

May 2, 2005

File No.: 4435.007

BY FEDERAL EXPRESS

Commissioner for Trademarks
Box TTAB NO FEE
Trademark Assistance Center
James Madison Building - East Wing
Concourse Level
600 Dulany Street
Alexandria, Virginia 22314

Re: Eagle Precision Technologies, Inc. v. Eaton Leonard Robolix, Inc.
Opposition No. 91164226

Dear Assistant Commissioner:

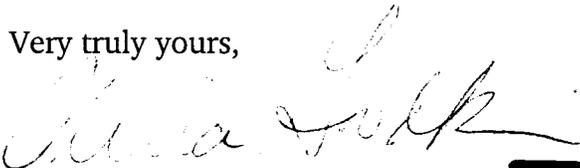
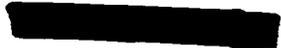
We represent the Opposer in the above-referenced Opposition proceeding.

Because of a pending federal action between the parties, the parties have agreed to suspend the Opposition proceeding, subject to the TTAB's approval. Enclosed for filing is a Stipulation Regarding Suspension of Proceedings. We respectfully request that an Order be issued approving the Stipulation.

Also enclosed herewith are copies of: (1) The complaint; (2) The second amended counterclaims; and (3) The counterclaims filed by the plaintiffs. These are the dispositive pleadings in the civil action that address the trademark issues in the Opposition proceeding.

Please call me should you have any questions regarding this matter. Thank you for your assistance.

Very truly yours,


OLIVIA GOODKIN 

OG:go
Enclosures
cc: Frederick S. Berretta, Esq. (w/copy of Stipulation)

05-03-2005

U.S. Patent & TMO/TM Mail Rcpt Dt. #66

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of:) Opposition No. 91164226
)
EAGLE PRECISION TECHNOLOGIES,) Mark: EATON LEONARD
INC.,)
) Serial No. 78462208
Opposer,)
v.)
)
EATON LEONARD ROBOLIX, INC.,)
)
Applicant.)
_____)

STIPULATION REGARDING SUSPENSION OF PROCEEDINGS

Box TTAB—NO FEE
Assistant Commissioner of Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

Dear Assistant Commissioner:

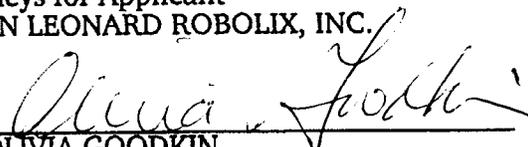
Pursuant to 37 CFR § 2.117 (c) and Section 510.02 of the Trademark Trial and Appeal Board Manual of Procedure, the parties to this proceeding, Applicant Eaton Leonard Robolix, Inc., and opposer Eagle Precision Technologies, Inc., through their respective counsel of record, and subject to Board approval, hereby stipulate to suspend the Opposition proceedings on the ground that a related case, which may have a bearing on the Board case, is pending between the parties in the United States District Court for the Southern District of California. The case is styled Eagle Precision Technologies, Inc.

et al. v. Eaton Leonard Robolix, Inc. (and related cross-actions), and is designated Case No. 03CV0352 BEN (WMC). The parties further agree that their rights and remedies in the Board Case shall be preserved during the time of suspension and that any limitations period that otherwise expires during the suspension period shall be tolled during the suspension period and for 40 days thereafter. Enclosed herewith are copies of (1) The complaint; (2) The second amended counterclaims; and (3) The counterclaims filed by the plaintiffs, which are the dispositive pleadings in the pending civil case.

Dated: April 29, 2005

By: 
FREDERICK S. BERRETTA
KNOBBE, MARTENS, OLSON & BEAR, LLP
550 West C Street
Suite 1200
San Diego, CA 92101
Telephone: (619) 235-8550
Attorneys for Applicant
EATON LEONARD ROBOLIX, INC.

Dated: May 2 2005

By: 
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Attorneys for Opposer EAGLE PRECISION
TECHNOLOGIES, INC.

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FILED

03 FEB 20 PM 2:34

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: DEPUTY

9 Attorneys for Plaintiffs EAGLE PRECISION
10 TECHNOLOGIES, INC. and EAGLE
11 TECHNOLOGIES SERVICES, LTD.

12 UNITED STATES DISTRICT COURT
13 SOUTHERN DISTRICT OF CALIFORNIA

14 '03 CV 0352 JEG JAH

15 EAGLE PRECISION TECHNOLOGIES, INC.,)
16 an Ontario, Canada corporation; and EAGLE)
17 TECHNOLOGIES SERVICES, LTD., an Indiana)
18 corporation,)
19 Plaintiffs,)
20 v.)
21 EATON LEONARD ROBOLIX, INC., a)
22 California corporation,,)
23 Defendant.)

Case No.:
COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF BASED ON:
1. TRADEMARK INFRINGEMENT;
2. TRADE NAME INFRINGEMENT;
3. FALSE DESIGNATION OF ORIGIN;
4. PALMING OFF;
5. UNFAIR COMPETITION;
6. BREACH OF CONTRACT;
7. INTENTIONAL INTERFERENCE WITH
PROSPECTIVE ECONOMIC
ADVANTAGE; AND
8. NEGLIGENT INTERFERENCE WITH
PROSPECTIVE ECONOMIC
ADVANTAGE.

24
25 Plaintiffs Eagle Precision Technologies, Inc. ("Eagle Precision") and Eagle
26 Technologies Services, Ltd. ("Eagle Services") (collectively "Plaintiffs") allege as follows
27 against Defendant Eaton Leonard Robolix, Inc. ("ERIX"):

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DAVIDOFF
INCORPORATED

1 4. Defendant ERIX was, at all times mentioned herein, and is a corporation
2 organized and existing under the laws of the State of California.

3 5. Eaton Leonard, Inc. ("ELI") was, at all times mentioned herein, and is, a
4 California corporation organized and existing under the laws of the State of California. ELI is
5 a wholly owned subsidiary of Plaintiff Eagle Precision. Eagle Precision acquired ELI in June
6 1997. In December 1999, the service division of ELI was transferred to Plaintiff Eagle
7 Services.

8 6. For many years, beginning in approximately 1973, ELI was engaged in the
9 business of manufacturing, serving and repairing automatic tube bending machines of
10 various types. ELI also manufactured, repaired and serviced measuring instruments for bent
11 tubes and surfaces. In so doing, ELI adopted the following marks and trade names to identify
12 its goods and services: EATON, EATON LEONARD, and EL (stylized) (collectively, the "ELI
13 Marks"). ELI first registered the EL (stylized) mark as its trademark in the United States
14 Patent and Trademark Office on May 31, 1977, under United States Trademark Registration
15 No. 1,066,613. Attached hereto as Exhibit 1 is statement of the registration with United
16 States Patent and Trademark Office.

17 7. ELI used the ELI Marks to identify its goods and services as set forth in
18 paragraph 6, above, by extensively advertising its machines and services under said names
19 through the United States and worldwide.

20 8. By virtue of advertising and sales, together with consumer acceptance and
21 recognition, the ELI Marks identified ELI's machines and services, and distinguished them
22 from equipment sold by others or serviced by others. The ELI Marks thus became valuable
23 assets symbolizing ELI, its quality goods, services and goodwill.

24 9. On or about March 1, 1998, ELI assigned all of its rights in and to its
25 trademarks to Plaintiff Eagle Precision. Additionally, on or about March 11, 1999, ELI
26 assigned all right, title and interest in and to the ELI Marks to Plaintiff Eagle Precision. On
27 May 24, 1999, Plaintiff Eagle Precision caused the assignment to be recorded in the United
28 States Patent and Trademark Office on Reel 001903, Frame 0548.

1 10. After the assignment of the ELI Marks to Plaintiff Eagle Precision, Eagle
2 Precision and its subsidiary Eagle Services commenced using the mark EAGLE EATON
3 LEONARD, both with and without the stylized EL mark to promote and advertise its tube
4 bending business and other related services and products. Furthermore, Eagle Precision has
5 applied to the United States Patent and Trademark Office for registration of the following
6 marks: (a) EAGLE EATON LEONARD in typewritten form; (b) EAGLE EATON LEONARD,
7 stylized with design; (c) E L in typewritten form; and (d) EATON LEONARD in typewritten
8 form. The applications are in process with the United States Patent and Trademark Office.
9 The marks referenced in this paragraph are hereafter referred to collectively as “the Eagle
10 Marks.” Examples of the use of the Eagle Marks are attached hereto collectively as Exhibit 2.

11 11. Plaintiffs Eagle Precision and Eagle Services use and have used the Eagle Marks
12 to identify their unique goods and services, among other things, the sale and servicing of
13 small and large tube bending machines, by extensively advertising their products and services
14 under said names through the United States and worldwide.

15 12. By virtue of advertising and sales, together with consumer acceptance and
16 recognition, the Eagle Marks have identified Eagle Precision’s and Eagle Services’ products
17 and services, and distinguished them from equipment sold by others or serviced by others.
18 The Eagle Marks thus became valuable assets symbolizing Plaintiffs specifically, and their
19 quality goods, services and goodwill.

20 13. On May 29, 2000, ELI agreed to subscribe for 501 shares of the common stock
21 of ERIX, in consideration of which ELI transferred certain assets limited to those “assets used
22 by [ELI] in carrying on” (i) ELI’s “business of manufacturing small diameter (meaning less
23 than 45 mm) metal tube benders (ii) its business of manufacturing the VB200HP, and (iii)
24 [ELI’s] business of manufacturing certain metal tube measuring devices. . . .” (together, the
25 “Small Tube Business”). The agreement pertaining to the stock subscription and the asset
26 transfer is memorialized in an Asset Transfer and Subscription Agreement (“Asset
27 Agreement”) made on May 29, 2000, and executed by ELI and ERIX. A true and correct copy
28 of the Asset Agreement is attached hereto as Exhibit 3.

1 14. As part of the Asset Agreement, ELI agreed that ERIX would have a royalty-free
2 non-exclusive license to use the ELI Marks in connection with only the Small Tube Business,
3 and nothing else.

4 15. Plaintiffs are informed and believe and based thereon allege that beginning first
5 at approximately the end of October 2001, ERIX began using ELI Marks in interstate
6 commerce in connection with all of its business lines, not just the Small Tube Business for
7 which it had been entitled to use the marks pursuant to the Asset Agreement. For instance,
8 ERIX is using the EATON LEONARD and EL marks in connection with ERIX's 76 mm CNC
9 Tube Bender and 100 mm CNC Tube Bender lines, as demonstrated on the ERIX website, a
10 copy of which a portion of which is attached hereto as Exhibit 4, which lines are not within
11 the Small Tube Business. ERIX is using ELI Marks in its advertising and promotion as well
12 for general purposes, as demonstrated in the letter to a customer attached hereto as
13 Exhibit 5. The use of the "Eaton" and "Eaton Leonard" names and ELI Marks for any goods
14 or services other than the Small Tube Business, as defined and limited in the Asset
15 Agreement, constitutes trademark infringement, unfair competition, interference with the
16 business of Plaintiffs Eagle Precision and Eagle Services, and a breach of the Asset
17 Agreement, all as more particularly described below.

18 16. Furthermore, ERIX has been passing itself off as the sole successor-in-interest to
19 ELI by using the ELI Marks and certain related logos in unauthorized ways, and by making
20 deliberately misleading statements about the identity of ERIX. For instance, ERIX issued a
21 misleading News Release announcing that "Eaton Leonard" separated from "Eagle" and that
22 ERIX has expanded its lines. ERIX published an untrue advertisement that incorrectly states
23 ERIX "is the only factory authorized supplier" of "Eaton Leonard" products and services. As
24 another example, the letter attached hereto as Exhibit 5 states that ERIX is "Eaton Leonard"
25 and that "factory authorized replacement parts and service are only available from Eaton
26 Leonard, California." These statements are unauthorized, false and unlawful. In fact,
27 Plaintiffs Eagle Services and Eagle Precision are the successors-in-interest to ELI and are also
28 authorized suppliers of parts and services sold under the Eaton Leonard name.

1 17. The above-referenced communications are an attempt by ERIX to pass itself off
2 as the exclusive successor to ELI and to confuse the market and to trade on the goodwill of
3 the name EATON LEONARD, which is owned by Plaintiffs.

4 18. As a result, there have been repeated inquiries about the continued existence of
5 Plaintiffs Eagle Precision and Eagle Services, questions about whether ERIX has replaced
6 Eagle Services and Eagle Precision, and whether Plaintiffs Eagle Services and Eagle Precision
7 are still able to perform its normal functions.

8 19. ERIX has further passed itself off blatantly as "Eagle Eaton Leonard" in an
9 attempt to capitalize on Plaintiff Eagle Precision's business and, in doing so, is also infringing
10 on Plaintiffs' trademark and trade name EAGLE EATON LEONARD and the Eagle Marks. In
11 particular, ERIX is currently unlawfully using both Plaintiff Eagle Precision's logo and the
12 name EAGLE EATON LEONARD on signs located at ERIX's facility at Carlsbad, California. A
13 copy of a photograph of the sign is attached hereto as Exhibit 6. By way of further example,
14 ERIX has unlawfully used the EAGLE EATON LEONARD name in the product manuals that
15 ERIX distributes to customers and prospective customers. A true and correct copy of a
16 sample page from the ERIX product manual, unlawfully including such name, is attached
17 hereto as Exhibit 7.

18 20. Plaintiffs are informed and believe and based thereon allege that ERIX has also
19 passed itself off as EAGLE EATON LEONARD in connection with a contract between Lynch
20 Machinery Company of Pasadena ("Lynch") and the U.S. Department of Defense, in which
21 "Eagle-Eaton Leonard" is listed as a subcontractor. Plaintiffs are informed and believe and
22 based thereon allege that ERIX misrepresented itself to Lynch in order to secure a substantial
23 and lucrative contract, and in order to interfere with Plaintiffs' prospective economic
24 advantage.

25 21. On August 23, 2002, Plaintiffs, by letter, advised ERIX of Plaintiffs' ownership
26 in the Eagle Marks and ERIX's confusing unauthorized use of the ELI Marks. Plaintiffs
27 demanded ERIX to immediately cease and desist from further confusing activities
28 misappropriating the name EAGLE EATON LEONARD and interfering with Plaintiff's trade

1 names or trademarks. ERIX has failed and refused, and continues to fail and refuse, to
2 comply with Plaintiffs' request.

3 **FIRST CLAIM FOR RELIEF**

4 **(Trademark Infringement)**

5 22. Plaintiffs incorporate the allegations of paragraphs 1 through 21 herein as if
6 fully set forth.

7 23. ERIX's continued use of the subject ELI Marks in commerce in connection with
8 the sale, offering for sale, distribution and advertising of goods and services beyond the scope
9 of the Small Tube Business and improper use of the Eagle Marks is likely to cause confusion,
10 mistake, or deception among consumers as to the source, quality and nature of ERIX's goods
11 and services.

12 24. Plaintiffs are informed and believe and based thereon allege that as a
13 proximate result of ERIX's wrongful advertising and sale of its goods and services, as
14 hereinabove alleged, ERIX has made substantial sales and/or profits in an amount to be
15 determined at trial.

16 25. As a proximate result of advantage accruing to ERIX's business from Eagle
17 Precision's and Eagle Services' nationwide advertising, sales, and consumer recognition, and
18 as a proximate result of confusion or deception or mistake or a combination thereof, caused
19 by ERIX's wrongful advertising and sales of its goods, as alleged above, Plaintiffs have been
20 deprived of substantial sales of its goods and services in an amount to be proven at trial, and
21 has been deprived of the value of its trademark as a commercial asset to be proven at trial.

22 26. Plaintiffs are informed and believe and based thereon allege that unless
23 restrained by this Court, ERIX threatens to and will continue to infringe on the name and
24 registered trademarks of Plaintiffs, thus engendering a multiplicity of judicial proceedings,
25 and pecuniary compensation will not afford Plaintiffs adequate relief for the damage to
26 Plaintiffs' reputation and identity in the public perception.

27 //

28 //

1 34. Plaintiffs are informed and believe and based thereon allege that as result of
2 these actions, Plaintiffs have suffered damages in an amount to be proven at trial.
3

4 **FOURTH CLAIM FOR RELIEF**

5 **(Palming Off)**

6 35. Plaintiffs incorporate the allegations of paragraphs 1 through 34 herein as if
7 fully set forth.

