shall have been delivered to Purchaser. Seller shall have delivered certificates in such detail as Purchaser may reasonably request as to compliance with the conditions set forth in this Article 9.

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10. CONDITIONS PRECEDENT TO SELLER'S OBLIGATIONS.

Each and every obligation of Seller to be performed on or before the Closing Date shall be subject to the satisfaction prior thereto of the following conditions unless waived in writing by Seller:

10.1 Truth of Representations and Warranties. The representations and warranties made by Purchaser in this Agreement or given on its behalf hereunder shall be true and correct in all material respects on and as of the Closing Date with the same effect as though such representations and warranties had been made or given on and as of such date.

10.2 Purchaser's Compliance with Covenants. Purchaser shall have performed and complied in all material respects with its obligations under this Agreement which are to be performed or complied with by it prior to or on the Closing Date.

10.3 Documents. Seller shall have received and approved all documents contemplated in this Agreement, including without limitation, the Sublease.

10.4 Receipt of Approvals, Etc. All approvals, consents, assignments, releases and/or waivers that are necessary to effect the transactions contemplated hereby shall have been received, and

all applicable waiting periods under the HSR Act shall have expired or been waived.

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11. INDEMNIFICATION.

11.1 Requirement of Indemnification

(a) Seller shall indemnify and hold Purchaser harmless from and against any loss, cost, expense or other damage suffered by Purchaser (including, without limitation, reasonable attorneys' fees and expenses) resulting from, arising out of, or incurred with respect to, or (in the case of claims asserted against Purchaser by a third party) alleged to result from, arise out of or have been incurred with respect to (i) the falsity or the breach of any representation, warranty or covenant made by Seller herein or (ii) any liability or obligation whatsoever of Seller set forth in paragraph 2.1 hereof, except for the Assumed Liabilities, whether arising prior to, on or after the Closing Date.

(b) Purchaser shall indemnify and hold Seller harmless from and against any loss, cost, expense or other damage suffered by Seller (including, without limitation, reasonable attorneys' fees and expenses) resulting from, arising out of, or incurred with respect to, or (in the case of claims asserted against Seller by a third party) alleged to result from, arise out of or have been incurred with respect to (i) the falsity or the breach of any representation, warranty or covenant made by Purchaser herein or (ii) the Assumed Liabilities.

11.2 Notice and Resolution of Claim.

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11.2.1 An indemnified party hereunder shall promptly give notice to the indemnifying party after obtaining knowledge of any claim against the indemnified party as to which recovery may be sought against the indemnifying party because of the indemnity set forth above. If such indemnity shall arise from the claim of a third party, the indemnified party shall permit the indemnifying party to assume the defense of any such claim or any litigation resulting from such claim; provided, however, that Purchaser need not give notice to Seller nor permit Seller to assume the defense of any warranty claims to the extent the third party is making no claim for injury to person or property or business loss or interruption and that the indemnified party may (at its expense) elect to participate in such defense to the extent that it believes that such litigation will materially affect its business.

11.2.2 If the indemnifying party assumes the defense of such claim or litigation, the obligations of the indemnifying party hereunder shall include taking all steps necessary in the defense of settlement of such claim or litigation and holding the indemnified party harmless from and against any and all losses, damages and liabilities caused by or arising out of any settlement approved by the indemnifying party or any judgment in connection with such claim or litigation. The indemnifying party shall not, in the defense of such claim or litigation, consent to entry of any judgment except with the written consent of the indemnified party, or enter into any settlement (except with the written consent of the indemnified party), which does not include as an

unconditional term thereof the giving by the claimant or the plaintiff to the indemnified party a release from all liability in respect of such claim or litigation.

11.3 Defense of Third-Party Claim. Failure by the indemnifying party to notify the indemnified party of its election to defend any such claim or litigation by a third party within fifteen days after notice thereof shall have been given to the indemnifying party shall be deemed a waiver by the indemnifying party of its right to defend such claim or litigation. If the indemnifying party shall not assume the defense of any such claim by a third party or litigation resulting therefrom or if the claim relates to goods as provided in paragraph 11.2, the indemnified party may defend against such claim or litigation in such manner as it may deem appropriate and may settle such claim or litigation on such terms as it may deem appropriate.

11.4 Payment. Upon final determination that a party is entitled to indemnification under this Article by the parties or by a court of competent jurisdiction, the indemnifying party shall pay directly all liabilities, costs and expenses and/or shall promptly reimburse the indemnified party for any loss, cost, expense or other damage incurred. The indemnifying party shall reimburse the indemnified party for the amount of any judgment rendered or settlement entered into with respect to any claim by a third party the defense of which was not assumed by the indemnifying party, and for all losses and expenses, legal or otherwise, incurred by the indemnified party in connection with the defense against such claim or litigation.

11.5 Limitation on Indemnification. An indemnified party shall not be entitled to assert any right of indemnification for any loss, cost, expense or other damage suffered by it as a result of any falsity or breach of any representation or warranty by the indemnifying party herein more than 24 months subsequent to the Closing Date; provided, however, if there shall then be pending any claim for such indemnification, the indemnified party shall continue to have the right to be indemnified with respect thereto. An indemnified party shall not be entitled to indemnification hereunder for any loss, cost, expense or other damage suffered by it as a result of any falsity or breach of any representation or warranty by the indemnifying party herein unless the aggregate losses, costs, expenses and other damages suffered by it for all such falsities and breaches exceed $250,000 and then the indemnifying party shall be responsible only for any loss, cost, expense or other damage in excess of $250,000.

12. COVENANT NOT TO COMPETE.

12.1 Covenant.

(a) Seller covenants and agrees that, for a period of three years from the Closing Date (other than paragraph 12.1(a)(iv) below which shall be a continuing obligation of Seller), neither it nor any of its affiliates including, but not limited to, any corporation, firm or other entity in which it or they own in the aggregate five percent (5%) or more of any class of equity securities will:

(i) Directly or indirectly engage in, continue to carry on the Business or any business substantially similar thereto, including owning or controlling any financial interest in any corporation, partnership, firm or other form of business or organization which competes with or is engaged in or carries on any aspect of the Business or any business substantially similar thereto; provided, however, that after the Closing Date Seller may acquire substantially all of the assets of, or a controlling equity interest in, or be acquired by, any entity which is engaged in or carries on any aspect of the Business or any business substantially similar thereto so long as the revenue derived from such activity constitutes only an incidental portion of such entity's total revenue.

(ii) Consult with, advise or assist with respect to matters relating to the Business or a business substantially similar thereto, whether or not for consideration, any corporation, partnership, firm or other business organization which is now, becomes or may become a competitor of Purchaser in any aspect of the Business including, but not limited to, advertising or otherwise endorsing the products of any such competitor, soliciting customers or otherwise serving as an intermediary or representative for any such competitor, loaning money or rendering any other form of financial assistance to or engaging in any form of business transaction on other than an arms' length basis with any such competitor.

(iii) Sell, assign or otherwise transfer, whether for or not for consideration, any customer lists, product

specifications or designs, internal memoranda, bills, receipts or any other form of business records or documents or any tangible materials in any form concerning the Business or the Assets.

(iv) Disclose or cause to be disclosed to any person, firm or corporation any of the trade secrets, techniques, formulae or processes, relating to the Business or the Assets, or any information about the confidential affairs of the Business.

(v) Engage in any practice the purpose of which is to evade the provisions of this covenant not to compete or commit any act which is detrimental to the successful continuation of the Business and the sole use and enjoyment of the Assets by Purchaser.

12.2 Geographic Scope. The parties agree that the geographic scope of this covenant not to compete shall extend to where the Division is presently doing business. The parties understand and agree that Purchaser may expand the geographic scope of all or part of the Business within such area and this covenant not to compete shall extend to the geographic scope of Purchaser's business as expanded within such area.

12.3 Equitable Remedies. In the event of any breach of this covenant not to compete, the parties hereto recognize that the remedies at law will be inadequate and that Purchaser shall be entitled to equitable remedies (including an injunction) and other such relief as a court may deem appropriate.

12.4 Enforceability of Covenant. In the event a court of competent jurisdiction determines that the provisions of this covenant not to compete are excessively broad as to duration,

geographic scope or prohibited activities or otherwise, the parties agree that this covenant shall be reduced or curtailed to the extent necessary to render it enforceable.

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13. CLOSING.

13.1 Time and Place. The closing of this transaction ("Closing") shall take place at the offices of Winston & Strawn, One First National Plaza, Chicago, Illinois at 1:00 p.m., on April 30, 1987 or at such other date, time and place as the parties hereto shall agree upon. Such date is referred to in this Agreement as the "Closing Date." For accounting purposes only, the Closing shall be deemed to have taken place at the close of business on the Closing Date.

13.2 Items to be Delivered by Seller. At the Closing, Seller shall deliver to Purchaser, among other things, the following documents:

13.2.1 A certificate signed by an officer of Seller that the representations and warranties made by Seller in this Agreement, after giving effect to any supplement to the Disclosure Schedule made pursuant hereto, are true and correct in all material respects on and as of the Closing Date with the same effect as though such representations and warranties had been made on or given on and as of the Closing Date and that Seller has performed and complied in all material respects with all its obligations under this Agreement which are to be performed or complied with by or prior to or on the Closing Date. The delivery of such certifi-

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cate shall be and constitute a representation and warranty of Seller as of the Closing Date to each of the facts stated therein.

13.2.2 A written opinion from counsel for Seller, dated as of the Closing Date, addressed to Purchaser satisfactory in form and substance to Purchaser to the effect that:

(i) The corporate existence and good standing and qualification of Seller are as stated in paragraph 4.1;

(ii) This Agreement has been duly authorized, executed and delivered by Seller and constitutes a legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms, except as such enforcement may be limited by laws affecting bankruptcy, insolvency and creditors' rights generally and subject to discretion of a court to grant equitable remedies;

(iii) Seller has all requisite power and authority to own the property of the Division and operate the Business as and where it is now being conducted and, to the knowledge of such counsel, is not a party to or subject to any agreement, commitment or understanding which restricts or may restrict the conduct of the Business in any jurisdiction or location; and

(iv) Counsel has no knowledge of any litigation proceedings of the nature described in paragraph 4.9 except as set forth in the Disclosure Schedule;

13.2.3 A certified copy of the duly adopted resolutions of Seller's Board of Directors authorizing the transactions contemplated by this Agreement.

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13.2.4 An originally executed copy of each approval, consent, assignment, release and/or waiver required to be secured by Seller hereunder.

13.2.5 The duly executed Sublease and Sublease Documents.

13.2.6 The duly executed Trade Name and Trademark License Agreement.

13.2.7 The duly executed I-T-E License Assignment.

13.2.8 The duly executed Software License Assignment.

13.2.9 The duly executed Software License Agreement.

13.2.10 The duly executed Shared-Site Sub-lease (as hereinafter defined).

13.2.11 Such other documents of transfer, certificates of authority and other documents as Purchaser may reasonably request.

13.3 Items to be Delivered by Purchaser.

At the Closing, Purchaser shall deliver to Seller, among other things:

13.3.1 A written opinion from counsel for Purchaser, dated as of the Closing Date, addressed to Seller satisfactory in form and substance to Seller to the effect that:

(1) The corporate existence and good standing of Purchaser is as stated in paragraph 5.1; and

(2) This Agreement has been duly executed and delivered by Purchaser and constitutes a legal, valid and binding obligation of Purchaser enforceable against Purchaser in accordance with its terms, except as such enforcement may be limited by

laws affecting bankruptcy, insolvency and creditors' rights generally and subject to discretion of a court to grant equitable remedies.

13.3.2 A certified copy of the duly adopted resolutions of Purchaser's Board of Directors authorizing the transactions contemplated by this Agreement.

13.3.3 The duly executed Sublease and Sublease Documents.

13.3.4 The duly executed Trade Name and Trademark License Agreement.

13.3.5 The duly executed Software License Assignment.

13.3.6 The duly executed Software License Agreement.

13.3.7 The duly executed Shared-Site Sub-lease.

13.3.8 Such other documents as Seller may reasonably request.

14. MISCELLANEOUS.

14.1 Law Governing. This Agreement shall be construed and interpreted according to the internal laws of the Commonwealth of Pennsylvania.

14.2 Assignment. This Agreement shall not be assigned by either party without the written consent of the other party and any attempted assignment without such written consent shall be null and void and without legal effect, provided that Seller acknowledges and consents to the grant by Purchaser of a security interest in its rights hereunder to Merrill Lynch Interfunding Inc. This Agreement shall be binding upon and inure to the

benefit of the respective parties hereto and their successors and permitted assigns.

14.3 Amendment and Modification. Purchaser and Seller may amend, modify and supplement this Agreement in such manner as may be agreed upon by them in writing.

14.4 Termination and Abandonment. This Agreement may be terminated and the transaction provided for by this Agreement may be abandoned without liability on the part of any part to any other, at any time before the Closing Date:

14.4.1 By mutual consent of Purchaser and Seller.

14.4.2 By Purchaser if by July 31, 1987 any of the conditions provided for in Article 9 of this Agreement have not been met and have not been waived in writing by Purchaser (except as a result of the wilful acts or omissions of such party).

14.4.3 By Seller if by July 31, 1987 any of the conditions provided for in Article 10 of this Agreement have not been met and have not been waived in writing by Seller (except as a result of the wilful acts or omissions of such party).

14.4.4 In the event of termination and abandonment by any party as above provided in this paragraph 14.4, written notice shall forthwith be given to the other party, and each party shall pay its own expenses incident to preparation for the consummation of this Agreement and the transactions contemplated hereunder; provided, however, that if the transactions contemplated by this Agreement are not consummated because of Seller's failure, inability or refusal to satisfy, perform or comply with the provisions of Article 9 hereof, Seller shall reimburse Purchaser upon demand

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for all out-of-pocket expenses (including fees and disbursements of legal counsel) in connection with the transactions contemplated herein and Purchaser shall be entitled all other rights and remedies it may have at law or equity.

14.5 Expenses and Transfer Taxes. Except as provided in paragraph 14.4, Purchaser and Seller shall each bear their own accounting and legal fees and other expenses in connection with the negotiation and execution of this Agreement and the consummation of the transactions contemplated hereby (including, without limitation, expenses incurred in connection with the parties' compliance with federal, state, local or foreign regulations applicable to the transaction). Any sales, use, transfer, stamp or similar tax due as a result of the sale and transfer of the Assets and expenses incurred in connection with the leasehold title insurance and survey described in paragraph 9.8 hereof shall be borne by Seller and Purchaser equally. To the extent that either pays any such item, the other shall, promptly upon request and satisfactory evidence related thereto, reimburse it for one-half of the amount so paid.

14.6 Notices. All notices, requests, demands and other communications hereunder shall be deemed to have been duly given, if delivered by hand or mailed, certified or registered mail with postage prepaid:

14.6.1 If to Seller to: Gould Inc., 10 Gould Center, Rolling Meadows, Illinois 60008, attention-Senior Vice President-Administration and General Counsel.

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14.6.2 If to Purchaser to: SPD Technologies, Inc., 113500 Roosevelt Boulevard, Philadelphia, Pennsylvania 19116, attention-President; with a copy to Merrill Lynch Interfunding, World Financial Center, North Tower, 18th Floor, New York, NY 10281, attention-John McGovern.

14.7 Announcements. Announcements to the public, employees, customers or suppliers concerning the transactions provided for in this Agreement by either Seller or Purchaser shall be subject to the approval of the other in all essential respects, except that the other party's approval shall not be required as to any statements and other information which a party may submit to the Securities and Exchange Commission or any national securities exchange on which such party's shares are listed, or required to be made pursuant to any rule or regulation of the Securities and Exchange Commission or any such exchange.