8 36. By using the ELI Marks and Eagle Marks without the consent of Plaintiffs and
9 without quality control or assurance, ERIX has created confusion in the marketplace and has
10 falsely created the impression with the public that its products and services were actually
11 designed, manufactured or authorized by Plaintiffs, or that Plaintiffs were involved in or
12 associated with the design or manufacture of the products.

13 37. By using the name EAGLE EATON LEONARD, ERIX has attempted to pass itself
14 off as Plaintiffs Eagle Precision or Eagle Services, or Eaton Leonard, and has falsely created
15 the impression with the public that its products and services were actually designed,
16 manufactured or authorized by Plaintiffs, or that Plaintiffs were involved in or associated
17 with the design or manufacture of the products.

18 38. Unless restrained by this Court, ERIX threatens to and will continue to use the
19 Plaintiffs' trade names and trademarks in violation of Plaintiffs' rights.

20 39. As a result of these actions, Plaintiffs have suffered damages in an amount
21 exceeding \$1,000,000, which will be proven at trial.
22

23 **FIFTH CLAIM FOR RELIEF**

24 **(Unfair Competition)**

25 40. Plaintiffs incorporate the allegations of paragraphs 1 through 39 herein as if
26 fully set forth.

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INCORPORATED

1 48. ERIX has breached the Asset Agreement by using the ELI Marks in connection
2 with its operations and business other than the Small Tube Business as delineated by the
3 Asset Agreement.

4 49. As a result of ERIX's breach of the Asset Agreement, Plaintiffs have been
5 damaged in an amount to be proven at trial.

6
7 **SEVENTH CLAIM FOR RELIEF**

8 **(Intentional Interference with Prospective Economic Relations)**

9 50. Plaintiffs incorporate the allegations of paragraphs 1 through 49 herein as if
10 fully set forth.

11 51. ERIX is aware that Plaintiffs compete with ERIX using the ELI Marks and the
12 Eagle Marks, both as trademarks and trade names.

13 52. ERIX wrongfully used Plaintiffs' trade names and trademarks in competing with
14 Plaintiffs and have deliberately and intentionally interfered with Plaintiffs' prospective
15 economic relationships with its customers.

16 53. As a consequence of ERIX's interference with Plaintiffs' prospective economic
17 advantage as alleged above, Plaintiffs have suffered or will suffer damages in excess of
18 \$1,000,000.

19 54. Plaintiffs are informed and believe and based thereon allege that ERIX engaged
20 in the alleged conduct in bad faith, with malice, oppression and fault, and in conscious
21 disregard of Plaintiffs' rights, and that punitive damages are necessary and appropriate to
22 serve as a deterrent and punishment for ERIX's acts.

23 55. Plaintiffs will suffer irreparable harm, for which there is no adequate remedy at
24 law, if ERIX is not enjoined from interfering with Plaintiffs' economic relations.

25 //

26 //

27 //

28 //

EIGHTH CLAIM FOR RELIEF

(Negligent Interference with Prospective Economic Relations)

56. Plaintiffs incorporate the allegations of paragraphs 1 through 55 herein as if fully set forth.

57. ERIX knew of or should have known of Plaintiffs' use of Eagle's trade names and the ELI and Eagle Marks for business in competition with ERIX's business. ERIX wrongfully used Plaintiffs' trade names and trademarks in competing with Plaintiffs and have deliberately and intentionally interfered with Plaintiffs' prospective economic relationships with its customers.

58. As a consequence of ERIX's interference with Plaintiffs' prospective economic advantage as alleged above, Plaintiffs have suffered or will suffer damages in excess of \$1,000,000.

59. Plaintiffs will suffer irreparable harm, for which there is no adequate remedy at law, if ERIX is not enjoined from interfering with Plaintiffs' economic relations.

WHEREFORE, Plaintiffs pray for judgment as follows:

A. For an injunction enjoining ERIX and its agents, servants, employees, and all persons acting under, in concert with, or for it from:

1. Using the ELI Marks and/or the Eagle marks and/or trade names EATON LEONARD or EAGLE EATON LEONARD;

2. Otherwise infringing the ELI Marks and/or the Eagle Marks or passing itself off as the Plaintiffs;

3. Causing likelihood of confusion, deception, or mistake as to the source, nature or quality of its goods.

B. For an order directing ERIX to file with this Court and serve on Plaintiffs within 30 days after service of an injunction, a report in writing under oath, setting forth in detail the manner and form in which ERIX has complied with the injunction;

C. For an order requiring ERIX to deliver up and destroy all infringing materials bearing the infringing designations;

1 D. For all of ERIX's profits derived from its infringement of the ELI Marks and
2 Eagle Marks and for passing itself off as Plaintiffs;

3 E. For three times the amount of Plaintiffs' actual damages caused by infringement
4 of Plaintiffs' trademarks;

5 F. Fro Plaintiffs' reasonable attorneys' fees expended in this action.

6 G. For costs of suit incurred herein; and

7 H. For such further relief as the Court may deem proper.

8

9

DEMAND FOR JURY TRIAL

10 Plaintiff hereby demands a trial by jury, pursuant to Rule 38(b) of the Federal Rules of
11 Court Procedure of any issue triable by right of jury.

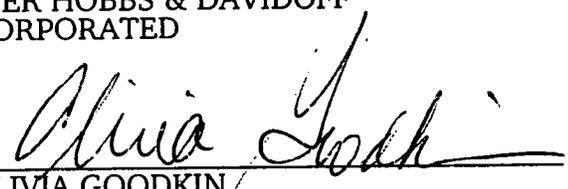
12

13 DATED: February 19, 2003

RUTTER HOBBS & DAVIDOFF
INCORPORATED

14

15

By: 

16

OLIVIA GOODKIN/
Attorneys For Plaintiffs
EAGLE PRECISION TECHNOLOGIES, INC. and
EAGLE TECHNOLOGIES SERVICES, LTD.

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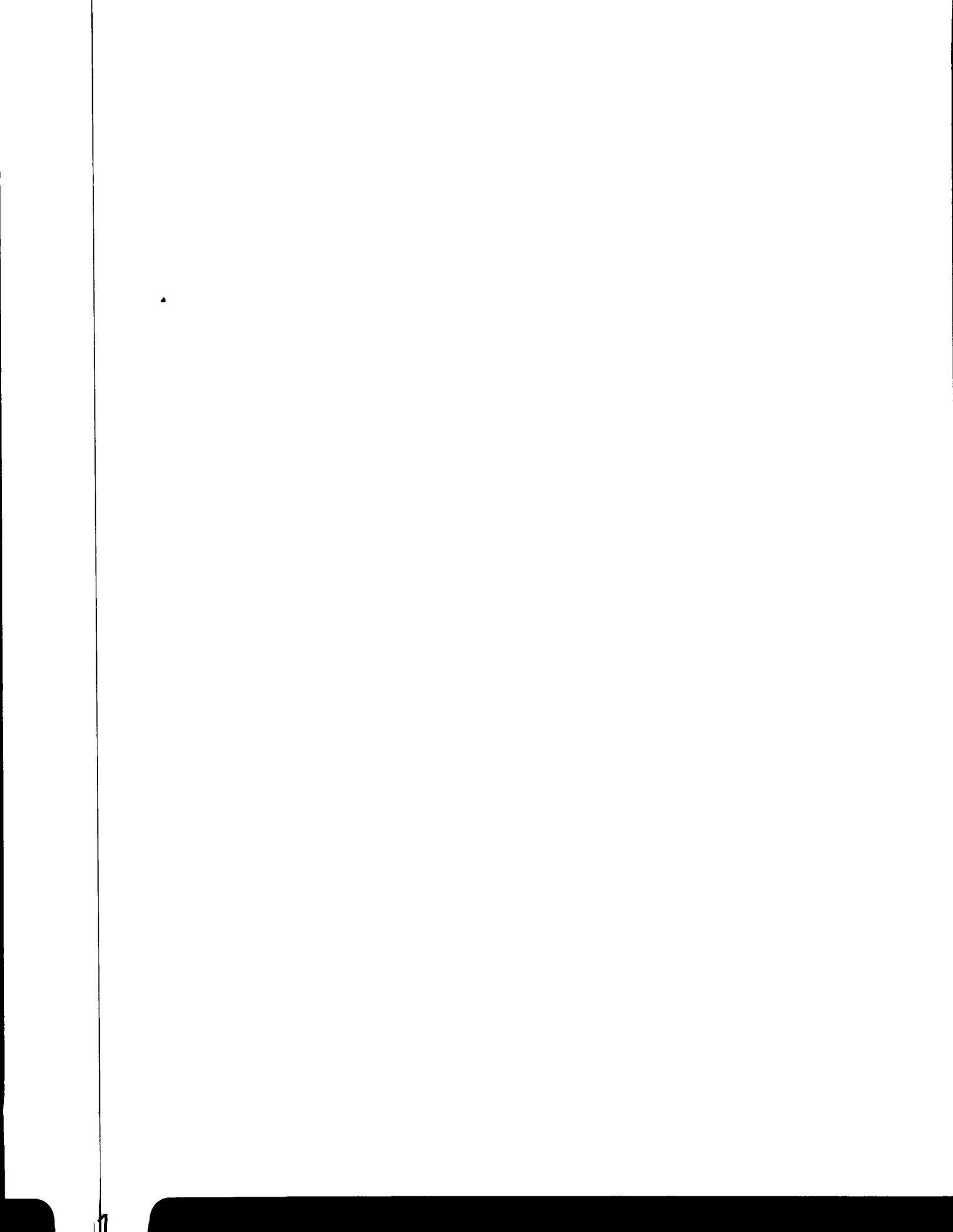
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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Electronic Search System (TESS)

TESS was last updated on Tue Feb 4 04:30:43 EST 2003

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Start List At: OR **Jump** to record: **Record 11 out of 13**

Check Status (TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)



Word Mark E L
Goods and Services IC 007. US 023. G & S: AUTOMATIC TUBE BENDING MACHINES. FIRST USE: 19740819. FIRST USE IN COMMERCE: 19741217

IC 009. US 025. G & S: MEASURING INSTRUMENTS FOR BENT TUBES AND SURFACES AND FOR COMPUTING AND PRINTING DATA THEREFOR. FIRST USE: 19731106. FIRST USE IN COMMERCE: 19731212

Mark Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Serial Number 73063647

Filing Date September 19, 1975

Registration Number 1066613

Registration Date May 31, 1977

Owner (REGISTRANT) EATON-LEONARD CORPORATION CORPORATION CALIFORNIA 1923 E. ST. ANDREWS PLACE SANTA ANA CALIFORNIA 91705

(LAST LISTED OWNER) EATON LEONARD, INC. CORPORATION BY

EXHIBIT 1

CHANGE OF NAME FROM CALIFORNIA 6030 AVENIDA ENCINAS
CARLSBAD CALIFORNIA 92009

Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record NEIL F MARTIN
Type of Mark Register TRADEMARK
 PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR).
Renewal 1ST RENEWAL 19970709
Live/Dead Indicator LIVE

PTO HOME	TRADEMARK	TESS HOME	NEW USER	STRUCTURED	FREE FORM	Backwards Dict	TOP	HELP	PREV LIST
CURR LIST	NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC				

EXHIBIT 1
 PAGE 15 2/4/2003

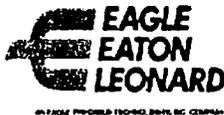


EAGLE TECHNOLOGIES SERVICES, LTD.

Global Service Center
5555 Elmwood Avenue, Suite F
Indianapolis, Indiana 46203
United States of America
Ph: 317 780-6000
Fax: 317 780-6010
ServiceAmericas@EPT-Services.com

Eagle Precision Europe, LTD.
Atlantic Business Centre
Unit 54, Atlantic Street
Broadheath, Altrincham
Cheshire WA14 5NQ
Phone: 0161 929 2429
Fax: 0161 929 2430
Sales: 0777 188 4156 Mobile
ServiceEurope@EPT-Services.com

Original factory Parts and Service for:



Come visit us on our website at: www.ept-services.com

This is a 5" X 5" adhesive label on Semi-Rigid Vinyl

Order placed 4-12-02

ARMSTRONG PRESS, INC.
317 322-1228

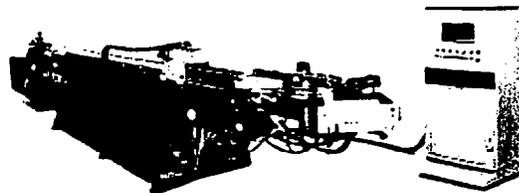
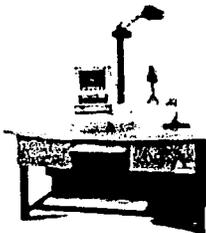
Project: Machine Label

EAGLE

EAGLE TECHNOLOGIES SERVICES, LTD.

Global Service Center
5555 Elmwood Ave, Suite F
Indianapolis, Indiana 46203
United States of America
Ph: 317 780-6000
Fax: 317 780-6010 Service
Fax: 317 780-6017 Parts
ServiceAmericas@EPT-Services.com

Eagle Precision Europe, LTD.
IMEX Spaces
Unit 54, Atlantic Street
Altrincham, Cheshire WA14 5NQ
United Kingdom
Phone: 0161 929 2429
Fax: 0161 929 2430
ServiceEurope@EPT-Services.com



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EXHIBIT 2

PAGE 17

ASSET TRANSFER AND SUBSCRIPTION AGREEMENT

THIS AGREEMENT made the 29th day of May, 2000.

BETWEEN:

EATON LEONARD, INC., a corporation
incorporated under the laws of California

("Eaton")

- and -

EATON LEONARD ROBOLIX, INC., a
corporation incorporated under the laws of
California,

("ERIX")

RECITALS:

- A. Eaton has agreed to subscribe for 501 shares in the common stock of ERIX (the "Purchased Stock").
- B. As consideration for Eaton's subscription, Eaton and ERIX have agreed that Eaton will transfer to ERIX assets used by Eaton in carrying on (i) its business of manufacturing small diameter (meaning less than 45 mm) metal tube benders (ii) its business of manufacturing the VB200HP, and (iii) its business of manufacturing metal tube measuring devices, all as more specifically described on Schedule "A" (the "Transferred Assets").

NOW THEREFORE in consideration of the mutual covenants hereinafter set forth, the parties hereby covenant and agree as follows:

ARTICLE I - DEFINITIONS

1.1 Definitions.

Whenever used in this agreement, unless there is something inconsistent in the subject matter or context, the following words and terms shall have the meanings set out below:

- (a) "Agreement" means this Agreement and all schedules attached hereto and all amendments and supplements hereto and thereto and all restatements and replacements hereof and thereof;
- (b) "Assumed Liabilities" has the meaning ascribed thereto in section 2.03;

EXHIBIT 3

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- (c) "Business" means the business to be carried on by ERIX in place of Eaton, namely, (i) the business of manufacturing, marketing and selling small-diameter (meaning less than 45 mm) metal tube benders or metal wire benders; (ii) manufacturing, marketing and selling the VB200HP and such replacements or upgrades to the VB200HP as may be developed in the future; and (iii) the manufacturing, marketing and sales of metal tube measuring devices;
- (d) "Claim" means any and all losses, damages, taxes, expenses, liabilities (whether accrued, actual, contingent or otherwise), claims, demands and actions of whatever nature or kind, including legal fees and expenses on a solicitor/attorney and client basis and other professional fees and disbursements;
- (e) "Closing Date" means 10:00 a.m. Toronto time on May 24, 2000 or such other time or date as may be agreed upon by the parties;
- (f) "Person" means an individual, partnership, unincorporated association, organization, syndicate, corporation, trustee, executor, administrator or other legal or personal representative;
- (g) "Purchased Stock" has the meaning ascribed thereto in Recital A of this Agreement;
- (h) "Transferred Assets" has the meaning ascribed thereto in Recital B of this Agreement;
- (i) "Transferred Employees" has the meaning ascribed thereto in Section 4.1 of this Agreement.

ARTICLE II - SUBSCRIPTION

2.1 Subscription.

Eaton hereby subscribes for and agrees to purchase from ERIX, pursuant to the terms and conditions of this Agreement, the Purchased Stock for \$300,000 (the "Subscription Price").