14.8 Contract Consents and Novations.

14.8.1 In those cases where consents, assignments, releases and/or waivers have not been obtained by the Closing Date to the transfer and assignment to Purchaser of the Contracts and other Assets (and Purchaser has elected to consummate the transaction contemplated by this Agreement) and following the Closing Date in those cases where novations have not been obtained where required for government or other Contracts of the Division, this Agreement, to the extent permitted by law, shall constitute an equitable assignment by Seller to Purchaser of all of Seller's rights, benefits, title and interest in and to the assigned Contracts and the government or other Contracts of the Division,

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and Purchaser shall be deemed to be Seller's agent for the purpose of completing, fulfilling and discharging all of Seller's rights and liabilities arising after the Closing Date under such assigned Contracts, and Seller shall take all necessary steps and actions to provide Purchaser with the benefits of such Contracts and other Assets (including without limitation, subcontracting government and other work to Purchaser).

14.8.2 Prior to the Closing Seller shall take all actions required to be taken by Seller with respect to, and following the Closing Seller shall assist Purchaser in the actions required to obtain, the required novations for the government and other Contracts of the Division (including without limitation, compiling all documents necessary for the novation of government and other Contracts requiring novation agreements; serving such notices on the government or other parties as may be required; executing such documents as may be required; coordinating with respect to the submission of such documents to the government or other parties; making such revisions and re-submissions as the government or other parties may request; and taking such other actions as may be required to obtain the government's or other parties' consent to such novation agreements). Purchaser will cooperate with Seller in the preparation and submission of any and all the above described agreements and documents, and the performance of any and all of the above-described actions.

14.9 Shared Office. The Disclosure Schedule sets forth a description of office in Virginia Beach, Virginia which employees of the Division currently occupy which is also occupied by

employees of another division of Seller. Prior to or at the Closing Purchaser and Seller shall enter into agreement setting forth the terms of Purchaser's lease of space in such office (the "Shared-Site Sub-Lease").

14.10 Entire Agreement. This instrument embodies the entire agreement between the parties hereto with respect to the transactions contemplated herein. All prior negotiations and agreements between the parties are merged in, and superseded by, this Agreement, and there are no agreements, representations or warranties between the parties other than those set forth or provided for herein.

14.11 Revenue Procedure 84-77. With respect to withholding, FICA and similar tax information applicable to the employees of the Division, Purchaser and Seller hereby accept the alternative procedure described in Section 5 of the Revenue Procedure 84-77 as promulgated by the Internal Revenue Service.

14.12 Headings. The headings in this Agreement are inserted for convenience only and shall not constitute a part hereof.

14.13 Further Documents. Purchaser and Seller agree to execute any and all other documents and or instruments and to take such other action or corporate proceedings as may be reasonably necessary or desirable to consummate or otherwise implement the transaction contemplated by this Agreement, including without limitation, executing such documents and taking such action as may be necessary to transfer or obtain new Licenses.

14.14 Risk of Loss. Until the Closing, all of the Assets shall remain at the risk of Seller and the Assumed Liabilities

shall remain the sole responsibility of Seller. In the event that prior to completion of the Closing any material Asset is damaged, destroyed or lost, Purchaser, at its option, may (a) exercise any rights of Purchaser pursuant to paragraph 14.4, (b) reduce the Purchase Price by the value thereof, if destroyed or loss, or by the cost of repair, if damaged, or (c) complete the purchase without reduction of the Purchase Price and take an assignment of all insurance proceeds and other payments to Seller as a result of such damage, destruction or loss. Subparagraph (c) shall also apply in the case of damage, loss or destruction of any Assets whether material or not.

14.15 Severability. The parties agree that if any provision of this Agreement shall under any circumstances be deemed invalid or inoperative, the Agreement shall be construed with the invalid or inoperative provision deleted and the rights and obligations of the parties shall be construed and enforced accordingly.

14.16 Proration. Real estate taxes imposed upon or against the Philadelphia Site or any interest therein conveyed hereunder and water, sewer, utility and similar operating charges relating to the Philadelphia Site shall be prorated as of the Closing. Special assessments, if any, for work actually commenced on or before the date hereof shall be paid by Seller, and those for work actually commenced after the date hereof shall be paid by Purchaser.

14.17 Bulk Transfer Laws. Purchaser hereby waives compliance by Seller with the provisions of any so-called Bulk Transfer Laws of any jurisdiction in connection with the sale of the Assets to

Purchaser. Seller shall indemnify and hold harmless Purchaser against all liabilities of Seller which may be asserted by third parties against Purchaser and other damages as a result of non-compliance with any such Bulk Transfer Laws, other than the Assumed Liabilities.

14.18 Removal of Name. Purchaser shall, as soon as practicable, but not later than 180 days after the Closing Date, remove the corporate names, trademarks, trade names, logos and other designs of Seller, and any of its divisions or subsidiaries (other than those included in the Assets), from all signs, advertising materials, literature, labels, stationery, office forms, packaging supplies or inventory (except packaging and inventory on hand or on order at the Closing), and will not use, or permit the use of, any such corporate name, trademark, trade name, logo or other design in connection with the Business or otherwise after such 180-day period, except as needed to use stocks contained in the Assets and as may be permitted by the provisions of the Trade Name and Trademark License Agreement (Exhibit 6.3 hereto).

14.9 Cooperation. Following the Closing, in the event Seller receives the proceeds of any accounts receivable of the Division, Seller shall promptly transmit to Purchaser the same in the form received by Seller. At Purchaser's expense and request, Seller will undertake collection action with respect to accounts receivable of the Division from government and other Contracts requiring novation of the Division. Following the Closing, in the event a party receives, cash or cash equivalents, correspondence,

documents or other items of the other party, the receiving party shall promptly forward the same to the other party.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed all as of the date and year first above written.

ORIGINAL (Red)

GOULD INC.

By _____

Its VP

[Corporate Seal]

Attest:

_____
Assistant Secretary

SPD TECHNOLOGIES INC.

By _____

Its President

[Corporate Seal]

Attest:

_____
~~Assistant~~ Secretary

EXHIBIT LIST

ORIGINAL (Red)

Exhibit	Description
3.2.2	Reserves
3.4	Allocation Schedule
6.3	Trade Name and Trademark License Agreement

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Exhibit 3.2.2

Reserves

Product Warranty Reserve

Bad Debt Reserve

Inventory Obsolescence Reserve

Slow Moving Inventory Reserve

Exhibit 3.4

Allocation Schedule

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The value of Assets of the Division shall be allocated as follows:

1. Except as provided below, all Assets shall be valued at their net book value as set forth on the Final Closing Statement.

2. The premium over total net book value shall be allocated as follows, except that the following amounts shall be adjusted prorata to reflect the total premium over net book value as reflected on the final Closing Statement:

Tangible Assets	
Write-up of Fixed Assets	$3,953,259.00
Intangible assets	
Design Technology	$ 409,000.00
Qualified Product Listing	338,000.00
Backlog	398,000.00
Workforce - Salaried	278,000.00
Workforce - Hourly	65,000.00
R&D Program	25,000.00
Computer Software	139,000.00
International Agency Network	23,000.00
Leasehold Interest	489,000.00
Total Premium Allocation	$6,118,259.00

The above premium allocation is based upon the following:

Price to be paid for December 31, 1986 Transferable Equity	$22,968,000.00
Equity per December 31, 1986 Transferable Balance Sheet	16,849,742.00
Premium over book value to be allocated	$ 6,118,259.00

EXHIBIT 6.3

LICENSE OF THE TRADE NAME AND TRADEMARK "GOULD"

ORIGINAL (Red)

THIS LICENSE made this 30th day of April, 1987 (this "License"), by and between SPD TECHNOLOGIES INC., a Delaware corporation (hereinafter referred to as "Purchaser"), and GOULD INC., a Delaware corporation (hereinafter referred to as "Seller"), in accordance with paragraph 6.3 of the Asset Purchase Agreement dated even date herewith between Purchaser and Seller (the "Agreement"), providing for the purchase by Purchaser of substantially all of the assets the Systems Protection Division (the "Division") of Seller, witnesseth:

WHEREAS, the Agreement contains certain defined terms which Seller and Purchaser agree shall have the same meaning in this License; and

WHEREAS, Seller has sold and Purchaser has purchased the Assets of the Division; and

WHEREAS, Seller is the exclusive owner of certain trade names, trademark and service marks as specifically set forth in Paragraph 1 hereinafter (the "Marks"), both common law and registered, in the United States and in various foreign countries; and

WHEREAS, Purchaser wishes to use the Marks of Seller subsequent to the Closing Date in connection with the operation of the Division;

NOW, THEREFORE, Seller and Purchaser agree as follows:

1. Seller grants to Purchaser a royalty-free, irrevocable, nonexclusive license to use the following Marks:

MARK	GOODS
"Gould" Trade Name	Products and services of the Division
"Gould" Trademark	Products and services of the Division
"Gould" Logo (US Reg. 1,020,371)	Products and services of the Division

2. Purchaser agrees to use the Marks solely in connection with the sale, leasing, or other transfer, or display or other advertising, of products, the manufacture of which has been completed or is in process on the Closing Date, and literature, stationary, office forms, packaging and labels which are part of the Assets, having one or more of the Marks imprinted thereon or affixed thereto.

3. The Marks may not be used in any way other than as licensed herein. The Marks may not be used on any goods other than products of the Division. No license is granted to use any

similar trademark or trade name and no license is granted by this License to use any other trade name or trademark of Seller or any of its affiliates.

4. Purchaser agrees to affix or otherwise display the Marks only in the manner reasonably prescribed or approved by Seller.

5. All goodwill associated with the use of the Marks by Purchaser shall inure to the benefit of and shall be owned exclusively by Seller.

6. Purchaser acknowledges that Seller is the sole and exclusive owner of the entire right, title and interest in and to the Marks, and Purchaser agrees that it will not, either directly or indirectly, contest Seller's exclusive right, title and interest to the Marks, nor will Purchaser contest the validity, registrability or enforceability of the Marks or knowingly take any action to impair or endanger Seller's right, title and interest therein.

7. Purchaser shall promptly advise Seller of any known or suspected infringement of the Marks licensed herein which is at the time being used by Purchaser. Seller, if it so desires, may commence or prosecute any claim or action at its own expense against a suspected infringer in its own name or in the name of Purchaser, or join Purchaser as a party thereto.

8. Except as otherwise provided herein, under no circumstances shall any rights to the use of the Marks be transferred from Purchaser to any other person or to any receiver or trustee without the prior written consent of Seller.

9. The term of this License shall commence on the Closing Date and extend for a period of 180 days therefrom provided, however that Purchaser may use the Marks beyond such 180 day term until stocks of products, literature, stationary, office forms, packaging and labels which are part of the Assets on the Closing Date are depleted. Upon termination of this License, Purchaser shall cease all use of the Marks.

10. Purchaser covenants to maintain the same standards of quality in design and manufacture of products sold by the Division under the Marks licensed to Purchaser hereunder, and to maintain such standards to the reasonable satisfaction of Seller. Seller shall have the right (subject to procedures and practices necessitated by the classified nature of such products and their manufacture) to assure itself that an appropriate level of quality is maintained for any such products with which its Marks are associated.

IN WITNESS WHEREOF, each party hereto has executed or caused this License to be executed on its behalf, all on the day and year first above written.

ORIGINAL (Red)

GOULD INC.

By: _____

Title: _____

SPD TECHNOLOGIES INC.

By: _____

Title: _____

ORIGINAL
(Red)

AGREEMENT FOR PURCHASE AND SALE OF ASSETS

By and Between

SIEMENS-ALLIS, INC.

And

GOULD INC.

And

I-T-E INDUSTRIES LIMITED

DATED: January 31, 1983

ORIGINAL (Red)

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AGREEMENT FOR PURCHASE AND SALE OF ASSETS

THIS AGREEMENT made this 31st day of January, 1983, by and between SIEMENS-ALLIS, INC., a Delaware corporation (hereinafter referred to as "Purchaser"), GOULD INC., a Delaware corporation (hereinafter sometimes referred to as "Gould") and I-T-E INDUSTRIES LIMITED (also known as Les Industries I-T-E Limitee), a Federal corporation organized under the laws of Canada (hereinafter sometimes referred to as "I-T-E Industries" and together with Gould hereinafter collectively referred to as the "Seller").

W I T N E S S E T H:

WHEREAS, Purchaser desires to purchase and Seller desires to sell and convey to Purchaser, subject to certain exceptions set forth herein, all of the properties and assets as described herein of the Distribution and Controls Division of Seller (hereinafter referred to as "Division"), which Division designs, manufactures, distributes and sells a broad line of low voltage products, including circuit protection products which distribute and control electrical power in residential, commercial and industrial applications, such as circuit breakers, load centers, bus plugs, ground fault interruptors and safety switches, and electrical apparatus, such as panelboards, switchboards, unit substations and busway equipment, upon the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the premises, and the promises and covenants of the parties hereto, it is hereby agreed as follows:

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I. COVENANTS AND UNDERTAKINGS.

1.1 Purchase and Sale of Properties and Assets. At the Closing hereinafter referred to, the Seller will sell, transfer, assign, convey and deliver to the Purchaser, and the Purchaser will purchase, accept and acquire from the Seller, the "Purchased Assets" (as hereinafter defined). "Purchased Division" as used herein shall mean the Purchased Assets (as hereinafter defined) together with liabilities to be assumed by Purchaser pursuant to Sections 1.3.8, 1.3.9 and 1.3.10 hereof. Purchased Assets as used herein shall mean all of the properties and assets (real and personal, tangible and intangible) of the Division of every kind and wherever situated (except as provided in Sections 1.1.1 through 1.1.12) which are owned by the Seller or in which it has any right or transferable interest, including, without limiting the generality of the foregoing, (a) the business of the Division as a going concern; (b) trade names, trademarks, trademark registrations, trademark applications, servicemarks, servicemark registrations, servicemark applications, copyrights, copyright registrations, copyright applications, United States and foreign patent rights (including, without limitation, issued patents, applications, divisions, continuations and continuations-in-part, reissues, patents of addition, utility models and inventors' certificates), patent applications, licenses (including settlement agreements and covenants not to sue), processes, formulae, trade secrets, inventions, drawings, designs, know-how and royalties, including all rights to sue for past infringement (hereinafter together referred to as the "Intellectual Property"); (c) franchises and

permits; (d) lands, leaseholds and other interests in land; (e) buildings; (f) inventory, equipment and supplies; (g) cash, money on deposit with banks and others, certificates of deposit, commercial paper, stocks, bonds and other investments reflected on the 1982 Financial Statement; (h) accounts receivable; (i) causes of action, judgments, claims and demands of whatever nature; (j) tangible and intangible personal property of all kinds; (k) deferred charges, advance payments, prepaid items, claims for refunds, rights of offset and credits of all kinds, and all credit balances of or inuring to the Seller with respect to the Division under any state unemployment compensation plan or fund to the extent assignable; (l) employment contracts, restrictive covenants, confidentiality agreements and other obligations owed by present and former officers and employees and of individuals and corporations; (m) contracts; (n) rights under joint venture agreements or arrangements; (o) and files, papers and records relating to the aforesaid businesses, properties and assets, except:

1.1.1 All properties and assets of the Division of every kind at the Division's Philadelphia, Pennsylvania (Erie Avenue) and Horsham, Pennsylvania plants (the "Excluded Plants"), except the following properties and assets at the Excluded Plants, which shall constitute part of the Purchased Assets hereunder:

(a) all contracts with customers other than those relating to the Division's business with United States and foreign military organizations (the "Navy Business");

(b) all accounts, notes and contracts receivable of Seller arising from or relating to the Excluded Plants other than those payable by the customers of the Navy Business;

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(c) all Intellectual Property rights other than Intellectual Property rights related exclusively to the Navy Business; and

(d) the finished goods inventory (other than the inventory used in the Navy Business) manufactured at the Division's Philadelphia, Pennsylvania (Erie Avenue) plant (the "Philadelphia Finished Goods"), at December 31, 1982, which Seller represents has an aggregate value equal to approximately Nine Million Three Hundred Eight-Four Thousand Dollars ($9,384,000) at FIFO inventory value net of reserves.

1.1.2 All advance payments and prepaid items to the extent not reflected in the "1982 Financial Statement" (as hereinafter defined).

1.1.3 (a) The capital stock or equity interests of Gould in Gould do Brazil Electrica/Electronica Ltda, a limited liability company organized under the laws of Brasil; and (b) the capital stock of Gould in I-T-E Industries.

1.1.4 The capital stock or equity interests of I-T-E Industries in Productos Electricos Internacionales, S.A. de C.V., a company organized under the laws of Mexico.

1.1.5 Except as otherwise expressly provided herein, any properties and assets (real and personal, tangible and intangible) of every kind and wherever situated, which are owned by Gould or I-T-E Industries or in which either has any right or interest not relating to the business of the Purchased Division and which are not reflected on the 1982 Financial Statement.

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1.1.6 Causes of action and claims of Seller arising from events occurring prior to the Closing Date which (i) are not reflected as assets on the 1982 Financial Statement, (ii) do not arise from any contract, agreement, commitment, obligation or liability transferred to or assumed by Purchaser pursuant to this Agreement and (iii) may be asserted as a defense, cross-claim or counterclaim in any action, suit or proceeding now pending or hereafter brought against Seller, other than any right or claim constituting a cross-claim or a compulsory counterclaim with respect to any liabilities assumed by Purchaser pursuant to this Agreement.

1.1.7 The tradename and trademark "Gould" and any confusingly similar variation thereof as well as the "Gould" device as exemplified in U.S. trademark registration no. 1,020,371 dated September 15, 1975.

1.1.8 All contracts of insurance and any claims or rights of Seller thereunder including, without limitation, any claims or rights of Seller to reserves, unearned premiums or returns of premiums arising thereunder except to the extent any of the foregoing are reflected as assets on the 1982 Financial Statement.

1.1.9 All of Seller's right, title and interest in, to and under the causes of action listed in Exhibit 1.1.9 hereto.

1.1.10 Rights of Seller under this Agreement and the agreements, documents and instruments delivered to Seller by Purchaser pursuant to this Agreement.

1.1.11 Those accounts receivable listed in Exhibit 1.1.11 hereto.

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1.1.12 "Gould" sign pylons located at certain of the premises constituting a portion of the Purchased Assets, which pylons have a book value of approximately $30,000. Seller, however, does not intend to remove said pylons and following the Closing Date Purchaser shall remove Seller's name and logo and may deal with such pylons as Purchaser's sole property without further consideration to Seller.

1.2 Intellectual Property; Etc.

1.2.1. Without limiting the generality of Section 1.1 hereof, the parties hereto covenant and agree that the Purchased Assets shall include ownership of and the exclusive right to use (except to the extent reflected in Exhibit 1.2.1-A attached hereto) the trademark and tradename "I.T.E." and all colorable variations thereof (including all such rights which may be held by subsidiaries or controlled companies of Seller) on all electrical products and all other trade names and trademarks used by the Division, including all goodwill appurtenant thereto. All of the foregoing trademarks and trade names shall be conveyed to Purchaser by separate assignments in the form of the Assignment of Trademarks and Trade Names attached hereto as Exhibit 1.2.1-B.

1.2.2 Without limiting the generality of Section 1.1 hereof, the parties hereto covenant and agree that the Purchased Assets shall include all of Seller's right, title and interest in and to United States and foreign patent rights (including, without limitation issued patents, applications, divisions, continuations and continuations-in-part, reissues, patents of addition, utility models and inventors' certificates)

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principally relating to the operations and products of the Division. All such patent rights shall be conveyed to Purchaser by a separate assignment in the form of the Assignment of Patent Rights attached hereto as Exhibit 1.2.2.

1.2.3 Without limiting the generality of Section 1.1 hereof, the parties hereto covenant and agree that the Purchased Assets shall include all of Seller's right, title and interest to agreements with employees and former employees of Seller in respect of Intellectual Property. The transfer and assignment of such employee agreements shall be evidenced by a Transfer and Assignment of Employee Agreements attached hereto as Exhibit 1.2.3.

1.2.4 (a) Without limiting the generality of Section 1.1 hereof, the parties hereto covenant and agree that the Purchased Assets shall include all of Seller's right, title and transferable interest in, all software support systems employed by Seller solely in connection with the Division, which systems, and a description of the ownership or interest of Seller therein, are set forth in Exhibit 1.2.4 attached hereto, and include without limitation, GIMS (Manufacturing Control System) and DOES (Distributing System) as systems wholly-owned by Seller.

(b) With regard to software support systems set forth on Exhibit 1.2.4 which are licensed to Seller from a third party and used by the Purchased Division, Seller shall use its best efforts to assist Purchaser in obtaining a license, sublicense or other transfer of the right to use such software support systems on the terms set forth on Exhibit 1.2.4.

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(c) Seller agrees that all software support systems owned by Seller and used by Seller in connection with other of Seller's operations in addition to the use thereof by the Purchased Division shall be made available to Purchaser on a royalty-free basis for a period of two (2) years. In addition, and at Purchaser's option, Seller shall continue to provide services involving such software support systems to Purchaser for the benefit of the Purchased Division during such two (2) year period at a cost determined in the same manner as has been customary with respect to the Purchased Division in accordance with Exhibit 1.13 hereof and Exhibit 1.2.4 hereto.

(d) The parties hereto agree to execute and deliver at Closing an agreement or agreements in the form of Exhibit 1.2.4(d) attached hereto for the shared use by Purchaser and Seller of computer facilities at Seller's facility at Allentown, Pennsylvania.

1.2.5 Seller hereby agrees to grant to Purchaser, effective on the Closing Date, and execute and deliver in connection therewith, a non-exclusive license, in the form of Exhibit 1.2.5 attached hereto, to use the trade name and trademark "Gould".

1.2.6 The parties hereto agree to execute and deliver a non-exclusive Cross License of Patent Rights in the form of Exhibit 1.2.6 attached hereto.

1.2.7 Purchaser hereby agrees to grant to Seller, effective on the Closing Date, without warranty of any nature or kind, and execute and deliver in connection therewith, a

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assumed by Purchaser by reason of the terms and conditions of Section 1.3.8(b) hereof and was prepared by Seller in accordance with generally accepted accounting principles consistently applied except to the extent of the Financial Statement Adjustments and the absence of footnotes prepared in accordance with generally accepted accounting principles;

(viii) "January Financial Statement" shall mean an unaudited balance sheet of the Purchased Division as of January 31, 1983 prepared by Seller in accordance with generally accepted accounting principles applied on a basis consistent with the preparation of the 1982 Unaudited Financial Statement;

(ix) "Purchased Division Net Worth" shall mean the difference between the aggregate net book value of the Purchased Assets minus the liabilities and obligations of Seller relating to the Purchased Division which are of the nature required to be reflected on balance sheets prepared in accordance with generally accepted accounting principles, consistently applied, as shown on the 1982 Financial Statement;

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(x) "Adjusted Net Worth" shall mean the Purchased Division Net Worth after application of the Financial Statement Adjustments to the extent that the Financial Statement Adjustments are not reflected in the 1982 Financial Statement;

(xi) "1982 Financial Statement" shall mean the audited balance sheet of Seller as of December 31, 1982, showing the Purchased Division Net Worth and accompanied by the Accountants' Report;

(xii) "Seller's Purchase Price Calculation" shall mean Seller's calculation of the Purchase Price prepared in accordance with this Agreement and based upon the 1982 Financial Statement.

(b) The purchase price (the "Purchase Price") for the Purchased Assets shall be the amount determined pursuant to Section 1.3.3 hereof. In no event shall the Purchase Price exceed the Maximum Purchase Price less the I-T-E Tradename Amount. In addition to the Purchase Price, Purchaser shall assume certain liabilities of Seller with respect to the Purchased Division as set forth in Sections 1.3.8, 1.3.9, 1.3.10 and 1.3.11 hereof.

1.3.2 Initial Payment. The initial payment (the "Initial Payment") of the Purchase Price payable by Purchaser to Seller at Closing shall be Seventy-Four Million Six Hundred Seventy-

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Five Thousand Five Hundred Fifty-Seven Dollars ($74,675,557), which represents ninety-seven and one-half percent (97.5%) of the following:

(a) The net worth of the Purchased Division as reflected on the 1982 Unaudited Financial Statement;

(b) LESS the Canadian Net Worth as reflected on the 1982 Unaudited Financial Statement;

(c) LESS two percent (2%) of the difference between (i) the net worth of the Purchased Division as reflected on the 1982 Unaudited Financial Statement, minus (ii) the Canadian Net Worth as reflected on the 1982 Unaudited Financial Statement;

(d) AND LESS the ITE Tradename Amount.

1.3.3 Initial Post-Closing Adjustment. (a) Within twenty (20) days following the receipt by Purchaser of the 1982 Financial Statement and Seller's Purchase Price Calculation, the Purchase Price shall be determined and the initial post-Closing shall be held (the "Initial Post-Closing Date").

(b) Subject to any adjustments pursuant to Section 1.3.3 (c) hereof, the Purchase Price shall be (i) ninety-eight percent (98%) of the Adjusted Net Worth, less (ii) the ITE Tradename Amount.

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(c) Immediately following the receipt by Purchaser of the 1982 Financial Statement, Purchaser shall have the right to review the 1982 Financial Statement and the workpapers of Ernst & Whinney in support thereof and consult with Ernst & Whinney concerning the details of the 1982 Financial Statement. In the event Purchaser disagrees with the Adjusted Net Worth of the Purchased Division as reflected in the 1982 Financial Statement and/or Seller's Purchase Price Calculation, prior to the Initial Post-Closing Date Purchaser shall notify Seller in writing of the nature of such disagreement in reasonable detail and the amount (the "Disputed Amount") by which Purchaser believes the Adjusted Net Worth of the Purchased Division and/or Seller's Purchase Price Calculation has been overstated. In the event the Disputed Amount is not resolved at or prior to the Initial Post-Closing Date, for a period of sixty (60) days thereafter Purchaser and Seller shall confer and negotiate in good faith to resolve the Disputed Amount. If the Disputed Amount is not resolved within such sixty (60) day period of negotiation, the Disputed Amount shall be referred to arbitration in accordance with Section 8.2 hereof. In the event it is determined by such arbitration that the 1982 Financial Statement was prepared in accordance with generally accepted accounting principles consistently applied (except for the Financial Statement Adjustments) and that Seller's Purchase Price Calculation is correct, Purchaser shall promptly pay Seller the Disputed Amount with interest thereon at the rate of ten percent (10%) per annum from the Closing Date to the date of payment. If it is determined by such arbitration that the 1982 Financial Statement was not prepared in

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accordance with generally accepted accounting principles consistently applied (except for the Financial Statement Adjustments) and/or that Seller's Purchase Price Calculation is not correct, the Purchase Price shall be as determined pursuant to such arbitration.

(d) On the Initial Post-Closing Date, Purchaser shall pay Seller the amount, if any, by which the (i) Purchase Price, less (x) ninety-eight percent (98%) of the Canadian Net Worth as reflected on the 1982 Financial Statement and less (y) any Disputed Amount exceeds (ii) the Initial Payment. Such excess, if any, shall be paid by Purchaser to Seller on the Initial Post-Closing Date (i) by payment of cash to the extent the sum so paid when added to (A) the Initial Payment and (B) ninety-eight percent (98%) of the Canadian Net Worth as reflected on the 1982 Financial Statement, equals the Maximum Purchase Price less the ITE Tradename Amount, and (ii) the balance of such excess by return of Philadelphia Finished Goods purchased from Seller having a net book value as of the Closing Date equal to the difference between the amount due Seller on the Initial Post-Closing Date and the cash payable on said date pursuant to subsection (i) immediately above.

(e) In the event the Initial Payment exceeds the Purchase Price, less (x) ninety-eight percent (98%) of the Canadian Net Worth as reflected on the 1982 Financial Statement, and less (y) the Disputed Amount, such excess shall be paid by Seller to Purchaser on the Initial Post-Closing Date in cash.

(f) Any amount payable by Purchaser pursuant to Section 1.3.3(d) hereof or by Seller pursuant to Section

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1.3.3(e) hereof shall be accompanied by an interest payment on the amount owed thereunder at the per annum rate of ten percent (10%) from the Closing Date until the Initial Post-Closing Date or the date of actual payment and shall be paid by wire transfer unless the party to whom such amount is owed directs otherwise.

1.3.4 January Financial Statement Adjustment. At least twenty (20) days prior to the Initial Post-Closing Date, Seller shall prepare and furnish the January Financial Statement to Purchaser. In addition to the payment provided by Section 1.3.3(d) or Section 1.3.3(e) hereof, on the Initial Post-Closing Date, Purchaser shall pay to Seller the amount, if any, of any increase, and Seller shall pay to Purchaser the amount, if any, of any decrease in the ~~Adjusted Net Worth~~ net worth of the Purchased Division reflected on the January Financial Statement when the January Financial Statement is compared to the 1982 Unaudited Financial Statement. The Maximum Purchase Price limitation shall not apply to any payment by Purchaser to Seller pursuant to this Section 1.3.4.

1.3.5 Reimbursements; Payroll; Employees. (a) Following the Closing Seller and Purchaser agree to cooperate in good faith to promptly reimburse each other for amounts erroneously paid to others or received from others to the extent that one party receives funds to which the other party is rightfully entitled or one party pays funds which the other party is rightfully obligated to pay.

(b) For a period of up to sixty (60) days following the Closing Date, at Purchaser's request Seller shall continue to

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prepare the payroll for and pay the employees of the Purchased Division their normal salaries and other payroll compensation in accordance with Seller's practices prior to the Closing Date Purchaser shall provide Seller with the funds for all such payments by wire transfer of immediately available funds to an account designated by Seller on the later of (i) the business day following the date on which Seller notifies Purchaser of the amount of funds required, or (ii) the date Seller disburses such funds. Purchaser shall furnish Seller with the necessary information in the possession of Purchaser to enable Seller to make such payments in a timely manner. Purchaser shall indemnify and hold Seller harmless from any claims or liability arising from the failure of Purchaser to furnish Seller with complete and accurate information including, but not limited to, incorrect withholdings of federal and state taxes.

(c) Purchaser agrees that all employees of Seller employed on the Closing Date exclusively in connection with the operations of the Purchased Division ("Purchaser's Employees") shall, as of the Closing Date, be offered employment by Purchaser similar to the employment previously provided by Seller. Notwithstanding the foregoing, nothing in this Agreement shall be deemed to restrict the right of Purchaser to deal with Purchaser's Employees as employees at will in the same manner as it would be free to deal with Purchaser's Employees in the absence of this Agreement.

(d) Seller and Purchaser agree to take such action and to cooperate as is necessary in order to enable Purchaser to constitute a "successor employer" with respect to Purchaser's Employees for the

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calendar year 1983 for purposes of FICA and the withholding of federal and state income taxes.

(e) Seller agrees that prior to Closing it shall make available to Purchaser all employees of the Purchased Division and shall not terminate them or offer them alternate employment without Purchaser's consent.

1.3.6 Repurchase of Receivables. Not later than one hundred and fifty (150) days following the Closing Date Seller shall pay the following amounts to Purchaser in cash:

(a) Ninety-eight percent (98%) of the sum of all then uncollected accounts receivable sold hereby which Purchaser elects to return to Seller and does so by reassignment thereof, other than those previously returned pursuant to Section 1.14 hereof;

(b) All costs of collection due Purchaser in accordance with the terms and conditions of Section 1.14 hereof; and

(c) Interest on the above amounts, at the per annum rate of ten percent (10%), calculated with respect to subsection (a) above from the Closing Date and with respect to subsection (b) above from the date each such cost of collection is incurred.

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1.3.7 Canadian Assets. (a) Within thirty (30) days after the receipt by Purchaser of the unconditional and unqualified (or with such conditions or qualifications as are acceptable to Purchaser in its sole discretion) approval by the Canadian government pursuant to the Foreign Investment Review Act of Canada ("FIRA") of the purchase by Purchaser of the Canadian Assets, Purchaser shall pay to Seller an amount equal to ninety-eight percent (98%) of the Canadian Net Worth as of December 31, 1982 as reflected on the 1982 Financial Statement plus interest at the per annum rate of ten percent (10%), on said sum calculated from the Closing Date.