2.2 Subscription Price.

Eaton shall satisfy the Subscription Price by transferring the Transferred Assets to ERIX on the Closing Date. Eaton and ERIX agree that the Subscription Price equals to fair market value of the Transferred Assets less the Assumed Liabilities.

2.3 Assumption of Liabilities.

On the Closing Date, ERIX shall assume the outstanding customer deposit liabilities on work-in-progress of Eaton listed on Schedule "A" related to the Transferred Assets, together with all outstanding vacation pay liabilities in connection with the Transferred

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Employees as set out on Schedule "A" (collectively, the "Assumed Liabilities"). ERIX will not assume any other liabilities associated with the Transferred Assets.

2.4 Allocation of Subscription Price.

The parties agree that the Subscription Price shall be allocated among the Transferred Assets and the Assumed Liabilities in the manner determined by the parties and attached hereto as Schedule "A" and such determinations will be binding on both parties. ?

2.5 Taxes.

ERIX shall pay to Eaton or to the appropriate taxing authority within the time limits required by the applicable legislation all goods and services, sales, use, consumption, or transfer or other similar taxes to the extent required by any federal, provincial or local legislation in connection with the transfer of the Transferred Assets.

2.6 California Securities Legislation

The sale of the securities which are the subject of this Agreement has not been qualified with the Commissioner of Corporations of the State of California and the issuance of such securities or the payment or receipt of any part of the consideration therefore prior to such qualifications is unlawful, unless the sale of securities is exempt from qualification by Section 25100, Section 25102, or Section 25105 of the *California Corporations Code*. The rights of all parties to this Agreement are expressly conditioned upon such qualification being obtained, unless the sale is so exempt. The parties to this Agreement hereby irrevocably attorn to the non-exclusive jurisdiction of the courts of the State of California with venue in San Diego County and hereby waive any objection to such choice of venue and inconvenient forum.

2.7 Bulk Sales

ERIX agrees to waive compliance with the provisions of any applicable bulk sales legislation in respect of the purchase and sale of the Transferred Assets on the condition that Eaton shall indemnify and save harmless ERIX as provided in Article III hereof.

ARTICLE III - INDEMNITIES

3.1 ERIX Indemnity

ERIX hereby agrees to indemnify and save harmless Eaton from and against any Claims made against Eaton related to:

- (a) the Assumed Liabilities;
- (b) the Transferred Assets, provided that such Claims relate to facts arising entirely on or after the Closing Date; and

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- (c) any inaccuracy in or breach of the representations and warranties set out in Section 5.2 of this Agreement.

3.2 Eaton Indemnity.

Eaton hereby agrees to indemnify and save harmless ERIX from and against any Claims made against ERIX related to:

- (a) all liabilities associated with the Transferred Assets, other than the Assumed Liabilities;
- (b) all liabilities relating to bulk sales or similar legislation concerning creditors' rights; and
- (c) any inaccuracy in or breach of the representations and warranties set out in Section 5.1 of this Agreement.

3.3 Minimum Threshold for Claim.

Notwithstanding any of the provisions of Article III, neither party will be liable for any Claim incurred by the other directly or indirectly resulting from any inaccuracy or misrepresentation in any representation or warranty contained in this Agreement unless and until the aggregate of all such Claims exceed \$10,000 in which event the amount of all such Claims, including such \$10,000, may be recovered by the party making such Claim.

3.4 Maximum Liability of Each Party.

The maximum aggregate liability of each party for all Claims made by the other party under Article III shall be limited to the amount of the Subscription Price. The maximum liability of Eaton for any single Claim made by ERIX under subsection 3.2(c) in respect of any single Transferred Asset shall be limited to the book value of such Transferred Asset. Notwithstanding the foregoing, the parties agree that there shall be no maximum liability for any claims made against ERIX by creditors of Eaton relating to bulk sales or similar legislation concerning creditors' rights.

3.5 Amounts Recovered.

The amount of any Claim shall be determined after giving effect to any amount recovered from any insurer or any other third party, provided that nothing herein obliges either party to make a claim against its insurer or any third party or to accept a settlement.

3.6 Set-Off.

Each party shall be entitled to set-off the amount of any Claim submitted under Article III as damages or by way of indemnification against any other amounts payable by the other parties whether under this Agreement or otherwise, provided that if any amount set-off by such party is finally determined to be less than the actual amount of the Claim, such party shall,

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promptly after receipt of such notice of final determination, pay the amount of such difference to the other party.

ARTICLE IV - EMPLOYMENT MATTERS

4.1 Employees.

- (a) On the Closing Date, ERIX shall extend offers of employment to all employees of Eaton who are listed on Schedule "B" on substantially the same or comparable terms and conditions as to salary, benefits, duties and working conditions as those in force immediately prior to the Closing Date. For greater certainty, ERIX will recognize the length of service with Eaton of each such employee. The employees who accept the offer from ERIX shall be referred to as the "Transferred Employees".
- (b) Nothing contained herein shall confer any former, current or future employee of Eaton or ERIX or legal representative or beneficiary thereof, any rights or remedies, including without limitation, any right to employment or continued employment of any nature, for any specified period.
- (c) Except for those liabilities set out on Schedule "B", which shall be for the account of ERIX, all liabilities and costs in respect of the Transferred Employees including premiums for applicable pension and benefit plans and statutory payroll deductions, accrued wages, salaries and commissions, vacation pay, employee benefit plan payments and employee bonus and incentive payments shall be for the account of Eaton to the extent that they relate to the period preceding the Closing Date and for the account of ERIX, to the extent that they relate to the period following the Closing Date. For greater certainty, ERIX shall, following the Closing Date, honour all obligations arising after the Closing Date, including normal compensation and severance arrangements, due to Transferred Employees.
- (d) ERIX agrees to indemnify and save harmless Eaton with respect to any Claims (including claims for severance, notice of termination, breach of contract, constructive dismissal or damages in connection therewith) relating to the employment of any of the Transferred Employees or the termination of employment of any of the Transferred Employees after the Closing Date, including continuation, discontinuation or provision of the employment policies, benefit plans or other benefits previously provided by Eaton.

ARTICLE V - REPRESENTATIONS AND WARRANTIES

5.1 Representations and Warranties of Eaton.

Eaton hereby represents and warrants to the Purchaser that:

- (a) **Organization:** Eaton is a corporation duly incorporated, validly existing and in good standing under the laws of California. Eaton has all necessary corporate power, authority and capacity to own its property and assets and to carry on its business as presently owned and carried on by it and is duly licensed, registered and qualified as a corporation to do business and is in good standing in each jurisdiction in which the nature of its business and assets make such qualification necessary;
- (b) **Authorization:** Eaton has all necessary corporate power, authority, capacity and right to enter into and deliver this Agreement and to perform its obligations hereunder. The execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate action on the part of Eaton;
- (c) **Binding Obligation:** This Agreement constitutes a valid and legally binding obligation of Eaton, enforceable in accordance with its terms subject to applicable bankruptcy, insolvency, reorganization and other laws of general application limiting the enforcement of creditors' right generally and to the fact that specific performance is an equitable remedy available only in the discretion of the court;
- (d) **No Contracts:** Other than in connection with security granted to Canadian Imperial Bank of Commerce ("CIBC"), Eaton is not a party to, bound or affected by or subject to any indenture, mortgage, lease, agreement, instrument, statute, regulation, arbitration award, charter or by-law provision, order or judgment which would be violated, contravened or breached by or under which any default would occur as a result of the execution and delivery of this Agreement or the consummation of any of the transactions contemplated in this Agreement. Other than in connection with security granted to CIBC, there is no contract, option or any other right of another binding upon or which at any time in the future may become binding upon Eaton to sell, transfer, assign, pledge, charge, mortgage or in any other way dispose of or encumber any of the Transferred Assets other than pursuant to the provisions of this Agreement. At Closing, the security granted to CIBC in connection with the Transferred Assets will be released and discharged;
- (e) **Title to Transferred Assets:** On closing, Eaton will be, and ERIX shall become, the absolute beneficial and legal owner of the Transferred Assets with a good title, free and clear of any liens, charges, mortgages, security interests, encumbrances or rights or claims of others and Eaton is exclusively entitled to possess and dispose of the same, and in particular, without limiting the generality of the foregoing, there has been no assignment, subletting or granting of any licence (of occupation or otherwise) of or in respect of any of the Transferred Assets;
- (f) **Location of Transferred Assets:** Other than finished goods, all the Transferred Assets are situate at 6030 Avenida Encinas, Carlsbad, California;

- (g) **Intellectual Property:** To the best knowledge of Eaton, the use by ERIX of the Optical Probe with Overlapping Detection Fields (U.S. Patent application no. 4,849,643) and the Eaton Leonard name (the "Intellectual Property") will not infringe upon the intellectual property rights of any other Person. Eaton has received no claim or threatened claim of infringement from any Person relating to the Intellectual Property and knows of no basis for any such claim. No employee of Eaton owns, directly or indirectly in whole or in part, the Intellectual Property;
- (h) **Liabilities:** To the best knowledge of Eaton, there are no liabilities of Eaton of any kind whatsoever, whether or not accrued and whether or not determined or determinable, in respect of which ERIX may become liable on or after the Closing Date other than the Assumed Liabilities;
- (i) **Employees:** Schedule "B" sets out the names, current annual salaries or hourly rates, job descriptions, length of employment or date of hire, dates and amounts of the most recent increases in salary, the amounts of any bonus payments, commissions, accrued vacation pay and other amounts owing to all employees listed thereon. Other than an internal severance policy implemented by Eaton in 1995 pursuant to which Eaton determined to provide a maximum of 12 weeks severance pay per employee, Eaton is not a party to any written contracts of employment with any of the employees listed on Schedule "B" or any oral contracts of employment which are not terminable on the giving of reasonable notice and/or severance pay in accordance with applicable law and no inducements to accept employment with Eaton were offered to any such employees which have the effect of increasing the period of notice of termination to which any such employee is entitled. Eaton has deducted and remitted to the relevant governmental authorities all income taxes, remittances, deductions or other amounts which it is required by law to collect and remit to any governmental authority or other entity relating to the employment of such employees;
- (j) **Employment Payments:** Eaton has paid to the date of this Agreement all amounts payable on account of salary, bonus payments and commission to or on behalf of any and all employees listed in Schedule "B";
- (k) **Labour Matters:** To the best knowledge of Eaton, there is no unfair labour practice complaint by any of the employees listed on Schedule "B" against Eaton under any agency or body having jurisdiction therefor. To the best knowledge of Eaton, there is no labour strike threatened against or involving Eaton and there is no grievance or arbitration proceeding or governmental proceeding relating to any of the employees listed on Schedule "B" pending, nor is there any such proceeding threatened against Eaton which might have a material adverse effect on ERIX or on the conduct of the Business. To the best knowledge of Eaton, no collective bargaining agreement is currently being negotiated by Eaton with respect to the employees listed on Schedule "B". To the best knowledge of Eaton,

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there are no employees listed on Schedule "B" in receipt of or who have claimed benefits under any weekly indemnity, long term disability or workers' compensation plan or arrangement or any other form of disability benefit program;

- (l) **Litigation:** There are no actions, suits or proceedings (whether or not purportedly on behalf of or against Eaton) pending or threatened against or materially adversely affecting, or which would materially adversely affect the Transferred Assets, or before or by any federal, state, municipal or other government, court, department, commission, board, bureau, agency or instrumentality, and which would involve the possibility of any lien, charge, encumbrance or any other right of another against the Transferred Assets;
- (m) **Consents:** Other than the consent of CIBC to be obtained by Closing, there are no consents, authorizations, licences, permits, approvals or orders of any Person or governmental authority required to permit Eaton to complete this transaction with ERIX other than consents, authorizations, licenses, permits, approvals or orders which, if not obtained, would not have a material adverse affect on the Transferred Assets.

5.2 Representations and Warranties of ERIX.

ERIX hereby represents and warrants to Eaton that:

- (a) ERIX is a corporation duly organized, validly existing and in good standing under the laws of California with full corporate power to own or lease its properties and to conduct its business in the manner and in the places where such properties are owned or leased or such business is conducted by it.
- (b) it has full corporate power and authority to enter into this Agreement and to consummate the transactions contemplated hereby; and
- (c) its authorized capital consists of one million shares in its common stock;
- (d) its issued and outstanding capital consists of no shares of its common stock; and
- (e) the Purchased Stock, upon its issuance in accordance with this Agreement, will be validly issued as fully paid and non-assessable.

5.3 Survival.

The representations and warranties contained in this shall survive Closing of the within transactions for a period of two (2) years.

ARTICLE VI - THE CLOSING

6.1

On the Closing Date:

- (a) Eaton shall execute a general conveyance which conveys to ERIX all of the Transferred Assets, and shall deliver the Transferred Assets to ERIX;
- (b) Eaton and ERIX shall execute an assumption of liabilities agreement pursuant to which ERIX will assume the Assumed Liabilities; and
- (c) ERIX shall deliver to Eaton a share certificate representing the Purchased Stock.

ARTICLE VII - USE OF NAME

7.1

Eaton acknowledges that the Transferred Assets includes a royalty-free license to use the names "EATON" and "EATON LEONARD".

ARTICLE VIII- MISCELLANEOUS

8.1

Enurement.

This agreement shall be binding upon and enure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

8.2

Jurisdiction.

This agreement shall be governed by and construed in accordance with the laws of the State of California and shall be treated, in all respects, as a California contract. Each of the parties to this agreement hereby irrevocably attorn to the non-exclusive jurisdiction of the courts of the State of California with venue in San Diego County and hereby waive any objection to such choice of venue and inconvenient forum.

8.3

Further Assurances.

The parties shall from time to time execute and deliver all such further documents and instruments and do all acts and things as the other party may, either before or after the Closing Date, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this agreement.

8.4

Notice.

All notices, requests, demands or other communications required or permitted to be given by one party to another under this Agreement shall be given in writing by personal

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delivery, facsimile or by registered mail, postage prepaid, addressed to such other party or delivered to such other party as follows:

(a) if to Eaton: 6030 Avenida Encinas
Carlsbad, California 92009
U.S.A.

Attention: Alex Kepecs

(b) if to ERIX: Route de Sarrant
32430 Cologne - France

Attention: Philippe Jaubert

with a copy to: 6030 Avenida Encinas
Carlsbad, California 92009
U.S.A.

Attention: Alex Kepecs

or at such other address of which written notice is given and such notices, requests, demands or other communications shall be deemed to have been received when personally delivered, on the next Business Day after sending if sent by facsimile, or, if mailed, on the fourth Business Day after the mailing thereof; provided that if any such notice, request, demand or other communication shall have been mailed and if regular mail service shall be interrupted by strikes or other irregularities on or before the fourth Business Day after the mailing thereof, such notice, request, demand or other communication shall be deemed to have been received only upon personal or facsimile delivery.

8.5 Facsimile Signatures.

The parties agree that this Agreement may be executed by the parties transmitted by facsimile transmission to the respective parties at the facsimile numbers set out in Section 8.4 above and, if so executed and transmitted, this Agreement will be for all purposes as effective as if the parties had delivered an executed original Agreement.

8.6 Counterparts.

This agreement may be executed in counterparts all of which shall be construed together and shall constitute one agreement.

IN WITNESS WHEREOF the parties have executed this agreement.

EATON LEONARD INC.

Per: *[Signature]*

Per: *[Signature]*

EATON LEONARD ROBOLIX, INC.

Per: *[Signature]*

Per: _____

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SCHEDULE "A"
TRANSFERRED ASSETS AND ASSUMED LIABILITIES

Transferred Assets includes all of the following:

- (a) a royalty-free license to use the names "EATON" and "EATON LEONARD";
- (b) the Eaton Leonard logo as shown in Exhibit 1 attached hereto;
- (c) all right, title and interest of Eaton to all patents (including patent applications), inventions, processes, technology, designs, drawings, plans, engineering reports, production specifications, raw material specifications, copyrights, know-how, trade secrets and similar materials relating to the design and manufacture of the VMM, including the following patent:

<u>Title</u>	<u>Country</u>	<u>Application No.</u>	<u>Date</u>
Optical Probe with overlapping detection fields	United States	4,849,643	

- (d) raw material inventory as listed in the Net Asset Schedule attached hereto;
- (e) work-in-process inventory as listed in the Net Asset Schedule (Sub-schedule A) attached hereto;
- (f) finished goods inventory as listed in the Net Asset Schedule (Sub-schedule B) attached hereto; and
- (g) fixed assets as listed in the Net Asset Schedule (Sub-schedule C) attached hereto.