(b) Should the Purchaser not obtain such approval of the Canadian government pursuant to FIRA prior to May 1, 1984, Purchaser shall proceed to liquidate the Canadian Assets to the extent remaining, which it shall complete in no event later than August 31, 1984. Purchaser covenants and agrees to consult with and advise Seller concerning all material decisions relating to the liquidation. The decision to liquidate any fixed asset for less than its current net book value as reflected on the books of Purchaser shall for purposes of the immediately preceding sentence be deemed to be "material". Upon completion of said liquidation Purchaser shall pay to Seller an amount equal to ninety-eight percent (98%) of the Canadian Net Worth as determined from the 1982 Financial Statement plus interest thereon from the Closing Date to the date of payment at the per annum interest rate of ten percent (10%) less (a) eighty percent (80%) of the Fixed Asset Liquidation Loss (as hereinafter defined); and less (b) fifty percent (50%) of all

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liquidation costs (including, without limitation, employee termination costs, however, excluding the "Fixed Asset Liquidation Loss" and also excluding any loss suffered by Purchaser on the liquidation of any other properties or assets of the Purchased Division located in Canada) reasonably incurred in connection with the liquidation. As used herein the term "Fixed Asset Liquidation Loss" means the difference, if any, between (i) the net book value on the books of Purchaser as of the date of liquidation of the land, buildings, fixtures, equipment and machinery owned by I-T-E Industries and included in the Purchased Assets, minus (ii) the value of the consideration received therefore pursuant to such liquidation. Purchaser agrees to use its best efforts to obtain the unconditional and unqualified approval of the Canadian government pursuant to FIRA of the transactions described herein and to apply for such approval not later than May 1, 1983. Seller agrees to fully cooperate with Purchaser in said efforts. Notwithstanding the foregoing, Purchaser shall not be obligated to sell or otherwise dispose of any Intellectual Property relating to the Canadian Assets in connection with such liquidation.

1.3.8 Liabilities. (a) As further consideration for the sale of the Purchased Assets, on the Closing Date Purchaser does hereby assume and agree to pay, perform or discharge as they become due all of the following liabilities and obligations:

(i) all liabilities and obligations of the Seller relating to the Purchased Division reflected on the 1982 Financial Statement;

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(ii) all liabilities and obligations of the Seller relating to the Purchased Division arising under any contract or agreement (including purchase and sale commitments) entered into in the ordinary course of the Purchased Division's business and pursuant to which the aggregate payments required to be made by the Purchased Division under any such contract or agreement is less than $50,000 during the twelve (12) calendar month period following the Closing or $100,000 over the remaining term of such contract or agreement;

(iii) all liabilities and obligations of the Seller relating to the Purchased Division set forth on Exhibit 1.3.8(a) hereto;

(iv) all liabilities and obligations of the Seller relating to the Purchased Division entered into or incurred between January 1, 1983 and the Closing Date in the ordinary course of the Purchased Division's business;

(v) all liabilities and obligations of Seller relating to the Purchased Division to be assumed by Purchaser pursuant to this Agreement (including but not limited to Sections 1.3.9, 1.3.10 and 1.3.11) or any document, instrument or agreement executed and delivered in connection with this Agreement; and

(vi) all obligations to distributors of the Purchased Division with respect to the return of products of the Purchased Division in accordance with enforceable agreements with such distributors, except that the assumption of these obligations in this subparagraph (vi) shall not be taken into account in the preparation of the 1982 Financial Statement.

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(b) Except as specifically provided in Section 1.3.8(a) hereof, Purchaser will not assume or become liable on any contract of Seller or for any actual or potential indebtedness, obligation or liability of Seller which may be incurred, whatsoever, including those which may be incurred in connection with pending or threatened litigation, and whether or not said liabilities were incurred in connection with the Purchased Division, and Seller will continue to be solely responsible for and shall pay the same directly to the persons to whom the same are payable, or, if Purchaser has prior thereto paid the same, directly to Purchaser. Except to the extent that such items have been properly accrued by Seller and credited to Purchaser through the reduction of the net book value of Purchased Assets, Purchaser shall not assume any liability for leasehold rentals, Federal, state or local income, sales, use, excise or other taxes, or for wages, salaries or overtime, vacation pay, holiday pay or other employee benefits, or other employee benefit plans, on, arising out of, or attributable to the conduct of Seller's operations and business through the close of business on the Closing Date.

(c) Seller will pay all stamp, sales, realty transfer or other similar transfer taxes, federal, state or local, imposed on Seller or Purchaser in connection with this Agreement or the transfer of the Purchased Assets. All property and ad valorem taxes, leasehold rentals and other customarily proratable items relating to the Purchased Assets relating to a period of time both prior and subsequent to the Closing Date will be prorated as of the close of business on the Closing Date between Purchaser and Seller.

Simultaneously with the delivery of the January Financial Statement, Seller shall deliver to Purchaser the proration statement contemplated by the immediately preceding sentence. Purchaser shall have a right to review said statement together with the supporting documents relating thereto. Any payments due pursuant to the proration statement shall be paid at the Initial Post-Closing Date.

1.3.9 Product Liability Claims. Purchaser hereby assumes responsibility for all product liability claims which are made by persons claiming property or personal injury damages other than Seller's customers and which arise from products manufactured and sold by the Purchased Division subsequent to the Closing Date. Seller shall be solely responsible for, and Seller and Purchaser shall cooperate to administer in accordance with prior Division practice and in accordance with Section 1.16 hereof, all such product liability claims which are made by such persons and which arise from products manufactured by the Purchased Division prior to the Closing Date; provided that Seller reserves the right to make final decisions with respect to the settlement or defense of such claims and litigation and Seller agrees that such decisions will be made in accordance with prior Division practice. Each party shall promptly notify the other party of any claim or litigation to which this Section 1.3.9 applies.

1.3.10 Warranty Claims. Purchaser hereby assumes responsibility for all warranty and product correction or replacement claims which are made by Seller's customers and which arise from products manufactured by the Division and sold by Seller

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within one (1) year prior to Closing to customers other than the Navy Business customers, to repair or replace defective products manufactured by the Division; provided however, that (i) the liability assumed hereby shall be limited to the Product Warranty Reserve set forth in the 1982 Financial Statement, and (ii) Seller shall be solely responsible for those product warranty claims described on Exhibit 1.3.10 hereto. Purchaser shall handle and defend all such claims, and Seller shall promptly reimburse Purchaser for all costs incurred by Purchaser for the correction or replacement of such products (including legal fees and expenses) in excess of the Product Warranty Reserve in the amount of Two Hundred Fifty Thousand Dollars ($250,000.00). Seller shall be solely responsible for, and Seller and Purchaser shall cooperate to administer in accordance with prior Division practice and in accordance with Section 1.16 hereof all such warranty and product correction claims which arise from products manufactured by the Purchased Division one (1) year or more prior to Closing; provided that Seller reserves the right to make final decisions with respect to the settlement or defense of such claims and litigation and Seller agrees that such decisions will be made in accordance with prior Division practice. Each party shall promptly notify the other party of any claim or litigation to which this Section 1.3.10 applies.

1.3.11 Brazil. Gould owns all of the issued and outstanding capital stock of Gould do Brasil Eletrica/Eletronica Ltda., a corporation organized under the laws of Brazil ("Gould do Brasil"). Gould do Brasil owns approximately forty-seven percent

(47%) of the issued and outstanding capital stock of Gould Soprano S.A., a company organized under the laws of Brazil ("Soprano"). Soprano owns approximately 99% of the issued and outstanding capital stock of Gould Renomax Eletromecanica Ltda., a company organized under the laws of Brazil ("Renomax"). On March 5, 1982 Gould do Brasil, Soprano and certain shareholders of Soprano other than Gould do Brasil, entered into an agreement entitled "Modification of the Contract for the Subscription of Shares and other Settlements" (the "Soprano Agreement"). From and after the Closing Date, Purchaser hereby assumes the following obligations with respect to Soprano and the Soprano Agreement:

(a) to continue to supply Soprano with those products of the Purchased Division upon such terms and conditions as Purchaser and Soprano may reasonably agree until the expiration of the Soprano Agreement; and

(b) the obligations of Gould and/or Gould do Brasil pursuant to Section 2 of the Soprano Agreement.

1.3.12 Allocation of Purchase Price. The Purchase Price shall be allocated to the Purchased Assets in accordance with Exhibit 1.3.12..

1.3.13 ITE Tradename Amount. Seller has heretofore granted Brown, Boveri Electric, Inc. ("BBE") certain rights to use the name and trademark "ITE". In the event Purchaser is able to acquire all of such rights from BBE within three (3) years following the Closing Date for less than $700,000, Purchaser shall pay to Seller fifty percent (50%) of the difference between $700,000 and the lesser amount paid by Purchaser to BBE to acquire such rights.

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Purchaser agrees to use its best efforts to acquire such rights from BBE within such three (3) year period at a cost of less than $700,000.

1.4 Conduct of the Business of Seller Prior to Closing. Except with the consent in writing of Purchaser and except as may be required to effect the transactions contemplated by this Agreement, Seller covenants and warrants that, between January 1, 1983 and the Closing Date, Seller has conducted the business of the Division in the ordinary course and has with respect to the business of the Division (a) used its best efforts to preserve its organization intact and to preserve the goodwill of those having business relations with it; (b) except as set forth on Exhibit 2.7 hereto, maintained the Purchased Assets in customary repair, working order and condition, reasonable wear and tear excepted; (c) kept in force at no less than their present limits all existing policies of insurance insuring the Purchased Assets; (d) except as set forth on Exhibit 2.20 hereto, not entered into any contract, commitment or instrument of the type described in Section 2.12 hereof or suffered, permitted or incurred any of the transactions or events described in Section 2.20 hereof to the extent such events or transactions are within the control of Seller; and (e) promptly advised Purchaser in writing of any matters arising or discovered after December 31, 1982 which, if existing or known at the date of this Agreement would be required to be set forth or described in this Agreement or the Exhibits hereto.

1.5 Maintenance of Books, etc. Seller agrees that between January 1, 1983 and the Closing it will maintain its books,

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accounts and records relating to the Purchased Division in the usual manner on a basis consistent with prior years. Seller will duly comply in all material respects with all laws and decrees applicable to the operations of the Purchased Division.

1.6 No Compensation Increases. Seller agrees that between January 1, 1983 and the Closing, without the prior written consent of Purchaser, Seller shall not grant to the employees of the Purchased Division any general or uniform increase in the rates of pay, nor any general or uniform increase in the benefits under any bonus, insurance, profit sharing, pension plan, deferred compensation, medical reimbursement, or other benefit plan, contract or commitment. In addition, except as approved in writing by Purchaser, Seller shall not increase any of the rates of pay or benefits payable or to become payable to the General Manager of the Purchased Division or any persons who report directly to the General Manager of the Purchased Division.

1.7 Examination of Records. During the period prior to the Closing, Seller will upon reasonable notice allow Purchaser full access during normal business hours to all the books, records, files, documents, assets, properties, contracts and agreements of the Seller pertinent to the Division and shall furnish Purchaser during such period with all such documents, certified if requested and if the same can be so certified, and all information concerning the affairs of Seller pertaining to the Division which may be reasonably requested by Purchaser.

1.8 Cooperation. Seller and Purchaser agree that prior to Closing each shall use its best efforts to cause the sale contemplated by this Agreement to be consummated.

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1.9 Publicity. Unless required by law, neither party will make prior to Closing any public announcement of the transactions described in this Agreement without the prior written consent of the other party.

1.10 Pension Plans

1.10.1 Pension Plans of Seller. Seller has heretofore established the Gould Inc. Salaried Retirement Plan as supplemented by Supplement 1, the Gould Inc. Retirement Plan for Certain Hourly Employees as supplemented by Supplement 15, and the I-T-E Imperial Corporation Retirement Plan as supplemented by the supplements identified on Exhibit 1.10.1(a). Such plans, which (with the exception of Supplements 6 and 7 to the Gould Inc. Retirement Plan for Certain Hourly Employees) are herein collectively referred to as the "Gould Pension Plans," are the only qualified, defined benefit pension plans covering employees of the Purchased Division employed in the United States. Seller further represents that the employees of the Purchased Division are not participants in any multiemployer pension plan to which Seller contributes and which is subject to the provisions of Title IV of the Employee Retirement Income Security Act of 1974, as amended, except for those plans listed on Exhibit 1.10.1(b) hereto.

1.10.2 Adoption of Purchaser's Pension Plan. As soon as practicable after the Closing Date, but effective as of such date, Purchaser shall adopt (or have adopted) and become (or be) plan sponsor of one or more pension plans (such plan(s) being hereinafter referred to as the "Purchaser's Pension Plan"), providing benefits at least equal to those benefits accrued on the Closing Date under

the Gould Pension Plans, for the employees of the Purchased Division as of the Closing Date who become employees of Purchaser as of the Closing Date ("Transferred Employees") and former employees of the Purchased Division who retired or terminated with vested benefits under the Gould Pension Plans on or before the Closing Date (hereinafter referred to as the "DCD Pensioners"). Seller will provide Purchaser with a list of all Transferred Employees and DCD Pensioners and a calculation and statement of their accrued benefits under the Gould Pension Plans as of the Closing Date. The Purchaser's Pension Plan shall provide to the Transferred Employees and DCD Pensioners all of their accrued benefits under the Gould Pension Plans as of the Closing Date; no interruption, for pension plan purposes, in either participation, the accrual of benefits pursuant to the Purchaser's Pension Plan, or vesting service shall be deemed to have occurred by reason of the change in employment contemplated under this Agreement. As soon as practicable after adoption of the Purchaser's Pension Plan, Purchaser shall make application (not later than April 1, 1983) for determination letter(s) of the Internal Revenue Service (the "IRS") finding the Purchaser's Pension Plan to meet the requirements of Section 401(a) of the Internal Revenue Code of 1954, as amended (the "Code"), or if the foregoing is effected by amendment to one or more preexisting plans maintained by Purchaser, a determination that said amendment(s) does (do) not adversely affect said qualified status.

1.10.3 Amendment of Gould Pension Plans. As soon as practicable after the Closing Date, Seller shall (a) make such amendments to the Gould Pension Plans and any related trust

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agreements or insurance contracts that may be necessary to permit those portions of the Gould Pension Plan assets which are allocated to the Transferred Employees and DCD Pensioners (in accordance with Section 1. 10.4 and Exhibit, 1.10.4 hereto) to be transferred to the trustees or other funding agents for the Purchaser's Pension Plan; (b) make application (not later than April 1, 1983) for determination letters of the IRS finding such amendments not to affect adversely the qualified status of said plans under Section 401(a) of the Code; and (c) make the filings under such Section 6058(b) of the Code (Form 5310) with respect to such transfers, including the actuarial statements of valuation evidencing compliance or intent to comply with Sections 401 (a) (12) and 414(1) of the Code.

1.10.4 Transfer of Assets. As soon as practicable after Purchaser has received and delivered to Seller a copy of the IRS determination letter(s) referred to in Section 1.10.2 hereof, and Seller has received copies of the documents referred to in Sections 1.10.3 (a), (b) and (c) hereof, (and in any event no later than two (2) calendar months after receipt of the last of said documents) Seller shall cause to be transferred to the Purchaser's Pension Plan that portion of the assets of the respective Gould Pension Plans which are allocable to the Transferred Employees and DCD Pensioners, as determined in accordance with the procedures set forth in Exhibit 1.10.4 hereto; provided that the amount so determined or the amount so transferred shall be adjusted as may be required by the Pension Benefit Guaranty Corporation or by the IRS. In the event that any such adjustment takes place after the transfer of assets

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contemplated hereby, such adjustment shall be effected by transfer of assets between the trusts under the affected Gould Pension Plans and the trust or other fund under the Purchaser's Pension Plan. Pending said transfer of assets, Seller and Purchaser shall cooperate with regard to the investment of a portion thereof by segregating, no later than April 30, 1983, within the existing trust fund maintained for the Gould Pension Plans, an amount of assets equal as of the date of segregation to eighty per cent (80%) of the amount ultimately to be transferred to Purchaser's Pension Plan hereunder, less the amount of the appropriate dedicated bond portfolio referred to in Exhibit 1.10.4 hereto. The said eighty per cent (80%) amount (hereinafter referred to as the "Segregated Assets") shall be calculated on a good faith, estimated basis, considering actuarial values of benefits as of December 31, 1982, in accord with the procedures described in Exhibit 1.10.4 hereto. The Segregated Assets shall be invested separately within the trust fund maintained for the Gould Pension Plans subject to the investment direction of one or more Investment Managers (as that term is defined in Section 3 (38) of the Employee Retirement Income Security Act of 1974), which is designated by Purchaser subject to Seller's approval. All earnings and losses and investment gains and losses experienced by the Segregated Assets together with all related investment expenses shall be allocated to the Segregated Assets, and the Segregated Assets shall not share in any investment experience of the other assets of the trust fund maintained for the Gould Pension Plans. The composition of the assets to be transferred shall initially represent, as near as reasonably practicable, a fair cross section of the Gould Pension Plans assets.