The Assumed Liabilities are as follows:

- (a) Customer deposits as listed in the Net Asset Schedule (Sub-schedule D) attached hereto; and
- (b) Vacation liability as listed in the Net Asset Schedule (Sub-schedule E) attached hereto.

EXHIBIT 1



MPT

Eagle-Eaton Leonard		Newco	
Net Asset Schedule - Rev G - May 23, 2000			
(USD in 000's)			
		Total	
Raw Material Inventory		409,171	
WIP Inventory		0	Schedule A
Finished Goods Inventory		141,943	Schedule B
Fixed Assets		60,423	Schedule C
Customer Deposit		(263,182)	Schedule D
Vacation Liability		(48,355)	Schedule E
		300,000	
		300,000	
Note: Backlog small Benders			
Concept (Cambridge)			Configurable Vectorbend 100HP
Cooper Tire			Configurable Vectorbend 25XP
Carrier			CFGM-Vectorbend 50HP
Carrier			Configurable Vectorbend 25XP
Cooper Tire			Configurable Vectorbend 25XP
Cooper Tire			Configurable Vectorbend 25XP
Cooper Tire			Configurable Vectorbend 200HP
Lebert			Manually Configurable Vectorbend
Tubetronics			Configurable Vectorbend 25XP
Cooper Tire			

5/25/00

Net Asset Schedule Rev g. 052300

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Eagle-Eaton Leonard
Schedule A
Work In Process
Newco

No work in process as of 05/24/00

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Eagle-Eaton Leonard
Schedule B
Finished Goods
Newco

<u>Location</u>	<u>Description</u>	<u>Material</u>	<u>MOH</u>	<u>Labor</u>	<u>LOH</u>
France	Configurable Vector 1 Optima	23,707.61	3,153.11	3,716.88	11,221.26
France	Configurable Vector 1 Optima	30,801.98	4,096.66	3,716.88	11,221.26
France	Configurable Vector 1 Optima	31,216.89	4,151.85	3,716.88	11,221.26

Total
Cost
41,798.86
49,836.78
50,306.88
141,942.52

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Tag	Description	Dept	Type	Code	Tag #	Date	Status	Unit	Perfctd	Life	Period	Desc	Method	Cost	Accum.	Book
1289	INTEL ATLANTA 440LX PENTIUM II-268MMX/512KCAL/40LX W/ACCESSORIES	07	R	DPE	12270	1/1/89	A	5	60	11	SL			1,361.96	249.70	1,112.26
1289	INTEL ATLANTA 440LX PENTIUM II-268MMX/512KCAL/40LX W/ACCESSORIES	07	R	DPE	12272	1/1/89	A	5	60	11	SL			1,361.96	249.70	1,112.26
1282	INTEL ATLANTA 440LX PENTIUM II-268MMX/512KCAL/40LX W/ACCESSORIES	07	R	DPE	12274	1/1/89	A	5	60	11	SL			1,361.96	249.70	1,112.26
1284	INTEL ATLANTA 440LX PENTIUM II-268MMX/512KCAL/40LX W/ACCESSORIES	07	R	DPE	12276	1/1/89	A	5	60	11	SL			1,361.96	249.70	1,112.26
1286	INTEL ATLANTA 440LX PENTIUM II-268MMX/512KCAL/40LX W/ACCESSORIES	07	R	DPE	12278	1/1/89	A	5	60	11	SL			1,361.96	249.70	1,112.26
1288	INTEL ATLANTA 440LX PENTIUM II-268MMX/512KCAL/40LX W/ACCESSORIES	07	R	DPE	12280	1/1/89	A	5	60	11	SL			1,361.96	249.70	1,112.26
1300	INTEL ATLANTA 440LX PENTIUM II-268MMX/512KCAL/40LX W/ACCESSORIES	07	R	DPE	12282	1/1/89	A	5	60	11	SL			1,361.96	249.70	1,112.26
1302	INTEL ATLANTA 440LX PENTIUM II-268MMX/512KCAL/40LX W/ACCESSORIES	07	R	DPE	12284	1/1/89	A	5	60	11	SL			1,361.96	249.70	1,112.26
1304	INTEL ATLANTA 440LX PENTIUM II-268MMX/512KCAL/40LX W/ACCESSORIES	07	R	DPE	12286	1/1/89	A	5	60	11	SL			1,361.96	249.70	1,112.26
1308	INTEL ATLANTA 440LX PENTIUM II-268MMX/512KCAL/40LX W/ACCESSORIES	07	R	DPE	12288	1/1/89	A	5	60	11	SL			1,361.96	249.70	1,112.26
1310	INTEL ATLANTA 440LX PENTIUM II-268MMX/512KCAL/40LX W/ACCESSORIES	07	R	DPE	12290	1/1/89	A	5	60	11	SL			1,361.96	249.70	1,112.26
1312	INTEL ATLANTA 440LX PENTIUM II-268MMX/512KCAL/40LX W/ACCESSORIES	07	R	DPE	12292	1/1/89	A	5	60	11	SL			1,361.96	249.70	1,112.26
1314	INTEL ATLANTA 440LX PENTIUM II-268MMX/512KCAL/40LX W/ACCESSORIES	07	R	DPE	12294	1/1/89	A	5	60	11	SL			1,361.96	249.70	1,112.26
1316	INTEL ATLANTA 440LX PENTIUM II-268MMX/512KCAL/40LX W/ACCESSORIES	07	R	DPE	12296	1/1/89	A	5	60	11	SL			1,361.96	249.70	1,112.26
1230	PENTIUM COMPUTER SYSTEM W/ACCESSORIES	07	R	DPE	12220	6/1/88	A	5	80	17	SL			1,417.99	401.79	1,016.23
1228	PENTIUM COMPUTER SYSTEM W/ACCESSORIES	07	R	DPE	12221	6/1/88	A	5	80	17	SL			1,417.99	418.88	1,059.47
1228	PENTIUM COMPUTER SYSTEM W/ACCESSORIES	07	R	DPE	12222	6/1/88	A	5	80	18	SL			1,593.82	478.08	1,115.54
1221	PENTIUM COMPUTER SYSTEM W/ACCESSORIES	07	R	DPE	12212	5/1/86	A	5	60	18	SL			1,625.85	481.78	1,138.18
1220	PENTIUM COMPUTER SYSTEM W/ACCESSORIES	07	R	DPE	12211	5/1/86	A	5	60	18	SL			1,625.82	503.95	1,175.87
1018	HANGING FILE CABINET	02	R	FAF	12015	4/1/85	A	5	80	60	SL			911.30	850.58	60.72
1213	VBS	01	R	TESTQ	12113	4/1/88	A	3	90	18	SL			47,628.84	16,082.40	32,546.44
948	DESKS & CHAIRS	02	R	FAF	11844	10/1/84	A	5	80	60	SL			374.50	374.50	0.00
1193	VIEWSONIC 16" MONITOR	02	R	DPE	12163	11/1/87	A	3	30	24	SL			378.05	250.72	125.33
1047	17" MONITOR - VIEWSONIC	02	R	DPE	12042	7/1/85	A	5	60	63	SL			790.73	698.50	82.23
1178	VIEWSONIC 21 INCH MONITOR	02	R	DPE	12188	7/30/87	A	3	30	26	SL			1,920.11	1,493.44	426.67
303	FILE CABINET	02	R	FAF	11442	12/1/80	A	5	60	60	SL			288.08	288.08	0.00
30	10 LB COUNTING SCALE	02	R	MAE	11200	6/31/87	A	5	60	60	SL			1,293.77	1,293.77	0.00
1269	Office Furniture for Purchasing Dept	02	R	FAF	122384	11/1/88	A	5	60	13	SL			6,446.87	1,180.12	4,286.55

Tag Number	Description	Dept	Type	Code	Tag #	Date	Status	Lin	Units	Period	Unit	Method	Cost	Accum	Debit	Book
311	VECTOR 1 SERIES 3	50	R	TESTQ	11450	17/191	A	5	60	60	SL	60	17,370.00	17,370.00	0.00	0.00
313	FIXTURE ENCODER LASER/VS/N	51	R	MAE	11452	7/191	A	5	60	60	SL	60	370.05	370.05	0.00	0.00
103	PROBE ASSY, AALC/FA-8800	61	R	MAE	11253	6/1/88	A	5	60	60	SL	60	608.75	608.75	0.00	0.00
874	LASER PROBE INSPECT FIXT	61	R	FAF	11880	3/1/84	A	5	60	60	SL	60	1,187.13	1,187.13	0.00	0.00
127	88000 PROBE	61	R	TESTQ	11276	12/1/88	A	5	60	60	SL	60	1,552.75	1,552.75	0.00	0.00
356	LASER PROBE FIXTURE	61	R	MAE	11484	5/1/81	A	5	60	60	SL	60	2,386.84	2,386.84	0.00	0.00
236	CLEAN/LOW WORK BENCH	51	R	MAE	11382AB	4/1/80	A	5	60	60	SL	60	3,341.28	3,341.28	0.00	0.00
137	LAICRO-SYSTEM TROUBLESHOOT	51	R	TESTQ	11286	7/1/88	A	5	60	60	SL	60	3,952.82	3,952.82	0.00	0.00
218	GLUE UP FIXTURE FOR V155	51	R	MAE	11368	12/1/88	A	5	60	60	SL	60	5,762.83	5,762.83	0.00	0.00
28	MOLDS FOR VECTOR 1 CASTIN	61	R	MAE	11188	4/30/87	A	5	60	60	SL	60	19,433.27	19,433.27	0.00	0.00
573	OPTICAL LIGHT SOURCE	62	R	TESTQ	11684 AAB	2/1/83	A	5	60	60	SL	60	426.61	426.61	0.00	0.00
322	CIRCUIT BOARD DESIGN	62	R	MAE	11462	3/1/81	A	5	60	60	SL	60	428.00	428.00	0.00	0.00
942	LASER ROOM MODIFICATIONS	62	R	MAE	11828	6/1/84	A	5	60	60	SL	60	550.00	550.00	0.00	0.00
310	ARTWORK/ PRELIM V11	62	R	FAF	11448	1/1/81	A	5	60	60	SL	60	2,588.00	2,588.00	0.00	0.00
826	INFRA-RED VU-SCOPE	62	R	TESTQ	11744	6/1/83	A	5	60	60	SL	60	4,476.24	4,476.24	0.00	0.00
													157,429.43	97,903.13	98,472.30	

EXHIBIT 2

PAGE 36

Eagle-Eaton Leonard
Schedule D
Customer Deposit
Newco

Customer	Order #	Machine	Balance
Liebert	4089	VB200	(78,830.50)
Crane Resisloflex	3286	Vecior 1 LVO	(26,901.00)
Cooper	4020	VB25	(28,950.00)
Concept	3968	VB100	(63,320.00)
Tubetronics AMCI	4187	VB50 / LV	(67,380.00)
			(263,181.50)

Eagle-Eaton Leonard
 Schedule E
 Vacation Liability
 Newco

<u>Name</u>	<u>Hire Date</u>	<u>Vacation Liability</u>
Bishop, Melvin	04/26/1993	780.72
Cole, Jeffrey	05/09/1994	1,866.76
Cooper, Corina	01/03/2000	288.37
Cooper, Glen	09/16/1985	1,939.39
Dempster, Hayden	06/28/1993	1,205.58
Dolleton, Michael M	04/10/1995	1,039.03
Granillo, Harvey		0.00
Hopf, Werner G	08/23/1982	657.42
Hopkins, Charles M	10/26/1998	0.00
Howard, Roxanne	12/14/1987	6,417.79
Keeyes, Maureen	03/08/1999	485.45
Magistro, Nancy L	09/29/1994	684.81
McDonnell, Jeffrey	12/17/1984	8,358.66
Nowicki, Richard	05/22/1995	1,239.12
Nurrenbern, Wayne T	01/16/1978	1,674.43
Palacios, Jorge	10/21/1994	542.21
Pawloski, Stacy	09/26/1995	26.25
Rocha, Frank	Temp	0.00
Salanga, Cris D.	03/22/1993	1,837.74
Statzer, Terry B	06/17/1974	7,727.11
Stotts, Kenneth	07/26/1989	941.83
Tarmey, Richard T	08/21/1995	0.5 1,446.57
Taylor, Rayetta	Temp	0.00
Traub, Zeno	03/24/1980	6,277.98
Vu, Ngoc	02/17/1987	728.74
Wallace, Christopher B	10/05/1998	1,474.97
Wasser, Dax	04/20/1992	715.93
	Total	48,354.85

EXHIBIT 3PAGE 38

**SCHEDULE "B"
EMPLOYEES**

MPT

EMPLOYEE NAME	JOB TITLE	NEWCO JOB TITLE	DATE OF HIRE	ANNUAL SALARY	ACCUMULATED VAC PAY
Richard Tarmey	General Manager 1/2	General Manager 1/2	0.5 8/21/95	71,500	2,750
Bishop, Melvin	GL/Vector Assembler	GL/Vector Assembler	1 4/26/93	33,010	754
Christopher Wallace	Application Engineer	Small Bender Product Manager	1 10/5/98	54,800	1,284
Cole, Jeffrey	Mechanical Designer	VIM Designer	1 5/8/94	45,700	1,887
Cooper, Corina	Mechanical Assembler	Assembler	1 1/3/00	18,824	223
Cooper, Brian	Sr. Test Technician	Test Technician	1 9/16/85	35,540	1,764
Dampster, Hayden	Vector Assembler	Vector Assembler	1 8/28/93	22,750	1,191
Grinillo, Harvey	Test Technician	Test Technician	1 7/15/91	28,760	1,375
Hopl, Werner G	Sr Mech Design Engr	Mechanical Engineer	1 8/23/82	68,494	312
Hepkas-Charles M	Manufacturing Mgr	Robolix Product Manager	1 10/26/98	91,000	0
Howard, Roxanne	Inside Sales Mgr	Sales Administrator	1 12/14/87	58,200	6,129
Jorge Palacios	Sr Quality Insp	Assembler	1 10/21/94	23,180	530
Keey's, Maureen	Executive Assistant	Administration Assistant	1 3/8/99	38,800	350
Magistro, Nancy L	Sales Contract Admin	General Administration	1 9/28/94	38,000	665
McDonnell, Jeffrey	Application Engineer	Application Engineer	1 12/17/84	53,700	8,091
Michael Doleton	Acct Payable Supervisor	Buyer	1 4/10/95	35,743	883
Nowicki, Richard	Engineering Supsprv	Designer	1 5/22/85	38,300	1,077
Nurenbern, Wayne T	GL Manuf/2nd	Assembler	1 1/16/78	34,424	1,504
Pawloski, Stacy	Data Entry/Inventory	Print Room Clerk	1 8/28/85	20,040	0
Rocha, Frank	Mechanical Assembler	Assembler	1 temp	24,000	0
Salanga, Chris D.	Electrical Engineer	Electrical Engineer	1 3/22/93	55,203	2,854
Slater, Terry B	Production Ct Super	Buyer	1 6/17/74	58,300	7,438
Slotts, Kenneth	Supervisor Gen Acct	General Accountant	1 7/28/95	53,170	757
Taylor, Rayella	Mechanical Assembler	Assembler	1 temp	24,000	0
Traub, Zeno	Product Dev Mgr	Technical Director	1 3/24/80	89,800	6,177
Vu, Ngoc	Vector Technician	Vector Technician	1 2/17/87	27,270	593
Wasser, Dak	Prod Planner B	Stockroom Clerk	1 4/20/92	25,880	611
				1,168,399.54	49,064

5/2/00

New CO monthly P&L and cash with Robolix employee

EXHIBIT

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HOME

LATEST NEWS

SERVICE, SUPPORT & TOOLING

APPLICATION ENGINEERING

CONTACT US

CNC TUBE BENDERS

- CE 12/CE 25
- VB 50 HP
- VB 25 ELEC
- VB 200 HP
- VB 7.5 HP NEW
- VB 95 HP NEW
- TM2
- Other CNC Benders

CNC WIRE BENDERS

CFR 8/10/12

TUBE END FORMING

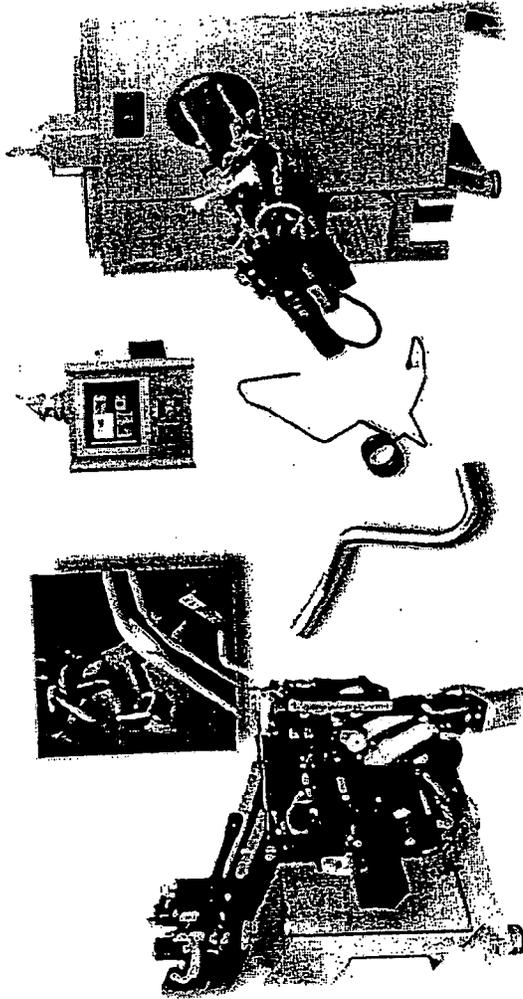
EQUIPMENT
E-FORM

TUBE DATA CENTERS NEW

VECTOR 1 SERIES 4XL
LASERVISION OPTIMA

PRODUCTION CELLS

MACHINE REBUILDS & UPGRADES



What's New At Eaton Leonard?

Eaton Leonard

Eaton Leonard Celebrates Independence

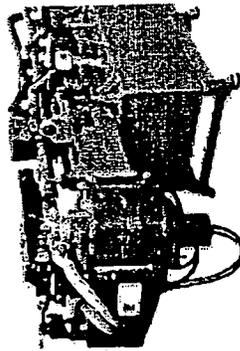
Eaton Leonard has separated from Eagle Precision Technologies and is now a privately owned company. Eaton Leonard is no longer affiliated with Eagle Precision Technologies, Canada or Eagle Technologies Services, Indiana.

Eaton Leonard, Carlsbad, CA continues to offer factory authorized service parts and technician labor for our customers. In addition, we have established the Eaton Leonard Europe division to provide sales, service and replacement parts for our equipment in Europe.



Eaton Leonard offers a complete range of CNC tube benders up to 100 mm (4.0") capacity. The Vector Laservision tube data center and endforming equipment compliment the bender product line. All and manufacturing of Eaton Leonard equipment is performed in Carlsbad, CA.

Eaton Leonard



NEW 76 mm CNC Tube Bender

Eaton Leonard recently introduced a new CNC tube bender for 76mm (3.0") diameter maximum capacity. Designed for continuous high production and extremely accurate bending, Vectorbend 75 HP incorporates many new developments.

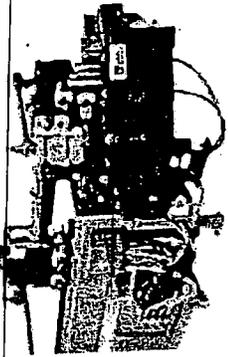
Key features of the VB 75 HP include a new state-of-the-art, direct drive, rotary bend head for increased torque, heavy-duty linear roller bearings on machine slides, and a servo-driven carriage with quick-change collet assemblies. Additionally, the new model incorporates a low-noise, self-contained hydraulic system for low maintenance and high reliability. Easy programming and quick setup is enabled by the Premier Plus PC-based control.

Bending power is supplied by a direct-drive rotary actuator which provides high torque and extremely fast response. This unique design results in high reliability since there are no chains, gear reducers or other associated drive components.

The VB 75 HP is available with a comprehensive selection of accessories including automatic loaders, programmable pressure settings, carriage booster, and a patented headshifter for multi-radius, compounds and multi-diameter bending. Direct interface to any Eaton Leonard Vector 1 tube data center provides a closed-loop system for tube measurement, inspection, bending, data correction and storage.

Eaton Leonard

NEW 100 mm CNC Tube Bender



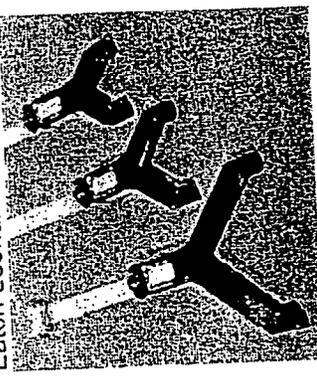
Eaton Leonard is pleased to announce the availability of its NEW 100 mm (4.0") diameter capacity CNC tube bender. Ideal applications for the VB 95 HP include automotive exhaust and structural parts, as well as large diameter aircraft tubes.

The VB 95 HP incorporates an advanced rotary actuator bend arm drive, with superior dynamic response and less parts than conventional chain drives. This proven system enables smooth, repeatable, high-torque bending of tubing up to 100 mm diameter.

Throughout, the high performance VB 95 HP is designed for fast operation, quick changeover and superior reliability. The rack and pinion, servomotor-driven carriage offers exceptional accuracy and repeatability.

Quick-change O.D. collets provide fast tooling changeovers. Machine programming and operation is simplified with Eaton Leonard's Premier Plus control. This PC-based system offers operator-friendly programming via color graphics displayed on a high-resolution 15" active matrix flat panel display. Interface to Eaton Leonard's Vector 1 data center is standard, providing closed-loop inspection, bender data correction and storage.

Eaton Leonard



New Non-Contact Laser Probes

Two new laser probe assemblies are now available for Vector Laservision tube data centers. These include compact and large diameter probes designed to accommodate easy measurement of extreme small and large diameter tubes. The compact probe enables easy measurement of small, complex tubes, while the large diameter model is capable of inspecting up to 152 mm (6.0") tubing.

Similar to the standard Laservision probe, both models utilize Eaton Leonard's patented scanning technique which takes multiple points on each vector. In addition, the visible spectrum laser projects a red beam on the tube for visual location feedback.

Eaton Leonard

Eaton Leonard USA - 6030 Avenida Encinas, Carlsbad, CA 92009
Phone: 760-929-5000 - Fax: 760-438-3168

EXHIBIT 4

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January 13, 2003

Ms. Schafer
SCR Precision Tube
5407 24th Ave. So
Tampa, FL 33619

Subject: *Eaton Leonard Customer Update*

Dear Ms. Schafer

As a valued customer, we want to keep you informed of recent changes and developments at Eaton Leonard. Several changes have been made within the last year and we are now structured to serve you with the highest quality products and services possible.

Eaton Leonard has now incorporated a parts and service center in California. For the most efficient response and your total satisfaction, we encourage you to contact Eaton Leonard, California directly for replacement parts, retrofits, machine upgrades and prompt, professional service. As the original manufacturer, factory authorized replacement parts and service are only available from Eaton Leonard, California. We are no longer affiliated with Eagle Precision or Eagle Technologies Services, Indianapolis.

Enclosed are machine labels, which we encourage you to place on your existing Eaton Leonard equipment for quick assistance on parts and service.

Please retain the following contact information in your records:

Jim Garen
Service and Parts Manager
Direct Phone: (760) 599-6330
Fax: (760) 597-5230
Jgaren@erix-us.com

*760-929-5010
to 217
5090 - Portland*

1991 Specialty Drive u Vista, CA 92083 u 760-599-6300 u

Fax: 760-597-5230

EXHIBIT 5

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JG 2/8/03

New Innovations and Developments:

Within the last year, Eaton Leonard's engineering department has been very busy developing and releasing many new, and exciting, products.

Some of these include the following:

- **VB 80 HP** – This new 80 mm capacity high-torque CNC tube bender incorporates electric drives on the bend arm and carriage. Several quick setup features are available on the VB 80 HP, including a servo-controlled pressure die, automatic centerline radius adjustment and quick change single piece collets.
- **VR-12** – Capable of handling tubes through 12 mm, VR-12 is the perfect solution for automotive, truck, air-conditioning and other complex small tube applications. This unique tube bender rotates the head around the tube while bending in both clockwise and counterclockwise directions.
- **Lightspeed Control** – Eaton Leonard's new Windows NT based graphical user interface offers the ultimate in user friendliness and versatility. This open-architecture PC-based system incorporates several advanced software features and utilizes commercially available hardware for maximum reliability.
- **Machine Rebuilds and Upgrades** – Customers with older vintage (models GP, MP, HS, E) machines can have their equipment refurbished and upgraded by Eaton Leonard. We know your system best and have complete access to all of the latest components and technology. After an Eaton Leonard machine is upgraded by us, it looks and performs like a new machine. We look forward to discussing your requirements.

More product innovations and developments are scheduled for 2003. Please watch eatonleonard.com for additional information.

Eaton Leonard looks forward to servicing our customer's need with a high level of excellence in all business responses. New service, marketing and engineering customer support programs are in place to provide the highest level of response to current customer needs, as well as future fabricating requirements.

Please don't hesitate to contact us if you have any questions or require our assistance.

Sincerely,

Eaton Leonard

1391 Specialty Drive

Viso, CA 92083

760-390-6300

Fax: 760-397-5230

EXHIBIT 5

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EXHIBIT 6

PAGE 45

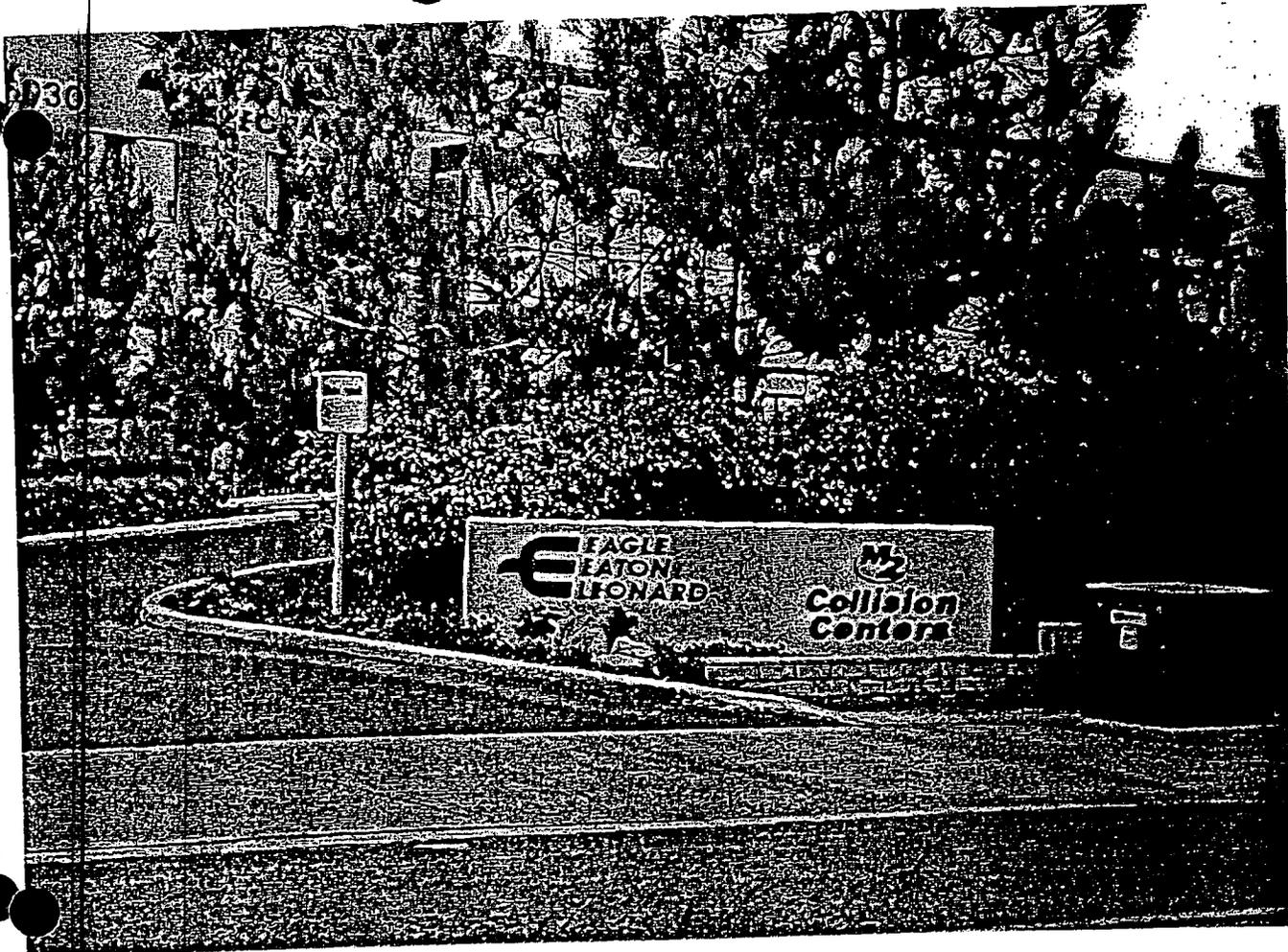


EXHIBIT 6

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Eagle-Eaton Leonard
6030 Avenida Encinas
Carlsbad, California 92009-1001
USA

Voice: 760-929-5000
Fax: 760-438-3168

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EXHIBIT: 7
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United States District Court
SOUTHERN DISTRICT OF CALIFORNIA

EAGLE PRECISION TECHNOLOGIES, INC., an Ontario, Canada corporation; and EAGLE TECHNOLOGIES SERVICES, LTD., an Indiana corporation

vs

EATON LEONARD ROBOLIX, INC., a California corporation

SUMMONS IN A CIVIL ACTION

Case No.

TO: (Name and Address of Defendant)

Eaton Leonard Robolix, Inc.
c/o Francois Patanchon
385 West 1st Street
Encinitas, California 92024

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon **PLAINTIFF'S ATTORNEY**

Olivia Goodkin and Frank D. Hobbs
Rutter Hobbs & Davidoff Incorporated
1900 Avenue of the Stars, Suite 2700
Los Angeles, California 90067-4301
Phone: (310) 286-1700; Fax: (310) 286-1728

An answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

W. Samuel Hamrick, Jr.

CLERK

DATE

, Deputy Clerk

RETURN OF SERVICE

Service of the Summons and Complaint was made by me	DATE
NAME OF SERVER	TITLE

Check one box below to indicate appropriate method of service

Served personally upon the defendant. Place where served: _____

Left copies thereof at the defendant's dwelling, house or usual place of abode with a person of suitable age and discretion then residing therein:

Name of person with whom the summons and complaint were left: _____

Return unexecuted: _____

Other (specify): _____

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
--------	----------	-------

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service is true and correct.

Executed on: _____ Date _____ Signature of Server _____

Address of Server

NOTICE OF RIGHT TO CONSENT TO TRIAL BY A UNITED STATES MAGISTRATE

IN ACCORDANCE WITH THE PROVISION OF 28 USC 636(C) YOU ARE HEREBY NOTIFIED THAT A U.S. MAGISTRATE OF THIS DISTRICT MAY, UPON THE CONSENT OF ALL PARTIES, CONDUCT ANY OR ALL PROCEEDINGS, INCLUDING A JURY OR NON-JURY TRIAL, AND ORDER THE ENTRY OF A FINAL JUDGMENT. COUNSEL FOR THE PLAINTIFF HAS RECEIVED A CONSENT FORM.

YOU SHOULD BE AWARE THAT YOUR DECISION TO CONSENT OR NOT CONSENT IS ENTIRELY VOLUNTARY AND SHOULD BE COMMUNICATED SOLELY TO THE CLERK OF COURT. ONLY IF ALL PARTIES CONSENT WILL THE JUDGE OR MAGISTRATE TO WHOM THE CASE HAS BEEN ASSIGNED BE INFORMED OF YOUR DECISION.

DECISIONS OF THE U.S. MAGISTRATES ARE APPEALABLE TO THE U.S. COURT OF APPEALS IN ACCORDANCE WITH THIS STATUTE AND THE FEDERAL RULES OF APPELLATE PROCEDURE.