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1.10.5 Administration Pending Transfer. Within ten(10) days following the Closing Date, Purchaser will furnish to Seller in writing the names and addresses of the "Plan Administrator" and "Named Fiduciaries" under the Purchaser's Pension Plan (as those terms are defined in the Employee Retirement Income Security Act of 1974 ("ERISA")). If requested by such Plan Administrator or other Named Fiduciaries Seller shall for a reasonable period of time act as agent for any or all of them, provided Purchaser pays Seller's reasonable expenses in so acting. The assets required to be transferred to the Purchaser's Pension Plan pursuant to Section 1.10.4 hereof shall, pending such transfer, be retained, held, invested and distributed under the respective trusts established under the Gould Pension Plans for the benefit of the Transferred Employees and the DCD Pensioners in accordance with the provisions of Section 1.10.4 and Exhibit 1.10.4 hereto, and Purchaser shall bear its share of the associated trustee and investment manager fees as reflected in the charges to the Master Trust for said purpose provided for in Exhibit 1.10.4 hereto. The Plan Administrator and Named Fiduciaries of the Gould Pension Plans shall cooperate in all respects with the Plan Administrator and Named Fiduciaries of the Purchaser's Pension Plan during the period pending such transfer. To the extent that the Plan Administrator and Named Fiduciaries of the Gould Pension Plans shall exercise authority with respect to such assets held pending such transfer, they shall act as fiduciaries with respect to the Purchaser's Pension Plan. The Plan Administrator and Named Fiduciaries of the Purchaser's Pension Plan shall, to the extent possessed of them, provide the Plan

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Administrator and Named Fiduciaries of the Gould Pension Plans with such information as the latter may reasonably require, pending the aforesaid transfer of assets, to exercise, in conformity with the provisions of ERISA, the authority allocated to them with respect to the Purchaser's Pension Plan and such assets, and Purchaser shall bear all reasonable costs and expenses associated with the supplying of such information. To the extent permitted by ERISA, Seller and its subsidiaries and the Plan Administrator and the Named Fiduciaries of the Gould Pension Plans shall have no liability or responsibility for any action of the Plan Administrator or the Named Fiduciaries of the Purchaser's Pension Plan in accordance with this Section 1.10.5, and Purchaser and the Plan Administrator and the Named Fiduciaries of the Purchaser's Pension Plan shall similarly have no liability or responsibility for any action of the Plan Administrator or the Named Fiduciaries of the Gould Pension Plan, except as provided in Section 1.10.6 below.

1.10.6 Indemnification by Purchaser. From and after the Closing Date in respect to the Transferred Employees and DCD Pensioners, Purchaser shall, and by its execution hereof Purchaser hereby does, assume and agree to hold Seller and its subsidiaries harmless against any and all liabilities and obligations of Seller and any of its subsidiaries arising (a) under the Gould Pension Plans with respect to benefit payments thereunder to be paid from and after the Closing Date, (b) by reason of following directions of the Plan Administrator or a Named Fiduciary of the Purchaser's Pension Plan, or the designation of an Investment Manager as provided in Section 1.10.4 above, or (c) by reason of a termination

of any Purchaser's Pension Plan. The aforesaid indemnification shall not pertain to any such liabilities or obligations which arise (i) as a result of any action or inaction of any party prior to the Closing Date except for the obligation to make payments pursuant to the terms of the Gould Pension Plans from and after the Closing Date, or (ii) a result of a willful failure to follow legitimate instructions of the Plan Administrator or a Named Fiduciary of the Purchaser's Pension Plan with respect to benefit payments while acting as their agent.

1.10.7 Provision by Purchaser of Welfare Benefits. Seller and Purchaser hereby agree that Purchaser will become an adopting employer pursuant to the terms of those employee welfare benefit plans and programs maintained by Seller as of the Closing Date which are designated on Exhibit 1.10.7 hereto, for the benefit of the Transferred Employees and DCD Pensioners, and appropriate dependents and survivors, for the period extending from the Closing Date until midnight March 31, 1983. Purchaser and the Transferred Employees and DCD Pensioners shall be entitled to participate in said plans and programs upon payment of the required insurance premiums therefor at the rates in existence on January 1, 1983, and according to the terms of said plans and programs as of said date. At the Closing Date, Purchaser shall furnish to Seller in writing the names and addresses of the "Plan Administrator" and any other "Named Fiduciaries" as it may deem appropriate for said plans and programs identified on Exhibit 1.10.7. If requested by such Plan Administrator or other Named Fiduciaries, Seller shall act for a reasonable period of time as agent for such Plan Administrator and

Named Fiduciaries, provided Seller's reasonable expenses as such agent are paid by Purchaser. On October 31, 1983, Purchaser and Seller shall reconcile their claims experience pursuant to the plans identified in paragraph (a) of Exhibit 1.10.7; if claims and retention for the period from the Closing Date through March 31, 1983, exceed the premiums paid for the same date, Purchaser will pay Seller the amount of said excess, and if said claims and retention amount to less than said premiums, Seller shall pay Purchaser said difference.

Notwithstanding anything contained herein to the contrary Purchaser shall not be responsible for any benefits or claims which, by reason of events which shall have taken place prior to the Closing Date, have or shall become payable under the terms of any medical, dental, hospitalization, disability (including long-term disability), workers compensation, life insurance plan or other welfare benefit coverage, obligation or practice maintained by Seller for the Transferred Employees, DCD Pensioners, dependents and survivors, including the "runoff" appropriate to said claims as said term is understood in the insurance industry. Purchaser shall under no circumstances be responsible for any benefits or claims arising by reason of any events which took place before the Closing Date; if a claim results from an occurrence or condition the date of which cannot readily be identified or specified as having been prior to the Closing Date, Seller shall have no responsibility with regard thereto in any event unless a claim has been filed prior to August 1, 1983.

1.10.8 Pension Plan of I-T-E Industries. I-T-E Industries has heretofore established the I-T-E Industries Limited Retirement Plan. I-T-E Industries is hereinafter sometimes referred to as "Gould Canada". Such Plan, which is herein referred to as the "Gould Canada Pension Plan", is the only funded, defined benefit pension plan covering employees of the Purchased Division employed in Canada.

1.10.9 Adoption of Purchaser's Canadian Pension Plan. As soon as practicable after the Closing Date, but effective as of such date, Purchaser shall adopt and become plan sponsor of a pension plan (such plan being hereinafter referred to as the "Purchaser's Canadian Pension Plan"), providing benefits at least equal to those accrued benefits provided as of the Closing Date under the Gould Canada Pension Plan, for the employees of the Purchased Canadian Division as of the Closing Date who become employees of Purchaser as of said date ("Transferred Canadian Employees"). All of the accrued benefits of Transferred Canadian Employees under the Gould Canada Pension Plan as of the Closing Date shall be continued and provided for under the Purchaser's Canadian Pension Plan, and to the further effect that no interruption, for pension plan purposes, in either participation, benefit accrual or vesting service shall be deemed to have occurred by reason of the change in employment contemplated under this Agreement. As soon as practicable after adoption of the Purchaser's Canadian Pension Plan, Purchaser shall make application for determination letters of the Department of National Revenue ("Revenue Canada") and the Pension Commission of Ontario (the "Commission") finding the Purchaser's Canadian Pension Plan to be

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registered and/or approved as meeting the requirements of Section 248 of the Income Tax Act (Canada) and of the Pension Benefits Act of Ontario (herein collectively referred to as the "Applicable Statutes").

1.10.10 Amendment of Gould Canada Pension Plan. As soon as practicable after the Closing Date, Gould Canada shall (a) make such amendments to the Gould Canada Pension Plan and any related trust agreement or insurance contract that may be necessary to permit that portion of the Gould Canada Pension Plan assets which are allocated to the Transferred Canadian Employees (in accordance with Section 1.10.11) to be transferred to the trustee or other funding agent for the Purchaser's Canadian Pension Plan; and (b) make application for determination letters of Revenue Canada and the Commission finding such amendments not to affect adversely the registered status of the Gould Canada Pension Plan under the Applicable Statutes and approving such transfers.

1.10.11 Transfer of Canadian Assets. As soon as practicable after Purchaser has delivered to Gould Canada copies of the determination letters referred to in Section 1.10.9 hereof, and Gould Canada has delivered to Purchaser copies of the documents referred to in Sections 1.10.10(a) and (b) hereof, Gould Canada shall cause to be transferred to the Purchaser's Canadian Pension Plan an amount of assets of the Gould Canada Pension Plan equal to the actuarial present value of the Transferred Canadian Employees' accrued benefits under the Gould Canada Pension Plan as of January 1, 1983, determined using the assumption used to calculate the pension expense reflected in the latest actuarial valuation report

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for said plan as filed with the applicable Provincial authority, and adjusted to reflect on a prorated basis investment performance and related expenses between December 31, 1982 and the asset transfer date, provided, that the amount so determined or the amount so transferred shall be adjusted as may be required by the Commission or Revenue Canada. In the event that any such adjustment takes place after the transfer of assets contemplated hereby, such adjustment shall be effected by transfer of assets between the Gould Canada Pension Plan and the Purchaser's Canadian Pension Plan.

Gould Canada will provide Purchaser with a list of Transferred Canadian Employees and a calculation and a statement of their accrued benefits for each employee as of the Closing Date.

Gould Canada will cause to be contributed to the Gould Canada Pension Plan and transferred from said Plan to the Purchaser's Canadian Pension Plan an amount equal to the contribution required to the Gould Canada Pension Plan for the Transferred Canadian Employees for the period from December 31, 1982, until the Closing Date. Said contribution shall be made and transferred no later than the time of transfer of all assets provided for in this Section 1.10.11.

1.10.12 Administration Pending Transfer of Canadian Assets. Within ten (10) days following the Closing Date, Purchaser will furnish to Gould Canada in writing the names and addresses of the person(s) who will be responsible for the administration of the Purchaser's Canadian Pension Plan (the "Plan Administrator"). If requested by such Plan Administrator Gould Canada shall for a reasonable period of time act as agent for the Plan Administrator,

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provided Purchaser pays Gould Canada reasonable expenses in so acting. The assets required to be transferred to the Purchaser's Canadian Pension Plan pursuant to Section 1.10.11 hereof shall, pending such transfer, be retained, held, invested and distributed under the insurance company contracts for the Gould Canada Pension Plan for the benefit of the Transferred Canadian Employees, and Purchaser shall bear its share of the associated contract charge and fees from the Closing Date until the date of transfer. The plan administrators of the Gould Canada Pension Plan shall cooperate in all respects with the Plan Administrator of the Purchaser's Canadian Pension Plan during the period pending such transfer. To the extent that the administrators of the Gould Canada Pension Plan shall exercise authority with respect to such assets held pending such transfer, they shall act as fiduciaries with respect to the Purchaser's Canadian Pension Plan. The administrators of Purchaser's Canadian Pension Plans shall, to the extent possessed by them, provide the Plan Administrator of the Gould Canada Pension Plan with such information as the latter may reasonably require, pending the aforesaid transfer of assets, to exercise, in conformity with applicable law, the authority allocated to them with respect to the Purchaser's Canadian Pension Plan and such assets, and Purchaser shall bear all reasonable costs and expenses associated with the supplying of such information. To the extent permitted by applicable law, Gould Canada and the administrators of the Gould Canada Pension Plan shall have no liability or responsibility for any action of the Plan Administrator or of the Purchaser's Canadian Pension Plan in accordance with this Section 1.10.12, and Purchaser

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and the Administrators of the Purchaser's Canadian Pension Plan shall similarly have no liability or responsibility for any action of Gould Canada or the Administrators of the Gould Canada Pension Plan, except as provided in Section 1.10.13.

1.10.13 Indemnification by Purchaser. From and after the Closing Date in respect to the Transferred Canadian Employees, Purchaser shall, and by its execution hereof Purchaser hereby does, assume and agree to hold Gould Canada harmless against any and all liabilities and obligations of Gould Canada arising (a) under the Gould Canada Pension Plan with respect to benefits thereunder to be paid from and after the Closing Date, (b) by reason of following directions of the Plan Administrator of the Purchaser's Canadian Pension Plan. The aforesaid indemnification shall not pertain to any such liabilities or obligations which arise (i) as a result of any action or inaction of any party prior to the Closing Date, except for the obligation to make payments pursuant to the terms of the Gould Canada Pension Plan from and after said date of transfer, or (ii) as a result of a willful failure to follow legitimate instructions of the Plan Administrator of the Purchaser's Canadian Pension Plan with respect to benefit payments, while acting as its agent.

1.10.14 Provision by Purchaser of Canada Welfare Benefits. Gould Canada and Purchaser hereby agree that Purchaser will become an adopting employer pursuant to the terms of certain employee welfare benefit plans and programs maintained by Gould Canada as of the Closing Date for the benefit of the Transferred Canadian Employees and dependents, for the period extending from the

Closing Date until midnight March 31, 1983. Purchaser and the Transferred Canadian Employees shall be entitled to participate in said plans and programs upon payment of the required insurance premiums therefor at the rates in existence on January 1, 1983, and according to the terms of said plans and programs as of said date. At the Closing Date, Purchaser shall furnish to Gould Canada in writing the names and addresses of the "Plan Administrator" and any other "Named Fiduciaries" as it may deem appropriate for said plans and programs. If requested by such Plan Administrator or other Named Fiduciaries, Gould Canada shall act for a reasonable period of time as agent for such Plan Administrator and Named Fiduciaries, provided Seller's reasonable expenses as such agent are paid by Purchaser. On October 31, 1983, Purchaser and Gould Canada shall reconcile their claims experience pursuant to the plans assumed by Purchaser; if claims and retention for the period from the Closing Date through March 31, 1983, exceed the premiums paid for the same date, Purchaser will pay Gould Canada the amount of said excess, and if said claims and retention amount to less than said premiums, Gould Canada shall pay Purchaser said difference.

Notwithstanding anything contained herein to the contrary Purchaser shall not be responsible for any benefits or claims which, by reason of events which shall have taken place prior to the Closing Date, have or shall become payable under the terms of any medical, dental, hospitalization, disability (including long-term disability), workers compensation, life insurance plan or other welfare benefit coverage, obligation or practice maintained by Gould Canada for the Transferred Canadian Employees, dependents or

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survivors, including the "runoff" appropriate to said claims as said term is understood in the insurance industry. Purchaser shall under no circumstances be responsible for any benefits or claims arising by reason of any events which took place before the Closing Date; if a claim results from an occurrence or condition the date of which cannot readily be identified or specified as having been prior to the Closing Date, Gould Canada shall have no responsibility with regard thereto in any event unless a claim has been filed prior to August 1, 1983.

1.10.15 No Third Party Rights. Notwithstanding anything contained in this Agreement to the contrary, no employee, former employee, pensioner or beneficiary shall be deemed to have any third party beneficiary or other rights arising from the agreements or representations of the parties hereto.

1.11 Covenant Not to Compete. The Seller covenants to execute and deliver at the Closing a Covenant Not to Compete in the form attached hereto as Exhibit 1.11.

1.12 Supply Contract. The parties covenant and agree to execute and deliver at the Closing an agreement in the form of Exhibit 1.12 hereto concerning the manufacture and sale to Purchaser of commercial and industrial molded case circuit breakers and/or parts of a type presently being manufactured by Seller at its Philadelphia, Pennsylvania (Erie Avenue) plant (the "Philadelphia Plant").