1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure

United States District Court
SOUTHERN DISTRICT OF CALIFORNIA

EAGLE PRECISION TECHNOLOGIES, INC., an Ontario, Canada corporation; and EAGLE TECHNOLOGIES SERVICES, LTD., an Indiana corporation

vs

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, Deputy Clerk

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JUDGMENTS OF THE U.S. MAGISTRATES ARE APPEALABLE TO THE U.S. COURT OF APPEALS IN ACCORDANCE WITH THIS STATUTE AND THE FEDERAL RULES OF APPELLATE PROCEDURE.

1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure

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Cal

FILE COPY

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San Diego, CA 92101-8187
3 Telephone: (619) 702-0340
Facsimile: (619) 702-0349

4 Attorneys for Defendant/Counter-Claimant
5 EATON LEONARD ROBOLIX, INC.

6 Fred S. Berretta, Esq. (CA Bar #144757)
KNOBBE, MARTENS, OLSON & BEAR, LLP
7 550 West C Street, Suite 1200
San Diego, CA 92101
8 Telephone: (619) 235-8550
Facsimile: (619) 235-0176

9 Attorneys for Defendant/Counter-Claimant
10 EATON LEONARD ROBOLIX, INC.

11
12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

14
15 EAGLE PRECISION TECHNOLOGIES,)
INC., an Ontario, Canada corporation; and)
16 EAGLE TECHNOLOGIES SERVICES,)
LTD., an Indiana corporation,)

17 Plaintiffs,

18 v.

19 EATON LEONARD ROBOLIX, INC., a)
20 California corporation,)

21 Defendant.

22 EATON LEONARD ROBOLIX, INC., a)
23 California corporation,)

24 Counter-Claimant,

25 v.

26 EAGLE PRECISION TECHNOLOGIES,)
INC., an Ontario, Canada corporation;)
27 EAGLE TECHNOLOGIES SERVICES,)
LTD., an Indiana corporation; EATON)
LEONARD, INC., a California corporation;)
CANADIAN IMPERIAL BANK OF)

Civil Action No. 03 CV0352 DMS (JMA)

**SECOND AMENDED
COUNTERCLAIMS/ CROSS-CLAIMS
OF EATON LEONARD ROBOLIX, INC.
(RULE 13, F.R.C.P.)**

U.S. District Judge Dana M. Sabraw

D. Sabraw

1 COMMERCE, a Canadian corporation; and)
2 THE HAMMER GROUP, a California)
corporation,)

3 Counter-Defendants.)

4 _____)
5 FINANCIERE ROBOLIX, S.A.R.L., a)
French corporation,)

6 Counter-Plaintiff/Intervenor,)

7 v.)

8 EAGLE PRECISION TECHNOLOGIES,)
9 INC., an Ontario, Canada corporation;)
10 EAGLE TECHNOLOGIES SERVICES,)
LTD., an Indiana corporation; EATON)
11 LEONARD, INC., a California corporation;)
CANADIAN IMPERIAL BANK OF)
12 COMMERCE, a Canadian corporation; and)
THE C. F. BOHAM COMPANY, INC., dba)
13 THE HAMMER GROUP, a California)
corporation,)

14 Counter-Defendants.)

16 Pursuant to the court's order filed October 1, 2003, granting leave to amend, counter-
17 claimant Eaton Leonard Robolix, Inc. ("ERIX") hereby asserts amended counterclaims against
18 plaintiffs/counter-defendants Eagle Precision Technologies, Inc. ("Eagle Precision") and Eagle
19 Technologies Services, Ltd. ("Eagle Services," and together with Eagle Precision, the "Eagle
20 Parties"), and, pursuant to Rule 13(h) of the Federal Rules of Civil Procedure, against Eaton
21 Leonard, Inc. ("ELI"), Canadian Imperial Bank Of Commerce ("CIBC"), and The C. F. Boham
22 Company, Inc., doing business as The Hamer Group ("Hamer"), as follows:

23 **JURISDICTION AND VENUE**

24 1. This Court has jurisdiction over the subject matter of this Counterclaim under 15
25 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338(a) and (b), and supplemental jurisdiction under 28
26 U.S.C. §1367(a). Venue is proper in this Court under 28 U.S.C. § 1391(b), and also because, in the
27 various contracts between ERIX, the Eagle Parties and ELI that formed the transactions giving rise
to this dispute, ERIX, the Eagle Parties and ELI have contractually agreed to jurisdiction in the

1 courts of the State of California, and ERIX, Eagle Precision and ELI have contractually agreed to
2 exclusive venue in San Diego County.

3 **THE PARTIES**

4 2. ERIX is a corporation under the laws of the State of California and has a principal
5 place of business in Vista, in the County of San Diego, California.

6 3. ERIX is informed and believes, and thereupon alleges that Eagle Precision is a
7 corporation under the laws of Canada and has a principal place of business in Canada, and that
8 Eagle Precision does business in the State of California and in this judicial district.

9 4. ERIX is informed and believes, and thereupon alleges that Eagle Services is a
10 corporation under the laws of the State of Indiana and has a principal place of business in Indiana,
11 and that Eagle Services does business in the State of California and in this judicial district.

12 5. ERIX is informed and believes, and thereupon alleges that ELI is a corporation under
13 the laws of the State of California and has a principal place of business in San Diego, California,
14 and that ELI is a wholly-owned subsidiary of Eagle Precision.

15 6. ERIX is informed and believes, and thereupon alleges that CIBC is a banking
16 corporation under the laws of Canada and has a principal place of business in Canada, that CIBC
17 does business in the State of California and in this judicial district, and that CIBC owns in excess of
18 98% of the outstanding common shares of Eagle Precision.

19 7. ERIX is informed and believes, and thereupon alleges that Hamer is a corporation
20 under the laws of the State of California and has a principal place of business in Los Angeles,
21 California, that Hamer does business in the State of California and in this judicial district, and that
22 on or about October 26, 2001, ELI made an assignment for the benefit of creditors to Hamer.

23 **GENERAL ALLEGATIONS**

24 8. ERIX is a company engaged in the distribution, sale and servicing of tube-bending
25 machines and related equipment. ERIX had two original shareholders, Financier Robolix,
26 S.A.R.L. ("Robolix") and ELI. The parent company of ELI is Eagle Precision, which is a
27 competitor of ERIX in the tube-bending machine business. ERIX is informed and believes, and

///

1 thereupon alleges that the ERIX stock originally held by ELI is now held either by CIBC or by
2 Hamer in trust for the benefit of CIBC, as more particularly described hereinbelow.

3 9. In or about November 1999, Eagle Precision filed a bankruptcy reorganization and
4 restructuring proceeding in Canada pursuant to the provisions of Canadian law. The Superior Court
5 of Justice in Ontario, Canada, entered an order directing that Eagle Precision pursue various
6 financial avenues, including refinancing, sale of material parts of the business or property, and
7 downsizing, all subject to the approval and control of CIBC, a major creditor of Eagle Precision.

8 10. ERIX is informed and believes, and thereon alleges that at the time of its bankruptcy
9 Eagle Precision owed millions of dollars in loans to CIBC. CIBC installed David Azoulay as the
10 Chief Restructuring Officer of Eagle Precision and CIBC obtained power to approve all contracts,
11 agreements and financial transactions entered into by Eagle Precision. CIBC approved all
12 hereinafter described contracts entered into by ELI and Eagle Precision. CIBC controls all
13 important Eagle Precision management decisions, controls the Board of Directors of Eagle
14 Precision, and owns in excess of 98% of the stock of Eagle Precision.

15 11. In May 2000, after direct negotiations between David Azoulay representing ELI, the
16 Eagle Parties and CIBC, and Philippe Jaubert of Robolix, a series of interlocking written
17 agreements were executed by and among the parties hereto as part of substantially the same overall
18 transaction, including the following agreements:

19 (1) Shareholders Agreement dated May 24, 2000, entered into by and among ELI, Robolix,
20 Eagle Precision and ERIX (hereinafter "Shareholder Agreement");

21 (2) Asset Transfer and Subscription Agreement dated May 29, 2000, entered into between
22 ELI and ERIX (hereinafter "Asset Agreement");

23 (3) General Conveyance and Assumption Agreement dated May 29, 2000, entered into by
24 and between ELI and ERIX (hereinafter "Conveyance Agreement");

25 (4) License Agreement dated May 29, 2000 entered into by and between ELI and ERIX
26 (hereinafter "License Agreement");

27 (5) Services Agreement dated May 29, 2000, entered into by and among Eagle Precision,
ELI, ERIX and Eagle Services (hereinafter "Services Agreement"); and

1 (6) Sublease entered into in May 2000 entered into by and between ELI and ERIX
2 (hereinafter "Sublease"). (True and correct copies of these agreements are attached hereto, marked
3 as Exhibits "A" through "F," respectively, and made a part hereof.)

4 12. Under the Asset Agreement, it was provided, *inter alia*, that ELI would acquire stock
5 in ERIX in consideration of the transfer to ERIX of certain "Transferred Assets" listed on Schedule
6 A to the Asset Agreement, including (a) a royalty-free license for the use of the trademarks and
7 trade names EATON and EATON LEONARD, (b) the trademark Eaton Leonard logo that is
8 registered with the USPTO, United States Trademark Registration No. 1,066,613, and (c) United
9 States Patents Nos. 4,849,643, issued July 18, 1989, and 5,008,555, issued April 16, 1991, both
10 entitled "Optical Probe With Overlapping Detection Fields," and the associated measurement
11 software, inventions, processes, technology, designs, drawings, plans, reports, specifications,
12 copyrights, know-how, trade secrets and similar materials (hereinafter, the "VMM Materials").
13 Article V of the Asset Agreement further provided that ERIX shall become the "absolute beneficial
14 and legal owner of the Transferred Assets with good title, free and clear of any liens, charges,
15 mortgages, security interests, encumbrances or rights or claim of others. . ."

16 13. Also under Article V of the Asset Agreement, it was specifically represented and
17 warranted that ELI had full ownership and authority to transfer the Transferred Assets to ERIX free
18 of any contractual obligations or other encumbrances other than a security interest granted to CIBC,
19 and that at the closing, "the security granted to CIBC in connection with the Transferred Assets will
20 be released and discharged." ERIX is informed and believes, and thereon alleges that David
21 Azoulay and CIBC approved all the terms of the Asset Agreement, the Shareholder Agreement, and
22 License Agreement, as well as all the other contracts, agreements and financial transactions entered
23 into by ELI and/or the Eagle Parties relevant to this dispute, and CIBC directed and controlled the
24 participation of the Eagle Parties in these transactions.

25 14. Despite the terms of the Asset Agreement, ERIX is informed and believes, and
26 thereupon alleges that when ELI executed the Asset Agreement it had already transferred a
27 significant portion of the Schedule "A" Transferred Assets to Eagle Precision, including at least
28 United States Trademark Registration No. 1,066,613 and United States Patent No. 5,008,555.

1 ERIX is further informed and believes, and thereupon alleges that the assets transferred from ELI to
2 Eagle Precision were pledged to CIBC as collateral for the repayment of loans made by CIBC to
3 Eagle Precision, and that ELI, Eagle Precision and CIBC made no attempt, and in reality never
4 intended, to transfer the Schedule "A" assets to ERIX as required under the Asset Agreement.

5 15. Under the Conveyance Agreement, ELI specifically agreed to convey to ERIX all of
6 the Transferred Assets listed in Schedule A of the Asset Agreement, including those listed in the
7 preceding paragraph hereof, and further specifically agreed "from time to time and at all times
8 hereafter" to do whatever may be reasonably required at the request of ERIX to "more effectually
9 and completely" vest in ERIX the Transferred Assets. Despite these agreements, ELI and Eagle
10 Precision have refused to transfer the Transferred Assets to ERIX upon its prior reasonable requests
11 to do so.

12 16. Under the License Agreement, it was provided that ELI, as licensor, granted to ERIX
13 an exclusive, royalty-free worldwide license for ERIX to make and sell certain tube-bending
14 Products under the United States Patents listed in Schedule A of the License Agreement, subject
15 only to ELI's right to make and sell Products under the licensed patents outside of North America,
16 and certain other pre-existing licenses to third parties. The License Agreement further provided
17 that there were no "outstanding assignments" inconsistent with the License Agreement, and that
18 ELI was required to maintain all the licensed patents in good standing by paying any required
19 maintenance, renewal or annuity fees.

20 17. Despite the terms of the License Agreement, ERIX is informed and believes, and
21 thereupon alleges that when ELI executed the License Agreement it had already sold to a third
22 party at least one of the licensed patents listed on Schedule A of the License Agreement, United
23 States Patent No. 4,910,658, and so was not free to license that patent, and that all the other patents
24 listed on the Schedule A were already assigned to Eagle Precision. ERIX is further informed and
25 believes, and thereupon alleges that ELI and/or Eagle Precision have breached the License
26 Agreement by subsequently granting to other third parties who are competitors of ERIX royalty-
27 bearing licenses under one or more of the patents exclusively licensed to ERIX, including
28 Pedrazoli, Bema, and Trumpf Pulzer, rather than initiating patent infringement litigation against

1 these third parties, and that ELI and the Eagle Parties have also breached the License Agreement by
2 using one or more of the licensed patents to make and sell certain tube bending machines in North
3 America. ERIX is further informed and believes, and thereupon alleges that ELI has failed to
4 properly maintain one or more of the patents exclusively licensed to ERIX as required by the terms
5 of the License Agreement. ERIX is further informed and believes, and thereupon alleges that the
6 patents listed on the Schedule A of the License Agreement that were already assigned to Eagle
7 Precision were pledged to CIBC as collateral for the repayment of loans made by CIBC to Eagle
8 Precision. ERIX never received the assets; the assets are under the control and possession of Eagle
9 Precision or CIBC, or both of them.

10 18. Under the Services Agreement, it was provided that ELI would provide certain
11 services to ERIX in connection with ERIX, sublease of building space from ELI, and ERIX
12 appointed Eagle Services and a European subsidiary of the Eagle Parties as ERIX's agent for the
13 sale of ERIX products in various geographical markets, among other terms. On September 4, 2001,
14 the Eagle Parties cancelled the Services Agreement, but have failed to return certain VMM
15 Materials that Eagle Services was using under the Services Agreement that are the property of
16 ERIX under the Asset Agreement. ERIX is further informed and believes, and thereupon alleges
17 that despite canceling the Services Agreement the Eagle Parties have continued to provide services
18 on certain ERIX products by continuing to wrongfully use the VMM Materials resulting in lost
19 service sales to ERIX.

20 19. Under the Sublease, ELI agreed to sublease to ERIX 16,952 square feet of building
21 space located at 6030 Avenida Encinas, Carlsbad, California for a term of five years commencing
22 June 1, 2000, for monthly payments of rent, plus additional charges for utilities and janitorial
23 service. The Sublease further included an option to extend the Sublease for an additional four-year
24 term, and required the payment of a \$20,000 security deposit by ERIX as Sublessee. ERIX is
25 informed and believes, and thereupon alleges that ELI breached the Sublease by failing to pay rent
26 to the master lessor, thereby causing ERIX as Sublessee to be evicted from the premises and sustain
27 substantial damages as alleged further herein below.

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1 20. The Shareholder Agreement is the connecting document through which ERIX was
3 formed and gave rise to all the related transactions that are set forth in the above-listed interlocking
4 agreements. Under Article VI of the Shareholder Agreement, it was provided that if a shareholder
5 of ERIX makes an assignment for the benefit of creditors, this constitutes an event of default
6 triggering a right in the non-defaulting shareholder to purchase the defaulting shareholder's stock in
7 ERIX for appraised value. Under Article VIII of the Shareholder Agreement, it was provided that
8 certain non-competition covenants set forth in the Shareholder Agreement, including those related
9 to restrictions based upon large and small tube diameters, shall terminate in the event that ELI is no
10 longer a shareholder of ERIX, or in the event that there is a change in Control of Eagle Precision or
11 ELI.

12 21. ERIX is informed and believes, and thereupon alleges that soon after the formation
13 of ERIX in May of 2000, ELI and the Eagle Parties began to phase out and eventually stopped and
14 abandoned all use of the trademarks and trade names "EATON" and "EATON LEONARD." For
15 example, ERIX is informed and believes, and thereupon alleges that in September of 2000 Eagle
16 Precision abandoned a then pending trademark application for the mark EAGLE EATON
17 LEONARD with design. ERIX is further informed and believes, and thereupon alleges that by
18 sometime in 2001 ELI had effectively ceased doing business and that ELI and the Eagle Parties had
19 ceased and abandoned any and all use of the trademarks and trade names "EATON" and "EATON
20 LEONARD." Eagle Precision has in fact never used the names "Eaton" or "Eaton Leonard" in
21 connection with the manufacture and sale of tube benders.

22 22. On June 5, 2000, CIBC and ELI executed a document entitled "Consent" pursuant to
23 which CIBC expressly agreed to release any claim or interest in the Schedule A assets under the
24 Asset Agreement. (A true and correct copy of said document is attached hereto, marked as
25 Exhibit "G," and made apart hereof.) In spite of this document, CIBC and/or Eagle Precision
26 continues to exercise physical possession and control with respect to the Schedule A assets as more
27 particularly alleged herein. In point of fact, the "Consent" purported to relinquish CIBC's security
28 interest in said assets, but did not result in ERIX receiving the assets. Furthermore, under the
Consent, CIBC wrongfully purported to extract a security interest in the ERIX stock in exchange

1 for consenting to release of the Schedule A assets. CIBC wrongfully ended up with an improper
2 security interest in ERIX stock and in physical possession and control of Schedule A assets which
3 were supposed to have been transferred and conveyed to ERIX.

4 23. ERIX is informed and believes, and thereupon alleges that, in a further effort to harm
5 ERIX and disrupt its business, Eagle Precision has recently applied to the USPTO for registration
6 of various trademarks that it has not used and does not intend to use in commerce, including United
7 States Trademark Application Nos. 76,469,744 for the mark "EATON LEONARD" and 76,471,241
8 for the mark "ELI", and United States Trademark Application Nos. 76,491,086 and 76,491,087 for
9 the marks "EAGLE EATON LEONARD" with design and in typewritten form, respectively.

10 24. ERIX is informed and believes, and thereupon alleges that by 2001, under the control
11 and at the direction of the Eagle Parties and CIBC, ELI had transferred all or almost all of its
12 remaining assets to the Eagle Parties, and had effectively ceased doing business. On October 26,
13 2001, ELI made an assignment for the benefit of creditors to Hamer, an event which under the
14 Shareholder Agreement constituted an event of default since ELI had thereby assigned its shares in
15 ERIX and so was no longer a shareholder of ERIX. ELI's assignment for the benefit of creditors to
16 Hamer also triggered the provisions of the Shareholder Agreement that terminated the non-
17 competition covenants of that Agreement. ERIX is further informed and believes, and thereupon
18 alleges that ELI remains in the receivership of Hamer.

19 25. ELI's assignment for the benefit of creditors to Hamer and resulting event of default
20 under the Shareholder Agreement ultimately led to the execution of a letter of intent in April of
21 2002, between Hamer (as assignee of ELI) and Robolix for Robolix to purchase ELI's shares in
22 ERIX for appraised value, as required by the terms of the Shareholder Agreement. Shortly before
23 execution of the letter of intent, Hamer advised Robolix that the ELI shares in ERIX had previously
24 been pledged to CIBC as collateral for a guarantee of repayment of multi-million dollar loans from
25 CIBC to Eagle Precision, ELI's parent corporation. ERIX is informed and believes, and thereupon
26 alleges that the Eagle Parties and CIBC have refused to allow Hamer (as assignee of ELI) to carry
27 out the express terms of the Shareholder Agreement. (A true and correct copy of said Letter of
28 Intent is attached hereto, marked as Exhibit "H," and made a part hereof.)

1 26. On or about September 13, 2002, Eagle Precision, CIBC, Hamer and ELI entered
2 into a written agreement entitled "Settlement Agreement." Said agreement was executed on behalf
3 of CIBC and ELI by Wim Faassen, Manager of CIBC. Among various terms of said agreement, it
4 provided for the transfer by Hamer to Eagle Precision of Hamer's interest in "all other intellectual
5 property previously assigned by ELI to Eagle Precision including all patents, the ELI logo and
6 names, . . .subject to the patent interest of ERIX discussed below." Said agreement included a
7 "private memorandum" attached as Schedule C to the 9/13/02 Settlement Agreement entitled the
8 "LOI Memoranda." It was further provided that upon closing of the purchase of ERIX shares by
9 Robolix, if such event happened, Hamer would cause delivery to ERIX of title to certain patents
10 and an acknowledgment by Eagle Precision of the validity of certain non-exclusive licensing rights
11 granted to ERIX under the License Agreement. It was further provided that there could be no
12 variance from these terms in connection with the sale of stock in ERIX to Robolix without the
13 express prior written consent of CIBC and Eagle Precision. The effect of this document was to
14 attach improper and unwarranted condition upon the right of ERIX to receive conveyance of assets
15 under the Asset Agreement, as well as royalty rights under the Licence Agreement, and to tie
16 ERIX's rights under said agreements to conditions relating to the purchase of ERIX stock by
17 Robolix. All assets and royalty rights of ERIX under the Asset Agreement and License Agreement
18 were supposed to have been granted unfettered and without any such conditions or contingencies.
19 (A true and correct copy of the Settlement Agreement, including the LOI Memoranda as
20 Schedule C, is attached hereto, marked as Exhibit "I," and made a part hereof.

21 27. With regard to ERIX stock, the 9/13/02 Settlement Agreement, Exhibit I, hereto,
22 further provided that no material changes to the proposed sale of ERIX shares to Robolix could be
23 made without the prior written consent of CIBC and Eagle Precision; that CIBC, Eagle Precision
24 and Hamer would have certain joint approval rights regarding terms of sale of ERIX stock; and that
25 CIBC was going to deliver the ERIX share certificates to Hamer to be held in trust for CIBC.
26 Hamer now states that it does not have the ERIX share certificates and does not know who has
27 them. (See, email dated 10/29/03 from Nigel Hamer of Hamer Group attached hereto, marked
28 Exhibit "K," and incorporated herein.)

1 28. CIBC, acting in concert with Eagle Precision, has taken the position that no assets
2 could be transferred to ERIX under the Asset Agreement and no stock purchase transaction for
3 purchase of ERIX shares under the Shareholder Agreement and Letter of Intent could take place
4 unless and until Eagle Precision was fully released from all claims of fraud or misrepresentation
5 and ERIX renounced entitlement to certain assets it was otherwise entitled to receive under
6 Schedule A of the Asset Agreement.

7 29. By letter dated February 7, 2003, legal counsel for CIBC gave written notification
8 that CIBC claimed entitlement to assets which ERIX was supposed to receive under the Asset
9 Agreement, which assets had been represented to be free and clear of all claims, liens or other
10 impediments to title. (A true and correct copy of said letter is attached hereto, marked Exhibit "J,"
11 and made a part hereof.)

12 **FIRST COUNTERCLAIM**

13 **(Breach of Asset Agreement and Conveyance Agreement against ELI)**

14 30. ERIX incorporates and realleges all prior paragraphs the same as though set forth in
15 full.

16 31. Recital B of the Asset Agreement provides as follows:

17 "As consideration for [ELI's] subscription, [ELI] and ERIX have
18 agreed that [ELI] will transfer to ERIX assets used by [ELI] in
19 carrying on (i) its business of manufacturing small diameter (meaning
20 less than 45 mm) metal tube benders (ii) its business of manufacturing
21 the VB200HP, and (iii) its business of manufacturing metal tube
22 measuring devices, all as more specifically described in Schedule 'A'
23 (the 'transferred assets')."

24 32. Section 5.1 of the Asset Agreement, entitled Representations and Warranties of ELI,
25 further provides as follows:

26 "(e) Title to Transferred Assets: On closing, [ELI] will be, and ERIX
27 shall become, the absolute beneficial and legal owner of the
Transferred Assets with a good title, free and clear of any liens,

1 charges, mortgages, security interests, encumbrances or rights or
2 claims of others and [ELI] is exclusively entitled to possess and
3 dispose of the same, and in particular, without limiting the generality
4 of the foregoing there has been no assignment, subletting or granting
5 of any license (of occupation or otherwise) of or in respect of any of
6 the Transferred Assets.”

7 33. The Conveyance Agreement provides that ELI sells, assigns, transfers, conveys and
8 sets over to ERIX all of the “Transferred Assets” as listed on Schedule A of the Asset Agreement,
9 and further specifically provides that “from time to time and at all times hereafter” October 24, 2003
10 ELI shall to do whatever may be reasonably required at the request of ERIX to “more effectually
11 and completely” vest in ERIX the Transferred Assets. Despite these agreements, ELI and Eagle
12 Precision have refused to transfer the Transferred Assets to ERIX upon its prior reasonable requests
13 to do so.

14 34. ERIX has performed all covenants, conditions and promises required on its part to be
15 performed under the terms of the Asset Agreement and Conveyance Agreement.

16 35. ELI has breached said agreements by failing to transfer the designated assets to ERIX
17 as promised. As a direct and proximate result of said breach of contract, ERIX has suffered
18 substantial damages, the exact amount to be proven and established at the time of trial.

19 36. The Transferred Assets and their rightful ownership by ERIX has a value to ERIX
20 which is difficult to ascertain. Said assets are unique and damages would provide an inadequate
21 remedy as a means of compensating for the breach of the Asset Agreement and the Conveyance
22 Agreement.

23 37. By reason of the foregoing, ERIX requests a judicial decree that it is the rightful
24 owner of all the Transferred Assets, and a judgment and decree of specific performance against ELI
25 compelling it to fully perform the Asset Agreement and the Conveyance Agreement by transferring
26 to ERIX all of the Schedule A Transferred Assets, including (a) a royalty-free license for the use of
27 the trademarks and trade names EATON and EATON LEONARD, (b) the trademark Eaton
Leonard logo that is registered with the USPTO, United States Trademark Registration No.

1 1,066,613, and (c) United States Patents Nos. 4,849,643, issued July 18, 1989, and 5,008,555,
2 issued April 16, 1991, both entitled "Optical Probe With Overlapping Detection Fields," including
3 any related or foreign counterpart patents thereto, and all the associated VMM Materials. Without a
4 decree of specific performance, ERIX will be left with inadequate remedies at law which cannot
5 substitute for full performance of the agreements.

6 38. Pursuant to the terms of the Shareholder Agreement, ERIX is also entitled to an
7 award of its attorneys fees on this counterclaim because it involves a "resulting transaction" arising
8 out of said agreement.

9 **SECOND COUNTERCLAIM**

10 **(Breach of License Agreement against ELI)**

11 39. ERIX incorporates and realleges all prior paragraphs the same as though set forth in
12 full.

13 40. Under the License Agreement, it was provided that ELI as the licensor granted to
14 ERIX an exclusive, royalty-free worldwide license for ERIX to make and sell ^{small} certain tube-bending
15 Products under the United States Patents listed in Schedule A of the License Agreement, subject
16 only to ELI's right to make and sell Products under the licensed patents outside of North America,
17 and certain other pre-existing licenses to third parties. The License Agreement further provided
18 that there were no "outstanding assignments" inconsistent with the License Agreement, and that
19 ELI would maintain all the licensed patents in good standing by paying any required maintenance,
20 renewal or annuity fees.

21 41. ERIX is informed and believes, and thereupon alleges that ELI has breached the
22 License Agreement by subsequently granting to other third parties who are competitors of ERIX
23 royalty-bearing licenses under one or more of the patents exclusively licensed to ERIX, including
24 Pedrazoli, Bema, and Trumpf Pulzer; that ELI has failed to properly maintain one or more of the
25 patents exclusively licensed to ERIX as required by the terms of the License Agreement; and, that
26 ELI violated the License Agreement by previously selling one of the licensed patents to a third
27 party. ERIX is further informed and believes, and thereupon alleges that the patents listed on the
Schedule A of the License Agreement that were already assigned to Eagle Precision were pledged

1 to CIBC as collateral for the repayment of loans made by CIBC to Eagle Precision. ERIX never
2 received the assets; the assets are under the control and possession of Eagle Precision or CIBC, or
3 both of them.

4 42. ERIX has performed all covenants, conditions and promises required on its part to be
5 performed under the terms of the License Agreement.

6 43. ELI has breached the License Agreement in at least the several ways alleged
7 hereinabove. As a direct and proximate result of said breach of contract, ERIX has suffered
8 substantial damages, the exact amount to be proven and established at the time of trial.

9 44. The License Agreement has a value to ERIX which is difficult to ascertain. The
10 licensed patents are unique and damages would provide an inadequate remedy as a means of
11 compensating for the breach of the License Agreement.

12 45. By reason of the foregoing, ERIX requests a judicial declaration that ERIX is the
13 exclusive licensee of United States Patents Nos. 4,750,346, issued on June 14, 1988 and entitled
14 "Link Drive for Bending Arm of Tube Bending Machine," 4,760,726, issued on August 2, 1988 and
15 entitled "Bend Arm Apparatus for Tube Bending Machine with Cammed Clamp Die," 4,867,463,
16 issued on September 19, 1989 and entitled "Quick Release Collet," 4,870,849, issued on October 3,
17 1990 and entitled "Method for Tube Bending with Controlled Clamp Die Arrangement," and
18 5,426,965, issued on June 27, 1995 and entitled "Carriage Boost Drive," including any related or
19 foreign counterpart patents thereto, and a judgment and decree of specific performance against ELI
20 compelling it to fully perform the License Agreement, including paying all maintenance fees (or
21 reimbursing ERIX for payment of said fees, as the case may be) now owing or coming due on said
22 United States Patents, and enjoining ELI from granting any licenses under any of said United States
23 Patents, or any related or foreign counterpart patents thereto, to any other persons or entities.
24 Without a decree of specific performance, ERIX will be left with inadequate remedies at law which
25 cannot substitute for full performance of the agreements.

26 46. Pursuant to the terms of the Shareholder Agreement, ERIX is also entitled to an
27 award of its attorneys fees on this counterclaim because it involves a "resulting transaction" arising
out of said agreement.

1 **THIRD COUNTERCLAIM**

2 **(Breach of Services Agreement against ELI and Eagle Parties)**

3 47. ERIX incorporates and realleges all prior paragraphs the same as though set forth in
4 full.

5 48. ERIX is informed and believes, and thereupon alleges that the Eagle Parties
6 cancelled the Services Agreement, but have failed to return certain VMM Materials that Eagle
7 Services was using under the Services Agreement that are the property of ERIX under the Asset
8 Agreement. ERIX is further informed and believes, and thereupon alleges that despite canceling
9 the Services Agreement the Eagle Parties have continued to provide services on certain ERIX
10 products by continuing to wrongfully use the VMM Materials resulting in lost service sales and
11 damages to ERIX.

12 49. ERIX has performed all conditions covenants and promises required on its part to be
13 performed under the Services Agreement, or has been prevented or excused from performing same.

14 50. ELI and Eagle Parties have breached the Services Agreement as alleged in paragraph
15 48 above. As a proximate result thereof, ERIX has been damaged in an amount to be proven and
16 established at trial.

17 51. Pursuant to the Shareholder Agreement, this is a "resulting transaction" entitling
18 ERIX to an award of reasonable attorney fees upon prevailing.

19 **FOURTH COUNTERCLAIM**

20 **(Breach of Sublease against ELI)**

21 52. ERIX incorporates and realleges all prior paragraphs the same as though set forth in
22 full.

23 53. Upon executing the Sublease, ERIX went into possession of the subject premises and
24 paid rent to ELI as provided in the Sublease. ELI was required to pay rent to the master
25 lessor/property owner, JMB Industrial Properties Fund II (now known as Cabbot Industrial
26 Properties, LP, successor to JMB Industrial Properties Fund II), under the terms of a Master Lease
27 of the subject premises between ELI and the master lessor/property owner.

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1 54. In reliance upon execution of the Sublease, ERIX expended in excess of \$200,000 in
2 tenant improvements for the leased premises.

3 55. ERIX has performed all conditions, covenants and promises on its part required to be
4 performed under the terms of the Sublease, or has been prevented or excused from performing
5 same.

6 56. ELI has breached and repudiated the Sublease by collecting rent from ERIX under
7 the Sublease but failing to pay rent to the Master Lessor under the Master Lease, thereby causing
8 ERIX to be evicted from the premises. ERIX has been forced to vacate the premises and secure
9 alternative lease space for its business at substantial expense, inconvenience and disruption to its
10 business.