1.13 Intracompany Goods and Services. Exhibit 1.13 sets forth certain agreements to be executed by Purchaser and Seller at the Closing on the Closing Date concerning the furnishing of goods,

services and leases between Seller, its subsidiaries and affiliates on one hand, and the Purchased Division and Purchaser, on the other hand.

1.14 Collections. Purchaser shall use its best efforts during the Collection Period (as hereinafter defined) to collect any account receivable sold hereby when due, but shall be under no obligation whatsoever to institute any collection procedures or suits for the collection of any account receivable sold hereby. Seller will reimburse Purchaser pursuant to Section 1.3.6 hereof for any collection costs other than normal collection costs (which normal collection costs include, but are not limited to, salaries for Purchaser's collection personnel and Purchaser's normal operating expenses of its collection department) reasonably incurred in connection with Purchaser's efforts to collect any account receivable sold hereby, including legal and outside collection costs and all concessions reasonably given (as to concessions in excess of $1,000, given in consultation with Seller consistent with the past practices of the Purchased Division) to customers in order to collect such receivables in the form of goods, credits or other rebates. As used herein the term "Collection Period", with respect to any account receivable sold hereby, shall mean the period of time from the Closing Date until the account receivable is collected or returned to Seller pursuant to the terms of Section 1.3.6 hereof, but in no event later than one hundred fifty (150) days following the Closing Date. As used herein the term "Guaranteed Receivables" shall mean and include all of the accounts receivables purchased by Purchaser from Seller as a portion of the

Purchased Assets. Seller hereby guarantees to Purchaser the payment of ninety-eight percent (98%) of the full face amount of each of the Guaranteed Receivables. Commencing on the ninetieth (90th) day following the Closing Date and continuing thereafter until the end of the Collection Period, Purchaser may at any time and from time to time return to Seller all or any portion of the Guaranteed Receivables remaining unpaid at the time of such return and Seller shall promptly pay Purchaser ninety-eight (98%) percent of the unpaid balance of each Guaranteed Receivable returned to Seller. Purchaser shall return such Guaranteed Receivables to Seller by written reassignment thereof, without recourse against Purchaser, and by returning the files and records relating to such Guaranteed Receivables. Payments received from a customer shall be applied by Purchaser to the specific receivable for which such payment is received and in accordance with the prior practices of the Division.

1.15 Consents. From the date hereof, Seller and Purchaser agree to use their best efforts to obtain the necessary consent of any third party to the transactions contemplated hereby, the failure of which to obtain would have a material adverse effect on the ongoing business of the Purchased Division. If such consent is not obtained by such date, any such claim, contract, license, permit, lease, commitment, sales order or purchase order shall be deemed to be excluded from the definition of Purchased Assets hereunder, and Seller agrees to cooperate with Purchaser in any reasonable arrangement designed to obtain such consent and to provide for Purchaser the benefits under any such claim, contract, license, permit, lease, commitment, sales order or purchase order,

including enforcement for the account of Purchaser after the Closing Date of any and all rights of Seller against the other party thereto arising out of the breach or cancellation thereof by such other party or otherwise. The best efforts of Purchaser hereunder shall include, without limitation, entering into such guarantees and other agreements and obtaining such letters of credit or other surety devices in favor of the obligees of any liabilities assumed by Purchaser hereunder as may be required by any such obligee to release Seller upon the Closing Date from any continuing liability with respect to such liabilities. If Purchaser incurs any reasonable out-of-pocket expenses in exercising such best efforts the parties shall agree on whether and to what extent the parties should share the same. In the event that Seller is unable by July 31, 1983, to obtain all such consents, the parties shall agree on whether and to what extent a reduction of the Purchase Price is appropriate.

1.16 Purchaser Cooperation in Defense of Claims and Litigation. Seller and Purchaser agree that after the Closing they shall cooperate and make available, each to the other, all books and records and such officers, employees and agents as may be reasonably necessary and useful in connection with the prosecution or defense of any claims and litigation relating to the Division including the collection of the accounts receivable set forth on Exhibit 1.1.11 hereto. The party to whom such cooperation is provided shall pay the out-of-pocket costs and expenses (including any legal fees and disbursements agreed upon by Seller and Purchaser) of the party providing such cooperation and of its officers, employees and agents

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reasonably incurred in connection with providing such cooperation, but shall not be responsible to reimburse the party providing such cooperation for such party's time or the salaries or costs of fringe benefits or other similar expenses paid by the party providing such cooperation to its officers, employees and agents in connection therewith.

II. REPRESENTATIONS AND WARRANTIES OF SELLER.

Seller represents and warrants to Purchaser as follows:

2.1 Organization and Standing. Seller is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and has the power and authority to carry on its business as is now being conducted and to own and lease the properties and assets which it now owns or leases. Seller is duly licensed or qualified and in good standing as a foreign corporation in each state where the failure to so qualify would have a material adverse effect on the business of the Purchased Division, except Gould leases real property in the states of Idaho, Maine, South Dakota and Wyoming and is not qualified to do business in such states as a foreign corporation.

2.2 Corporate Power and Authority. Seller has the power, capacity and authority to execute and deliver this Agreement, to perform hereunder, and to consummate the transactions described herein. The execution, delivery and performance of this Agreement has been duly and validly authorized and approved by the Board of Directors of Seller and Seller has taken all action required by law, its Articles of Incorporation, Bylaws or otherwise to authorize such

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execution, delivery and performance. This Agreement and each and every agreement, document and instrument to be executed, delivered and performed by Seller in connection herewith, constitutes or will, when executed and delivered, constitute the valid and legally binding obligations of Seller, enforceable against it in accordance with their respective terms, except as enforceability may be limited by (a) bankruptcy or similar laws from time to time in effect affecting the enforcement of creditors' rights; or (b) the availability of equitable remedies generally.

2.3 Agreement Does Not Violate Other Instruments. Except as listed in Exhibit 2.3, the execution and delivery of this Agreement by Seller do not, and the consummation of the transactions contemplated hereby will not, violate any provision of the Articles of Incorporation or Bylaws of Seller, or violate or constitute an occurrence of default (which violations or defaults either singularly or in the aggregate would be considered material) under any provision of, or conflict with, or result in acceleration of any obligation under, or give rise to a right by any party to terminate its obligations under, any mortgage, deed of trust, conveyance to secure debt, note, loan, lien, lease, agreement, instrument, order, judgment, decree or other arrangement, to which Seller is a party or by which it is bound and by which the Purchased Assets are materially affected.

2.4 Absence of Equity Investments. Other than (a) the investments referred to in Sections 1.1.3 and 1.1.4 hereof and (b) the ownership and operation of the Navy Business and the Industrial Controls Division ("ICD Business"), the Seller, directly or

indirectly, does not own any beneficial interest in any shares or other equity interest in any corporation, partnership, limited partnership, joint venture, trust or other business entity, the business of which is competitive with that of the Division.

2.5 Title to Property and Assets. A description of all real property owned by the Seller as a part of the Purchased Division and constituting Purchased Assets is set forth on Exhibit 2.5-A attached hereto. Except as set forth in said Exhibit 2.5-B the Seller has good and marketable title to all of the Purchased Assets, subject to no mortgage, pledge, lien, security interest, lease, charge, encumbrance or conditional sale or other title retention agreement except for such imperfections of title, liens, easements or encumbrances, if any, as are not substantial in character, amount or extent and do not, severally or in the aggregate, materially detract from the value or interfere with the present or proposed use of the property subject thereto or affected thereby or otherwise materially impair the business and operations of the Purchased Division. At the Closing, Seller shall at its expense provide (a) current surveys and owner's title insurance binders or policies in favor of Purchaser for the real estate owned by Seller; and (b) leasehold title insurance binders or policies in favor of Purchaser for real estate leased by Seller set forth and described on Exhibit 2.5.-C attached hereto in form and amount, and issued by insurance carriers as the parties hereto may agree.

2.6 Leases. A list and brief description of all leases of real property which require annual rentals in excess of $50,000 or having remaining terms (excluding tenant renewal options) in

excess of two (2) years, to which the Seller is a party, either as lessor or lessee with respect to the business of the Purchased Division, are set forth in Exhibit 2.6. All such leases are in good standing, valid and effective in accordance with their respective terms, and there are no existing defaults or events of default or events which with notice or lapse of time or both would constitute defaults, the consequences of which in the aggregate would have a material adverse effect on the Purchased Assets or the operations of the Division. Except as set forth in said Exhibit 2.6, the Seller has received no written notice of any claimed default with respect to any such lease.

2.7 Condition of Property. Except as set forth on Exhibit 2.7 hereto, the plants, structures and equipment constituting the Purchased Assets are in all material respects in good operating condition and repair for the purposes for which they are used, subject only to ordinary wear and tear. The inventory of unfinished materials reflected on the 1982 Financial Statement is useable and the inventory of finished goods reflected on the 1982 Financial Statement is saleable in the ordinary course of business of the Division, except to the extent of any reserves provided therefor in the 1982 Financial Statement.

2.8 Insurance. All the insurable properties of the Purchased Division are insured for the benefit of the Seller in amounts and against all risks usually insured against by persons operating similar properties in the localities where such properties are located, under valid and enforceable policies issued by insurers of recognized responsibility. In the event an insured

loss shall occur with respect to any of the Purchased Assets between January 1, 1983, and the Closing Date, Seller shall transfer and assign to Purchaser all of the insurance proceeds with respect to such loss, but no adjustment to the January Financial Statement shall be made as a result of any such insured loss.

2.9 Plan and Expenditures. Attached hereto as Exhibit 2.9 is the Annual Business Plan of the Division for 1983, which was prepared on a basis consistent with the preparation of previous plans of that nature and in contemplation of its use in measuring the performance of, and setting compensation levels for, managers of the Division, and not in contemplation of this sale. As of the date hereof no capital expenditures over $250,000 are anticipated during 1983 for the Purchased Division except as set forth in that Exhibit 2.9.

2.10 Liabilities and Obligations of Seller.

2.10.1 The 1982 Financial Statement will present completely and fairly the financial condition of the Purchased Division as of the date thereof, and will disclose all liabilities of Seller relating to the Purchased Division, whether absolute, contingent, accrued or otherwise, existing as of the date thereof which are of a nature required to be reflected in financial statements prepared in accordance with generally accepted accounting principles consistently applied, except as contemplated by this Agreement the 1982 Financial Statement may include the Financial Statement Adjustments.

2.10.2 Seller with respect to the Purchased Division has no liabilities or obligations (whether accrued,

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absolute, contingent or otherwise) which are of a nature required to be reflected in financial statements prepared in accordance with generally accepted accounting principles consistently applied and which are to be assumed by Purchaser, including, without limitation, any liability which might result from an audit of its tax returns by any appropriate authority, except for (a) the liabilities and obligations of Seller disclosed or expressly reserved against in the 1982 Financial Statement or in Exhibit 2.10 hereto, to the extent and in the amounts so disclosed or reserved against, (b) the Financial Statement Adjustments, and (c) liabilities incurred or accrued in the ordinary course of business since December 31, 1982, which do not, either individually or in the aggregate, have a materially adverse effect on the Purchased Assets or the operations of the Purchased Division.

2.10.3 Seller is not in default with respect to any material liabilities or obligations to be assumed by Purchaser, and all liabilities or obligations of Seller shown or reflected in the 1982 Unaudited Financial Statement or Exhibit 2.10 and any material liabilities incurred or accrued subsequent to December 31, 1982 to be assumed by Purchaser have been paid, or are being paid prior to the date on which nonpayment may constitute a material default, and all such liabilities and obligations were incurred in the ordinary course of business except as indicated on the 1982 Unaudited Financial Statement or Exhibit 2.10.

2.10.4. Except as set forth in Exhibit 2.10, and except for normal product warranty claims which may be in excess of the Product Warranty Reserve the Seller does not know or have

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reasonable grounds to know of any basis for assertion against Seller of any material claim or liability of any nature with respect to the Purchased Division which are to be assumed by Purchaser in any amount not fully reflected or reserved against in the 1982 Unaudited Financial Statement, including the notes thereto, of a nature required to be disclosed therein.

2.11 Litigation. Except to the extent set forth in Exhibit 2.11 hereto, there is no pending suit, action or litigation, administrative, arbitration or other proceeding or governmental investigation or inquiry with respect to the Purchased Assets or the operations of the Purchased Division.

2.12 Material Contracts, Etc. Except for contracts, agreements, commitments and leases which require payments by Seller of less than $50,000 over a period not to exceed one year from the Closing Date or $100,000 over the remaining term thereof, Exhibit 2.12 attached hereto is a true and complete list of material agreements, material commitments and other material instruments to which Seller is a party which may affect the Purchased Assets or operations of the Purchased Division. All agreements between (a) Seller and BBE or any of its subsidiaries or affiliates; or (b) between the Purchased Division and any other division or operation of Seller, which may affect the Purchased Assets or the operations of the Purchased Division, are hereby deemed material. Except as set forth in Exhibit 2.12, Seller is not a party or subject to, whether in oral or written form, any of the following which relate to or affect the Purchased Assets or the operations of the Purchased Division:

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2.12.1 Any agreement, commitment or instrument, the consummation or performance of which would have a materially adverse impact thereon;

2.12.2 Any employment agreement for any present or former employee of the Purchased Division which is not terminable by the Purchased Division within thirty (30) days without payment of any amount for any reason whatsoever, or which requires any continuing payment of any type or nature, including, without limitation, any vested commissions;

2.12.3 Any plan, contract or commitment providing for bonuses, insurance, profit sharing, pensions, deferred compensation, medical reimbursements or other benefits for officers or key salaried employees of the Purchased Division which are not generally available to all employees of the Purchased Division;

2.12.4 Any agreement, commitment or instrument restricting Seller from carrying on the operations of the Purchased Division anywhere in the world;

2.12.5 Any agreement, commitment or instrument evidencing or related to indebtedness for money borrowed or to be borrowed in excess of $10,000, whether directly or indirectly, by way of purchase money obligation, guaranty, subordination, conditional sale, lease-purchase, or otherwise;

2.12.6 Any agreement, commitment or instrument with any outside consultant;

2.12.7 Any agreement, commitment or instrument with any labor organization;

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2.12.8 Any transferable permit, license, order or written approval of any Federal, State, or local regulatory agency which is required to conduct its business and which the failure to obtain would have a material adverse effect on the Purchased Assets or operations of the Purchased Division; or

2.12.9 Any agreement, commitment or instrument, not of the type covered by any of the other items of this Section 2.12, which is not in the ordinary course of business thereof or which has material adverse consequences thereto; or

2.12.10 Any 800 amp circuit breaker supply agreement of any nature, other than the agreement with Terasaki Electric Company, Ltd., dated September 30, 1982.

All of the agreements, commitments and instruments described in Exhibit 2.12 hereto are valid and binding upon the parties thereto and are in full force and effect, and neither Seller nor any other party to any such contract, commitment or arrangement has breached any material provision of, or is in default in any material respect under, the terms thereof.

2.13 Governmental Regulation. Except as fully described in Exhibit 2.13 attached hereto, Seller has not received, or has not failed to comply with, any written notice of violation of any applicable zoning, employee safety (including OSHA), environmental or other statute, law, ordinance, rule, regulation or order relating to the Purchased Assets or the operations of the Purchased Division, whether owned or leased; there is presently no such violation or grounds therefor which could materially and adversely affect the Purchased Assets or the operations of the Purchased Division; and no

hazardous wastes (as defined by 40 CFR 261.3) have been or are stored in, or have leached or drained into, the ground or water on, under or adjacent to any of the properties, whether owned or leased, used in the operations of the Purchased Division.

2.14 Licenses and Permits; Compliance With Law. Seller holds all material licenses, certificates, permits, franchises and rights from all appropriate federal, state, county, municipal or other public authorities necessary for the conduct of the operations of the Purchased Division and the use of the Purchased Assets in such operations, and, except as disclosed on Exhibit 2.14 hereto, neither the execution nor delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will result in the termination of any license, certificate, permit, franchise or right held by Seller where such termination alone or together with other terminations would have a material adverse affect on the Purchased Assets or on the operations of the Purchased Division. Except as noted in Exhibit 2.14, Seller is presently conducting the operations of the Purchased Division so as to comply in all respects with all applicable federal, state, county, municipal or other public authority's statutes, laws, ordinances, rules, regulations and orders to the extent the failure to do so alone or in the aggregate with other such failures would have a material adverse affect on the Purchased Assets or the operations of the Purchased Division. Except as set forth on Exhibit 2.14, Seller is not presently charged with, nor, to the knowledge of Seller, under governmental investigation or the subject of any threatened adverse proceeding, with respect to any violation of any environmental, zoning or building statute law,

ordinance, rule, regulation or order, or any other statute, ordinance, rule, regulation or order, which might, severally or in the aggregate, materially and adversely affect the financial condition, business, property, assets or prospects of the Purchased Assets or the operations of the Purchased Division.

2.16 UL and CSA Approvals. Seller has properly obtained from Underwriters Laboratories and CSA all of their recognitions, listings and approvals of all of the Purchased Division's products (i) which bear indicia of such recognition, listing or approval, or (ii) for which such recognition, listing or approval may be given in accordance with the regular practices of Underwriters Laboratories and CSA. Following the Closing Date Seller will cooperate with and assist Purchaser in obtaining the full benefits of such UL and CSA recognitions, listings and approvals.

2.17 Trademarks, Copyrights, Patents, Licenses, etc. Except as listed on Exhibit 2.17 hereto, Seller owns or possesses the right to use all Intellectual Property necessary for the conduct of the operations of the Purchased Division as now conducted and as proposed to be conducted by Seller, without any known material conflict with the rights of others, and Seller has received no written or formal notice of any claimed conflict with respect to any of the foregoing and Seller's legal department is not aware of any claimed conflict.

2.18 Labor Matters. Except as set forth on Exhibit 2.18, within the last three (3) years, the Purchased Division has not been the subject of any labor dispute which affects more than five percent (5%) of the employees at any one plant, office or other

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location of the Purchased Division, or of any strike of any kind called or threatened; and except as set forth on Exhibit 2.18 Seller has not violated any applicable federal or state laws or regulations relating to labor or labor practices to the extent any such violation alone or in the aggregate with other such violations would have a material adverse affect on the Purchased Assets or the operations of the Purchased Division.

2.19 Benefit Plans. The employee benefit plans, commitments and agreements described in Exhibit 2.19 hereto are the only employee benefit plans, commitments or agreements maintained by Seller for the benefit of the employees of the Purchased Division. There are no due and unpaid contributions or payments with respect to such plans, commitments or agreements, nor will any such contributions or payments be due or required to be paid on or prior to the Closing Date. Seller is, with respect to such plans, commitments and agreements, to be assumed by Purchaser, in compliance in all respects with the presently applicable provisions of the Employee Retirement Income Security Act of 1974 ("ERISA") and other applicable laws, and no event which constitutes a reportable event as defined in Section 4043 of ERISA has occurred and is continuing with respect to any plan covered by ERISA in which employees of the Purchased Division participate or are eligible to participate and which is to be assumed by Purchaser.

2.20 Absence of Changes. Since December 31, 1982, Seller has not, with respect to the Purchased Assets and the operations of the Purchased Division, except as disclosed on Exhibit 2.20 attached hereto:

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2.20.1 Transferred, assigned or conveyed any of its material assets or business or entered into any material transaction or incurred any material liability or obligation, other than in the ordinary course of its business;

2.20.2 Suffered any material adverse change in its business, operations, or financial condition or become aware of any event which may result in any such material adverse change;

2.20.3 Suffered any material destruction, damage or loss, whether or not covered by insurance;

2.20.4 Suffered, permitted or incurred the imposition of any lien, charge, encumbrance (which as used herein includes, without limitation, any mortgage, deed of trust, conveyance to secure debt or security interest) or claim upon any of its properties or assets, except for (a) any current year lien with respect to personal or real property taxes not yet due and payable; and (b) for those permitted by Section 2.5 hereof;

2.20.5 Committed, suffered, permitted or incurred any default in any material liability or obligation;

2.20.6 Made or agreed to any material adverse change in the terms of any contract or instrument to which it is a party;

2.20.7 Waived, cancelled, sold or otherwise disposed of, other than in the ordinary course of business, for less than the face amount thereof, any claim or right it has against others;

2.20.8 Experienced any labor dispute or strike or engaged in any negotiation, or request for negotiation, for any labor contract; or

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2.20.9 Performed or committed, or agreed to perform or commit, any of the acts prohibited by Sections 1.4, 1.6, and 1.9 hereof;

2.20.10 Incurred any other material liability or obligation or entered into any transaction other than in the ordinary course of business, or which is extraordinary as compared to prior periods.

2.21 Brokers. All negotiations relative to this Agreement and the transactions contemplated hereby have been carried on without the intervention of any other person hired or contracted with by Seller in such manner as to give rise to any valid claim against Purchaser for a finder's fee, brokerage commission or other like payment by any broker, finder or agent of Seller.

2.22 Exhibits. All Exhibits attached hereto are, to the extent required by the applicable Section of this Agreement, true, correct and complete as of the date of this Agreement, and will be true, correct and complete as of the Closing, except to the extent that such Exhibits may be untrue, incorrect or incomplete due to changes occurring due to the operation of business in the ordinary course. Matters disclosed on each Exhibit shall be deemed disclosed for purposes only of that Exhibit, except to the extent of an expressed cross-reference.

2.23 Disclosure and Absence of Undisclosed Liabilities. No statement contained herein or in any certificate, schedule, list, exhibit or other instrument furnished to Purchaser at Closing pursuant to the provisions hereof contains or will contain any untrue statement of any material fact or omits or will omit to state

a material fact necessary in order to make the statement contained herein or therein not misleading.

III. REPRESENTATIONS AND WARRANTIES OF PURCHASER.

Purchaser represents and warrants to Seller as follows:

3.1 Organization and Standing. Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the state of its incorporation.

3.2 Corporate Power and Authority. Purchaser has the full corporate power and authority to execute and deliver this Agreement, to perform hereunder and consummate the transactions contemplated hereby. This Agreement, and each and every other agreement, document and instrument to be executed, delivered and performed in connection herewith, have been duly authorized and approved by all requisite corporate action of Purchaser, and this Agreement, and each and every other agreement, document and instrument provided for herein and to which Purchaser is a party, when executed and delivered, will constitute the valid and binding obligation of Purchaser, enforceable against it in accordance with its terms, except as enforceability may be limited by (a) bankruptcy or similar laws from time to time in effect affecting the enforcement of creditors' rights generally, or (b) the availability of equitable remedies generally.

3.3 Agreement Does Not Violate Other Instruments. The execution and delivery of this Agreement by Purchaser do not, and the consummation of the transactions contemplated thereby will not, violate any provisions of the Articles of Incorporation or Bylaws of

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Purchaser, or violate or constitute an occurrence of default (which violations or defaults either singularly or in the aggregate would be considered material) under any provision of, or conflict with, or result in acceleration of any obligation under, or give rise to a right by any party to terminate its obligations under, any mortgage, deed of trust, conveyance to secure debt, note, loan, lien, lease, agreement, instrument, order, judgment, decree or other material arrangement to which Purchaser is a party or by which it is bound or its assets materially affected.

3.4 Brokers. All negotiations relative to this Agreement and the transactions contemplated hereby have been carried on without the intervention of any person hired or contracted with by Purchaser in such manner as to give rise to any valid calim against the Seller for a finder's fee, brokerage commission or other like payment by any broker, finder or agent of Purchaser.

IV. CONDITIONS PRECEDENT TO OBLIGATIONS OF PURCHASER.

The obligation of Purchaser to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction, on or before the Closing hereunder, of each and every one of the following conditions, all or any of which may be waived, in whole or in part, by Purchaser for purposes of consummating such transactions, but without prejudice to any other right or remedy which Purchaser may have hereunder as a result of any misrepresentations by, or breach of any covenant or warranty of, Seller contained in this Agreement or any other certificate or instrument furnished by Seller hereunder.

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4.1 Representations True at Closing. The representations and warranties made by Seller in this Agreement, the Exhibits hereto and any document or instrument delivered to Purchaser at Closing hereunder and specifically referred to herein shall be true and correct in all material respects on the Closing Date hereunder with the same force and effect as though such representations and warranties had been made on and as of such time (except for changes contemplated by this Agreement or occurring in the ordinary course of business.)

4.2 Covenants of Seller. Seller shall have duly performed all of the covenants, acts and undertakings to be performed by it hereunder on or prior to the Closing Date, and the President or any Vice President of Seller shall deliver to Purchaser a certificate in form and substance satisfactory to Purchaser dated as of the Closing Date certifying to the fulfillment of this condition and the condition set forth in Section 4.1 hereof.

4.3 No Injunction, Etc. No action, proceeding, investigation, regulation or legislation shall have been instituted, threatened or proposed before any court, governmental agency or legislative body to enjoin, restrain, prohibit or obtain substantial damages in respect of, or which is related to, or arises out of, this Agreement or the consummation of the transactions contemplated hereby, or which is related to or arises out of the business of the Purchased Division, if such action, proceeding, investigation, regulation or legislation, in the reasonable judgment of Purchaser, would make it inadvisable to consummate such transactions.

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4.4 Consents and Waivers. Purchaser shall have received from Seller a true and correct copy of the consent or waiver of each person the failure of which to obtain would have a material adverse effect on the continued operations of the Purchased Division.

4.5 Absence of Adverse Changes. Since December 31, 1982, Seller shall not have suffered (a) any change in its financial condition, business, property or assets which materially and adversely affects the Purchased Assets or operations of the Purchased Division, or (b) any transaction or event described in Section 2.20 hereof which is not described in Exhibit 2.20 hereto.

4.6 Opinion of Counsel. Messrs. Winston & Strawn, counsel for the Seller shall have delivered to the Purchaser an opinion, dated the date of the Closing, in form and substance satisfactory to Messrs. Hansell, Post, Brandon & Dorsey, counsel to the Purchaser, to the following effect:

4.6.1 Seller (a) is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and (b) has all requisite power and authority to own its properties and assets and to carry on its business as now being conducted.

4.6.2 Seller has all requisite power to execute and perform the Agreement.

4.6.3 The execution, delivery and performance by the Seller of this Agreement (a) have been duly authorized by all necessary corporate action of the Seller, (b) do not violate any provision of law or the Articles of Incorporation or By-laws of the Seller and (c) will not result in a breach of, or constitute a

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default under, any indenture, loan agreement or other instrument pursuant to which Seller has borrowed money and of which such counsel has knowledge and to which Seller is a party or by which of any Seller's properties or assets are bound.

4.6.4 This Agreement has been duly executed and delivered by the Seller. Assuming due execution by the Purchaser, this Agreement constitutes the valid and binding obligation of the parties thereto in accordance with their terms except as enforceability may be limited by (a) bankruptcy or similar laws from time to time in effect affecting the enforcement of creditors' rights, and (b) the availability of equitable remedies generally.

4.6.5 All consents required of any governmental authority to execute, deliver or perform this Agreement have been obtained, except: (a) as contemplated by Section 1.3.7 of this Agreement; and (b) for any consents required to transfer the licenses, permits and franchises set forth on Exhibit 2.14 which have not been obtained.

4.6.6 Each of the instruments delivered by the Seller to the Purchaser in conveyance and assignment of the Purchased Assets or any of them has been duly authorized, executed, and delivered by the Seller.

4.6.7 To the best of their knowledge, there are no actions, suits or proceedings at law or in equity or by or before any governmental instrumentality or other agency now pending, or threatened against or affecting, the Purchased Assets or the business of the Purchased Division, except as set forth in Exhibit 2.11 to the Agreement.

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4.6.8 To the best of their knowledge, with respect to the Purchased Assets or the business of the Purchased Division, the Seller is not in default with respect to any judgment, writ, injunction, or decree of any court or governmental agency.

4.6.9 In giving such opinion such counsel may rely, as to matters of fact, upon certificates of officers of the Seller and, as to matters governed by the laws of any jurisdiction, upon the opinion of local counsel satisfactory to the Purchaser, provided that such counsel shall state that they believe that they are justified in relying upon such certificates and opinions of local counsel and deliver copies thereof to the Purchaser prior to the Closing.

4.7 Required Governmental Consents. The Purchaser and Seller shall have received all consents, permits and approvals required of any governmental body or authority, Federal, state or local, within or outside of the United States, necessary to consummate the transactions or hold the Purchased Assets described herein except as contemplated by Section 1.3.7 and for any consents to the transfer of immaterial licenses, permits or franchises.

4.8 Premerger Notification. The waiting period for premerger notification, and any extension thereof, under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 shall have expired.

V. CONDITIONS PRECEDENT TO THE OBLIGATIONS OF SELLER TO CLOSE

The obligation of Seller to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction,

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on or before the Closing Date hereunder, of each and every one of the following conditions, all or any of which may be waived, in whole or in part, by Seller, but without prejudice to any other right or remedy which Seller may have hereunder as a result of any misrepresentation by, or breach of any covenant or warranty of, Purchaser contained in this Agreement, or any certificate or instrument furnished by any of such entities hereunder.

5.1 Representations True at Closing. The representations and warranties made by Purchaser in this Agreement or any document or instrument delivered to Seller at Closing hereunder shall be true and correct in all material respects on the Closing Date hereunder with the same force and effect as though such representations and warranties had been made on and as of such date, except for changes contemplated by this Agreement.

5.2 Covenants of Purchaser. Purchaser shall have duly performed all of the covenants, acts and undertakings to be performed by it hereunder on or prior to the Closing Date, and a duly elected officer of Purchaser shall deliver to Seller a certificate dated as of the Closing Date certifying to the fulfillment of this condition and the condition set forth under Section 5.1 above.

5.3 No Injunction, Etc. No action, proceeding, investigation, regulation or legislation shall have been instituted, threatened or proposed before any court, governmental agency or legislative body to enjoin, restrain, prohibit, or obtain substantial damages in respect of, or which is related to, or arises out of, this Agreement or the consummation of the transactions contemplated hereby, or which is related to or arises out of the

business of Purchaser, if such action, proceedings investigation, regulation or legislation, in the reasonable judgment of Seller would make it inadvisable to consummate such transactions.

5.4 Opinion of Counsel. Messrs. Hansell, Post, Brandon & Dorsey, counsel to the Purchaser, shall have delivered to Seller an opinion, dated the date of the Closing, in form and substance satisfactory to Messrs. Winston & Strawn, counsel for Seller, to the following effect:

5.4.1 The Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the state of its incorporation with all requisite corporate power and authority to own, operate and lease its property and assets.

5.4.2 The Purchaser has corporate power and authority to execute and deliver this Agreement, and has taken all action required by law, its Certificate of Incorporation, By-laws or otherwise to authorize such execution and delivery and to consummate the acquisition contemplated hereby.

5.4.3 The execution, delivery and performance by the Purchaser of this Agreement (a) have been duly authorized by all necessary corporate action of the Purchaser, (b) do not violate any provision of law or the Articles of Incorporation or By-Laws of the Purchaser or any subsidiary of any Purchaser, and (c) to the best of their knowledge will not result in a breach in, or constitute a default under, any indenture, agreement or other instrument to which any Purchaser or any subsidiary of any Purchaser is a party or by which any Purchaser or any subsidiary of any Purchaser or any of their properties or assets are bound.

5.4.4 This Agreement and the assumption instrument referred to in Section 6.2.2 hereof are valid and binding obligations of the Purchaser in accordance with their respective terms except as enforceability may be limited by bankruptcy or similar laws from time to time in effect affecting the enforcement of creditors' rights or equitable remedies generally.

In giving such opinion such counsel may rely, as to Sections 5.4.1, 5.4.2 and 5.4.3. upon the opinion of William E. Beringer, General Counsel of the Purchaser.

VI. CLOSING

6.1 Time and Place of Closing. The closing of the transactions described herein (the "Closing") shall be held at the offices of Hansell, Post, Brandon & Dorsey, 56 Perimeter Center East, Atlanta, Georgia 30346, on January 31, 1983, commencing at 9:30 a.m. Eastern Time (the "Closing Date"), unless another date is agreed to in writing by the parties to this Agreement.

6.2 Instruments of Transfer; Payment of Purchase Price and Assumption of Liabilities; Further Assurances.

6.2.1 At the Closing Seller shall deliver to the Purchaser:

(a) Bills of sale, substantially in the form of Exhibit 6.2.1(a) attached hereto;

(b) An assignment of all leases relating to or constituting a part of the operations of the Division under which Seller is lessee, in the form of Exhibit 6.2.1(b) attached hereto;

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(c) A special warranty deed, in the form customarily used in commercial transactions in the area in which the real property is located, for each real property interest owned by Seller and constituting a part of the Purchased Assets;

(d) Checks or drafts for all funds of such Seller relating to or constituting a part of the business of the Purchased Division on deposit with banks or other persons and reflected on the 1982 Unaudited Financial Statement;

(e) Certificates representing all outstanding shares of stock of each subsidiary of the Seller constituting a part of the Purchased Division;

(f) Such other instrument or instruments of transfer as shall be necessary or appropriate to vest in the Purchaser good and marketable title of record to the Purchased Assets except for those matters excepted from the warranty made by Seller with respect thereto in accordance with the second sentence of Section 2.5 hereof;

(g) Certificate of the President or Vice President of Seller described in Section 4.2 hereof;

(h) Copies of the consents and waivers described in Section 4.4 hereof;

(i) Certificate of existence and good standing as of the most recent practicable date of Seller from the Secretary of State of Seller's state of incorporation and good standing as of the most recent practicable date of Seller from the respective Secretary of State or similar authorities of all states and countries within which Purchased Assets are located and where Seller is qualified;

(j) Executed Covenant Not to Compete in the form of Exhibit 1.11 attached hereto;

(k) Certified copies of the resolutions of the Seller's Board of Directors authorizing the transactions contemplated herein;

(l) Executed Supply Agreement in the form Exhibit 1.12 attached hereto;

(m) Executed Assignments of Trademarks and Trade Names in the form of Exhibit 1.2.1-B attached hereto;

(n) Executed Non-Exclusive License in the form of Exhibit 1.2.5 attached hereto;

(o) Executed Assignment of Patent Rights in the form of Exhibit 1.2.2 attached hereto;

(p) Executed Cross License of Patent Rights in the form of Exhibit 1.2.6 attached hereto;

(q) Executed Shared Use Agreements in the form of Exhibits 6.2.1(q) attached hereto;

(r) Surveys and title insurance policies required by Section 2.5 hereof;

(s) Opinion of counsel described in Section 4.6 hereof; and

(t) Such other evidence of the performance of all covenants and satisfaction of all conditions required by Seller by the Agreement at or prior to Closing, as Purchaser or its counsel may reasonably require.

6.2.2 At the Closing, the Purchaser shall deliver to the Seller:

(a) Purchaser shall wire transfer immediately available funds to Seller's U.S. bank in the amount of the Initial Payment;

(b) Certificate described in Section 5.2 hereof;

(c) Certified copies of the resolution of the Board of Directors of Purchaser authorizing the transactions contemplated herein;

(d) Executed Non-Exclusive License in the form of Exhibit 1.2.7 attached hereto;

(e) Executed Cross License of Patent Rights in the form of Exhibit 1.2.6 attached hereto;

(f) Executed Shared Use Agreements in the form of Exhibit 6.2.1(q) attached hereto;

(g) Opinion of counsel described in Section 5.4 hereof;

(h) Such other evidence of the performance of all the covenants and satisfaction of all of the conditions required of Purchaser by this Agreement at or before Closing as Seller or its counsel may reasonably require; and

(i) A sales tax resale certificate with respect to the inventory purchased hereunder.

6.2.3 Following the Closing, at the request of the Purchaser, Seller shall execute and deliver any further instruments of transfer and take all reasonable action as may be necessary or appropriate (i) to vest in the Purchaser good and marketable title to the Purchased Assets subject to Section 2.5 hereof, and (ii) to transfer to the Purchaser all licenses and permits necessary for the operation of the Purchased Division.

6.2.4 Not later than one (1) day prior to the Closing Date, Purchaser may elect by notice to Seller to have some or all of the transactions contemplated by this Agreement consummated in the name of a wholly-owned subsidiary or subsidiaries of Purchaser, provided Purchaser executes an unconditional and irrevocable guaranty of performance on behalf of said subsidiary or subsidiaries in form and substance reasonably satisfactory to Seller.

VII. INDEMNIFICATION.

7.1 Seller shall indemnify Purchaser against, and hold Purchaser harmless from:

7.1.1 Any and all losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees and other legal costs and expenses) suffered or incurred by or asserted against Purchaser resulting from, or arising in connection with, any inaccuracy or misrepresentation in, or breach of, or default in the performance of or compliance with, any of the warranties, representations, covenants or agreements made by Seller in this Agreement (including all Exhibits hereto and any other agreement of indemnification set forth herein);

7.1.2 Any and all losses, liabilities, damages, claims, expenses, costs (including reasonable attorneys' fees and other legal costs and expenses) suffered or incurred by or asserted against Purchaser resulting from, or arising in connection with any litigation, claims, proceedings or suits against Seller, the liability with respect to which has not been expressly assumed by Purchaser hereunder; and

7.1.3 Except for the obligations of Seller expressly assumed by Purchaser pursuant to this Agreement, any and all other debts, liabilities, taxes, claims, expenses and other obligations of Seller, and any and all claims and demands against Seller or any of the business or assets of Seller.

7.2 Purchaser shall indemnify Seller against, and hold Seller harmless from:

7.2.1 Any and all losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees and other legal costs and expenses) suffered or incurred by or asserted against Seller resulting or arising in connection with, any inaccuracy or misrepresentation in, or breach of, or default in the performance of or compliance with, any of the warranties, respresentations, covenants or agreements made by Purchaser in this Agreement (including all Exhibits hereto and any other agreement of indemnification set forth herein); and

7.2.2 Any and all losses, liabilities, damages, claims, expenses, costs (including reasonable attorneys' fees and other legal costs and expenses) suffered or incurred by or asserted against Seller resulting from, or arising in connection with any of the liabilities or obligations assumed by Purchaser pursuant to this Agreement, including but not limited to, litigation, claims, proceedings or suits against Seller, the liability with respect to which has been expressly assumed hereunder.

7.3 Each party shall satisfy any and all claims for indemnification properly asserted by the other party pursuant to this Article VII within forty-five (45) days after receipt of written notice of such claim for indemnification, and if such claim is not so satisfied, the party to be indemnified ("Indemnified Party") may withhold and offset the amount thereof from and against any payment otherwise due to the indemnifying party ("Indemnifying Party"), if any, provided the Indemnified Party shall not withhold or offset any claim until the notification required under this Article VII shall have been given and the Indemnifying Party shall have had a reasonable opportunity to defend such claim.

7.4 The Indemnified Party shall notify the Indemnifying Party of any claim or demand by a third party which the Indemnified Party has determined has given rise to or could reasonably give rise to a claim for indemnification pursuant to this Article VII, and the Indemnifying Party shall have a reasonable time (not to exceed thirty days) after receipt of such notice in which to retain counsel satisfactory to the Indemnified Party to defend such third party claim or demand on behalf of the Indemnified Party. In such case, the Indemnified Party shall make available to the Indemnifying Party and its agents and representatives all records and other materials which are reasonably required in the defense of such third party claim or demand and shall otherwise cooperate with and assist the Indemnifying Party in the defense of such third party claim or demand; and so long as the Indemnifying Party is defending such third party claim or demand in good faith, the Indemnified Party shall not settle or compromise such third party claim or demand. If the Indemnifying Party fails to retain counsel to defend such third party claim or demand in good faith, the Indemnified Party shall have the right, but not the obligation, to defend such third party claim or demand. In the event of any third party claim or demand for which the Indemnified Party is entitled to indemnification hereunder, the Indemnifying Party shall pay all legal fees and other costs and expenses incurred by the Indemnified Party as same become due and the Indemnifying Party shall pay on demand any nonappealable judgment or other resulting obligation of such third party claim or demand. This Section 7.4 is subject to any contrary rules provided in Sections 1.3.9 and 1.3.10 for the matters covered by those sections.

7.5 A party's right to indemnification pursuant to Section 7.1 or Section 7.2 hereof is subject to the following limitations: Except for obligations or liabilities assumed by Purchaser hereunder which by their terms require performance after the third (3rd) anniversary date of the Closing Date, a party shall not be entitled to assert any right of indemnification hereunder for any loss, damage or expense arising from a breach of any covenant, agreement, warranty or representation, after the third (3rd) anniversary date of the Closing Date, except that if there shall then be pending any dispute, claim, proceeding or action involving an indemnification claim under this Agreement, a party shall continue to have the right to be indemnified with respect thereto.

7.6 Purchaser shall not be entitled to indemnification under Article II or Section 1.3.8(b) hereof until the aggregate losses, damages or expenses suffered by Purchaser exceed Three Hundred Fifty Thousand and No/100 Dollars ($350,000.00) (said amount is hereinafter sometimes referred to as the "Threshold"), whereupon Purchaser shall be entitled to indemnifcation hereunder by Seller for the aggregate losses, damages or expenses in excess of the Threshold. The Threshold shall only apply to claims of Purchaser for indemnification under a provision of Article II or Section 1.3.8(b) hereof, except that if and to the extent that Purchaser shall have claims against Seller under Section 1.3.10 hereof, the first One Hundred Thousand ($100,000) Dollars of such claims shall also be subject to the Threshold and shall be applied in reduction of the Threshold.

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VIII. MISCELLANEOUS AGREEMENTS

8.1 Survival of Representations and Warranties.

All representations, warranties, agreements, covenants and obligations made or undertaken by Seller or Purchaser, as the case may be, in this Agreement or in any document or instrument executed and delivered pursuant hereto are material, have been relied upon by the parties hereto and, subject to the limitations set forth in Section 7.5, shall survive the Closing hereunder and shall not merge in the performance of any obligation by any party hereto.

8.2 Arbitration. All disputes arising in connection with this Agreement shall be finally settled by arbitration under the then applicable Rules of Arbitration of the American Arbitration Association by one or more arbitrators agreed upon by Seller and Purchaser or, in the absence of such an agreement, appointed in accordance with such Rules. The arbitration proceedings shall be held in Atlanta, Georiga if Purchaser is the defendant and in Chicago, Illinois if Seller is the defendant. Judgment upon the award rendered may be entered in any court having jurisdiction and application may be made to such court for judicial acceptance of such award and an order of enforcement as the case may be. The parties hereby agree that the rendering of an award by the arbitrator or arbitrators shall be a condition precedent to the initiation of any legal proceedings with respect to any dispute arising in connection with this Agreement. The parties hereby further agree that the party against whom an award is entered with respect to arbitration shall pay all out-of-pocket costs of both

parties hereto incurred in connection with said arbitration and shall pay interest at the per annum rate of ten percent (10%) to the prevailing party accruing and calculated from the date the cost was incurred.

8.3 Bulk Sales Compliance. The parties hereto acknowledge and agree that no filings with respect to any bulk sales or similar laws have been made, nor are they intended to be made, nor are such filings a condition precedent to the Closing.

8.4 Guaranty of Performance. Gould hereby guarantees the prompt and complete performance by I-T-E Industries of all covenants and conditions of this Agreement and any other agreement entered into and delivered by I-T-E Industries in connection therewith, and the payment of all sums, damages, costs, or other charges which by virtue of this Agreement might become due Purchaser by I-T-E Industries.

IX. GENERAL PROVISIONS

9.1 Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be delivered by hand or mailed by registered or certified mail, return receipt requested, first class postage prepaid, addressed as follows:

9.1.1 If to Seller:

GOULD INC.
10 Gould Center
Rolling Meadows, Illinois 60008
Attention: Senior Vice President - Administration and General Counsel

With a copy to:

Joseph A. Walsh, Jr., Esquire
Winston & Strawn
One First National Plaza
Chicago, Illinois 60603

9.1.2 If to Purchaser:

SIEMENS-ALLIS, INC.
223 Perimeter Center Parkway
Atlanta, Georgia 30338
Attention: William E. Beringer, Esq.
Vice President and General Counsel

With a copy to:

C. L. Wagner, Jr., Esq.
Hansell, Post, Brandon & Dorsey
56 Perimeter Center East, N.E.
Atlanta, Georgia 30346

9.1.3 If delivered personally, the date on which a notice, request, instruction or document is delivered shall be the date on which such delivery is made and, if delivered by mail, the date on which such notice, request, instruction or document is received shall be the date of delivery.

9.1.4 Any party hereto may change its address specified for notices herein by designating a new address by notice in accordance with this Section 9.1.

9.2 Waiver. Any failure on the part of any party hereto to comply with any of its obligations, agreements or conditions hereunder may be waived in writing by any other party to whom such compliance is owed.

9.3 Expenses. Except as otherwise expressly stated herein, all expenses incurred by the parties hereto in connection with or related to the authorization, preparation and execution of this Agreement and the Closing of the transactions contemplated hereby, including, without limitation of the generality of the foregoing, all fees and expenses of agents, representatives, counsel and accountants employed by any such party, shall be borne solely and entirely by the party which has incurred the same.

9.4 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, provided, however, except as otherwise provided in Section 6.2.4 hereof, neither party hereto nor any of their permitted assignees may assign or transfer this Agreement or their respective rights and obligations hereunder.

9.5 Headings. The section and other headings in this Agreement are inserted soley as a matter of convenience and for reference, and are not a part of this Agreement.

9.6 Entire Agreement. This Agreement constitutes the entire agreement among the parties hereto and supersedes and cancels any prior agreements, representations, warranties, or communications, whether oral or written, among the parties hereto relating to the transactions contemplated hereby or the subject matter herein. Neither this Agreement nor any provision hereof may be changed, waived, discharged or terminated orally, but only by an agreement in writing signed by the party against whom or which the enforcement of such change, waiver, discharge or termination is sought.

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9.7 Access to Certain Books and Records. Purchaser and its affiliated companies will retain the books and records transferred to Purchaser pursuant to this Agreement and relating to the Purchased Division in accordance with Purchaser's normal document retention practices. Purchaser will use its best efforts to notify Seller of any proposed disposition of such books and records out of the ordinary course of business and will retain such books and records if Seller directs within sixty (60) days of such notice and Seller agrees to bear the cost of such retention. In the event Seller shall require access to any of such books and records in connection with any litigation, governmental investigation or tax audit or the preparation of tax returns or financial statements involving Seller, Purchaser shall permit Seller's representatives, attorneys and accountants access to such books and records as may relate to such litigation, governmental investigation or tax audit or tax returns or financial statements upon reasonable advance notice to Purchaser and during Purchaser's normal business hours, and Seller may copy any such books and records at Seller's sole expense.

9.8 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia.

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

9.10 Pronouns. All pronouns used herein shall be deemed to refer to the masculine, feminine or neuter gender as the context requires.

9.11 Exhibits. All Exhibits attached hereto are incorporated herein by reference, and all blanks in such Exhibits, if any, will be filled in as required in order to consummate the transactions contemplated herein and in accordance with this Agreement.

9.12 Definition of Material. Wherever herein the word "material" is used with respect to the Purchased Assets or the Purchased Division, such word shall mean and include material with respect to (a) the Purchased Assets, (b) the Purchased Division, (c) the ongoing business of the Purchased Division, or (d) any material component or aspect of the Purchased Assets, the Purchased Division or the ongoing business of the Purchased Division.

IN WITNESS WHEREOF, each party hereto has executed or caused this Agreement to be executed on its behalf, this 31st day of JANUARY, 1983.

SIEMENS-ALLIS, INC.

[CORPORATE SEAL]

Attest by: William E. Beringer
SECRETARY

By: Chester W. Diercks, Jr.
Chester W. Diercks, Jr.
President

GOULD INC.

[CORPORATE SEAL]

Attest by: _____ By: _____

Title: _____

I-T-E INDUSTRIES LIMITED

[CORPORATE SEAL]

Attest by: _____ By: _____

Title: V.P.