11 57. As a direct and proximate result of said breach of contract, ERIX has suffered
12 substantial damages, the exact amount to be proven and established at the time of trial.

13 58. Pursuant to the terms of the Sublease, ERIX is also entitled to an award of its
14 attorneys fees on this counterclaim.

15 59. Pursuant to the terms of the Shareholder Agreement, ERIX is also entitled to an
16 award of its attorneys fees on this counterclaim because it involves a "resulting transaction" arising
17 out of said agreement.

18 **FIFTH COUNTERCLAIM**

19 **(Conspiracy to Interfere with Contractual Relations against CIBC and Eagle Precision –**
20 **Asset Agreement and Conveyance Agreement)**

21 60. ERIX incorporates and realleges all prior paragraphs the same as though set forth in
22 full.

23 61. At all times material hereto there existed valid contracts between ERIX and ELI as
24 hereinabove alleged, namely, the Asset Agreement and the Conveyance Agreement, Exhibits B and
25 C attached hereto and incorporated herein. At all times material hereto CIBC and Eagle Precision
26 had full knowledge of the aforesaid contractual relationship between ERIX and ELI with regard to
27 the Asset Agreement and the Conveyance Agreement.

28 ///

1 62. CIBC and Eagle Precision, acting as joint tortfeasors in concert with one another
2 pursuant to a common purpose or plan, have undertaken intentional acts designed to disrupt the
3 contractual relationship of ERIX under the Asset Agreement and the Conveyance Agreement.
4 Specifically, CIBC and Eagle Precision, using their position of control over ELI, have effectively
5 prevented ERIX from receiving the Schedule A assets which it was entitled to receive under the
6 Asset Agreement by imposing unjustified and unwarranted conditions upon ERIX's receipt of the
7 assets, namely, demanding that ERIX release claims of fraud against Eagle Precision and
8 demanding that ERIX renounce entitlement to certain assets which it was entitled to receive under
9 the Asset Agreement. In addition, CIBC, which, through its designee, David Azoulay, was
10 instrumental in negotiating and approving the Asset Agreement and the Conveyance Agreement,
11 has assisted or directed Eagle Precision to assert control of the Schedule A assets contrary to said
12 agreements, which provide for ERIX to be the absolute beneficial and legal owner of the transferred
13 assets free and clear of any lien, charge, security interests or other encumbrances or claims. In
14 addition, CIBC and Eagle Precision have caused the transfer of Schedule A assets, including the
15 ELI name and logo, from ELI/Hamer to Eagle Precision when said assets should have been
16 transferred to ERIX under the Asset Agreement and the Conveyance Agreement. CIBC and Eagle
17 Precision, acting in concert pursuant to common plan or purpose, have essentially directed the
18 imposition of hidden and unwarranted conditions and restrictions upon the unfettered right of ERIX
19 to receive the Schedule A assets. ERIX is informed and believes and thereon alleges that this
20 conduct has been undertaken by CIBC and Eagle Precision for the purpose of obtaining financial
21 advantages and concessions for Eagle Precision and its *de facto* parent corporation, CIBC.

22 63. The intentionally disruptive acts of CIBC and Eagle Precision as hereinabove alleged
23 have in fact caused interference with the contractual rights of ERIX under the Asset Agreement and
24 the Conveyance Agreement in that there has been a material breach of the Asset Agreement and
25 Conveyance Agreement and ERIX has not received the valuable consideration which it was entitled
26 to receive under the terms of said agreements. But for the intentionally disruptive conduct of CIBC
27 and Eagle Precision as hereinabove alleged, the aforesaid contracts would have been performed and
ERIX would have received the consideration to which it was entitled under said agreements.

1 and believes and thereon alleges that this conduct has been undertaken by CIBC and Eagle
2 Precision for the purpose of harming the contractual rights of ERIX under the License Agreement
3 and to obtain financial advantages for themselves which were rightfully contracted to be obtained
4 by ERIX.

5 69. The intentionally disruptive acts of CIBC and Eagle Precision, as hereinabove alleged,
6 have in fact caused interference with the contractual rights of ERIX under the License Agreement
7 in that there has been material breaches of said License Agreement and ERIX has not received the
8 consideration which it was entitled to receive under the terms of said agreement. But for the
9 intentionally disruptive conduct of CIBC and Eagle Precision as herein alleged, the aforesaid
10 License Agreement would have been performed and ERIX would have received the consideration
11 to which it was entitled under said agreement.

12 70. As a direct and proximate result of the foregoing conduct of CIBC and Eagle
13 Precision, ERIX has been damaged. Such damages include loss of value from exclusively granted
14 patent rights, loss of income from the exclusive licensing of said patent rights, and related damages.
15 ERIX is informed and believes and thereon alleges that the amount of said damages is at least
16 \$1,000,000, the exact amount to be proven and established at trial.

17 71. ERIX is informed and believes and thereon alleges that the foregoing conduct of
18 CIBC and Eagle Precision was undertaken with a conscious disregard of the rights of ERIX and
19 was malicious and/or despicable within the meaning of California Civil Code section 3294. By
20 reason thereof, ERIX is entitled to an award of punitive or exemplary damages in an amount to be
21 established at trial to punish CIBC and Eagle Precision for such wrongful conduct and deter similar
22 conduct in the future.

23 SEVENTH COUNTERCLAIM

24 **(Interference with Contractual Relations against Eagle Precision – Sublease)**

25 72. ERIX incorporates and realleges all prior paragraphs the same as though set forth in
26 full.

27 73. At all times material hereto there existed a valid contract between ERIX and ELI has
hereinabove alleged, namely, the Sublease, Exhibit F attached hereto and incorporated herein. At

1 all times material hereto Eagle Precision had full knowledge of the aforesaid contractual .
2 relationship between ERIX and ELI with regard to the Sublease.

3 74. ERIX is informed and believes and thereon alleges that Eagle Precision has
4 undertaken intentional acts designed to disrupt the contractual relationship of ERIX under the
5 Sublease. Specifically, Eagle Precision, using its position of control over ELI, caused rent
6 payments under the Sublease made by ERIX not to be paid to the landlord as required which
7 directly resulted in ERIX being evicted from the premises in spite of being fully current on all of its
8 required rent payments under the Sublease. ERIX is informed and believes and thereon alleges that
9 ERIX's rent payments under the Sublease were diverted to Eagle Precision for the financial benefit
10 of Eagle Precision, and to the financial detriment of ERIX which had fully complied with all terms
11 of the Sublease.

12 75. The intentionally disruptive acts of Eagle Precision, as hereinabove alleged, have in
13 fact caused interference with the contractual rights of ERIX under the Sublease resulting in the
14 property owner evicting ERIX from the premises which it was occupying under the terms of the
15 Sublease. But for the intentionally disruptive conduct of Eagle Precision, the aforesaid Sublease
16 would have been performed and ERIX would have continued to occupy the subleased premises.

17 76. As a direct and proximate result of the foregoing conduct of Eagle Precision, ERIX
18 has been damaged. Such damages include loss/forfeiture of tenant improvements, expenditure of
19 funds for tenant improvements and security deposit for alternative space, attorney fees and related
20 damages of at least \$500,000, the exact amount to be proven and established at trial

21 77. ERIX is informed and believes and thereon alleges that the foregoing conduct of
22 Eagle Precision was undertaken with a conscious disregard of the rights of ERIX and was malicious
23 and/or despicable within the meaning of California Civil Code section 3294. By reason thereof,
24 ERIX is entitled to an award of punitive or exemplary damages in an amount to be established at
25 trial to punish Eagle Precision for such wrongful conduct and deter similar conduct in the future.

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EIGHTH COUNTERCLAIM

(Conversion against ELI, Eagle Parties, CIBC and Hamer)

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3 78. ERIX incorporates and realleges all prior paragraphs the same as though set forth in
4 full.

5 79. At all times material hereto, and pursuant to the agreements hereinabove alleged,
6 including the Shareholder Agreement, Asset Agreement, Conveyance Agreement and License
7 Agreement, ERIX became the owner of, and entitled to, right of immediate possession of certain
8 assets and property rights, including specifically the Schedule A assets under the Asset Agreement,
9 exclusive patent rights under the License Agreement, and the right to collect royalties from patent
10 rights under the License Agreement.

11 80. ERIX is informed and believes and thereon alleges that ELI, Eagle Precision and
12 CIBC, and each of them, acting in concert pursuant to a common purpose or plan, have interfered
13 with ERIX's property rights as herein alleged, converted same to their own use, and have refused to
14 permit ERIX to exercise its right to own, possess and use such property.

15 81. ERIX is informed and believes and thereon alleges that such interference with
16 ERIX's property rights as herein alleged has been substantial in that ELI, Eagle Precision and CIBC
17 intended to convert the property rights and to exercise dominion, control and ownership over them,
18 and to prevent ERIX from exercising possessory and ownership rights with respect to such assets
19 and property.

20 82. ERIX has demanded that ELI, Eagle Precision and CIBC return the assets and
21 property to ERIX; however, said parties have failed and refused, and continue to fail and refuse, to
22 do so.

23 83. As a direct and proximate result of the foregoing wrongful conversion of property as
24 herein alleged, ERIX has been damaged by the loss of value of said property, plus interest at the
25 legal rate per annum. ERIX is informed and believes and thereon alleges that the value of the
26 converted property and assets is at least \$1,000,000, the exact amount to be proven and established
27 at trial. In addition, ERIX has been caused to incur expenses and effort pursuing recovery of the

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1 property, and is entitled to fair compensation for loss of time and money properly expended in
2 pursuit of the property, the exact amount to be proven and established at trial.

3 84. The foregoing actions of conversion by ELI, Eagle Precision and CIBC have been
4 undertaken with a conscious disregard of the rights of ERIX and such conduct is despicable within
5 the meaning of California Civil Code section 3294. By reason thereof, ERIX is entitled to an award
6 of punitive or exemplary damages in an amount to be established at trial to punish such wrongful
7 conduct and deter similar conduct in the future.

8 **NINTH COUNTERCLAIM**

9 **(Imposition of Constructive Trust against ELI,
10 Eagle Precision, Eagle Services, CIBC and Hamer)**

11 85. ERIX incorporates and realleges all prior paragraphs the same as though set forth in
12 full.

13 86. ERIX is informed and believes and thereon alleges that at all times material hereto,
14 CIBC was in control of Eagle Precision, Eagle Services and ELI, and was fully aware of all of the
15 terms and provisions of the various agreements hereinabove alleged, including the Asset
16 Agreement, the Conveyance Agreement, and the License Agreement. ERIX is further informed
17 and believes and thereon alleges that CIBC authorized and instructed ELI and Eagle Precision to
18 execute said agreements, and that CIBC, through its designee, David Azoulay, negotiated and
19 approved all said agreements. CIBC was fully aware of the fact that when said agreements were
20 signed, all or most of the assets, including Schedule A assets under the Asset Agreement and
21 royalty rights under the License Agreement, were supposed to be transferred or licensed to ERIX
22 but in fact had already been transferred and/or pledged to Eagle Precision and/or CIBC, with the
23 result that ERIX has effectively been denied the ownership, possession and use of such assets.
24 ERIX is further informed and believes and thereon alleges that under the 9/13/02 Settlement
25 Agreement, the Schedule A assets, unbeknownst to ERIX, were transferred to Eagle Precision.
26 ERIX is further informed and believes and thereon alleges that to the extent any of said assets have
27 not been transferred or pledged to Eagle Precision or CIBC, they are now in the possession of
28 Hamer as assignee of ELI pursuant to an assignment for the benefit of creditors.

1 it executed the agreements, and that all or most of the relevant assets were in fact in the possession
2 of Eagle Precision and pledged to CIBC as collateral for repayment of significant indebtedness
3 owed to CIBC by Eagle Precision.

4 95. ERIX is informed and believes and thereon alleges that at the time the foregoing
5 misrepresentations were made ELI knew them to be false, or had no reasonable basis to believe
6 such representations were true.

7 96. ERIX is informed and believes and thereon alleges that at the time these false
8 representations were made, ELI intended to induce ERIX to execute the agreements described
9 hereinabove. ERIX reasonably and justifiably relied upon such false representations in entering
10 into the foregoing agreements. Had ERIX known the true facts, it would not have executed the
11 foregoing agreements.

12 97. As a direct and proximate result of said wrongful conduct on the part of ELI, ERIX
13 has suffered substantial damages, the exact amount to be proven and established at time of trial.

14 98. ERIX is informed and believes and thereon alleges that the foregoing conduct was
15 fraudulent and despicable within the meaning of California Civil Code section 3294. By reason
16 thereof, ERIX is entitled to an award of punitive and exemplary damages in an amount to be
17 established at trial to punish ELI for such wrongful conduct and deter similar conduct in the future.

18 99. Pursuant to the terms of the Shareholder Agreement, ERIX is also entitled to an
19 award of its attorneys fees on this counterclaim because it involves a "resulting transaction" arising
20 out of said agreement.

21 ELEVENTH COUNTERCLAIM

22 (Fraud/Deceit against ELI and Eagle Precision)

23 100. ERIX incorporates and realleges all prior paragraphs the same as though set forth in
24 full.

25 101. In conjunction with execution of the Shareholder Agreement, ELI and Eagle
26 Precision represented to ERIX that ELI was the registered and beneficial owner of shares in ERIX
27 free and clear of all liens, claims, charges, security interests, encumbrances or rights in favor of
other persons, other than pursuant to the Shareholder Agreement; that except as otherwise expressly

1 permitted in the Shareholder Agreement, or unless unanimous written consent of the other
2 shareholders is first obtained, there would be no transference of shares of stock in ERIX; and that
3 any pledge or encumbrancing of shares in ERIX to a bank or other financial institution for the
4 purpose of securing borrowings of a shareholder could take place only if such bank or financial
5 institution acknowledged in writing that the pledge or encumbrance was subject to all terms and
6 conditions of the Shareholder Agreement.

7 102. These representations were in fact false. The true facts were that ELI and Eagle
8 Precision had caused the ERIX shares of stock to be pledged to CIBC, that no written
9 acknowledgment had been obtained from CIBC that the pledge or encumbrance was subject to all
10 of the terms of the Shareholder Agreement, and that ELI and Eagle Precision were thus not in a
11 position to sell the shares unfettered and unencumbered to ERIX in the event of a default under the
12 terms of the Shareholder Agreement.

13 103. ERIX is informed and believes and thereon alleges that at the time the foregoing
14 misrepresentations were made, ELI and Eagle Precision knew them to be false, or had no
15 reasonable basis to believe such representations were true.

16 104. ERIX is informed and believes and thereon alleges that at the time these false
17 representations were made, ELI and Eagle Precision intended to induce ERIX to execute the
18 Shareholder Agreement. ERIX reasonably and justifiably relied upon such false representations in
19 entering into the Shareholder Agreement. Had ERIX known the true facts, it would not have
20 executed the Shareholder Agreement.

21 105. As a direct and proximate result of said wrongful conduct on the part of ELI and
22 Eagle Precision, ERIX has suffered substantial damages, the exact amount to be proven and
23 established at trial

24 106. ERIX is informed and believes and thereon alleges that the foregoing conduct was
25 fraudulent and despicable within the meaning of California Civil Code section 3294. By reason
26 thereof, ERIX is entitled to an award of punitive and exemplary damages in an amount to be
27 established at trial to punish ELI and Eagle Precision for such wrongful conduct and deter similar
28 conduct in the future.

1 107. Pursuant to the terms of the Shareholder Agreement, ERIX is also entitled to an
2 award of attorney fees on this counterclaim because it involves a "resulting transaction" arising out
3 of said agreement.

4 **TWELFTH COUNTERCLAIM**

5 **(Conspiracy to Defraud against CIBC, Eagle Precision and ELI)**

6 108. ERIX incorporates and realleges all prior paragraphs the same as though set forth in
7 full.

8 109. ERIX is informed and believes and thereon alleges that CIBC, Eagle Precision and
9 ELI, acting in concert as joint tortfeasors and as co-conspirators, conspired to defraud ERIX as
10 herein alleged. ERIX is informed and believes and thereon alleges that the conspiracy was formed
11 at or about the time of the May 2000 Agreements and continued thereafter through the September
12 13, 2002 Settlement Agreement, and is ongoing to the present time. The purpose of the conspiracy
13 was and is to advance the financial and economic interests of Eagle Precision and CIBC in
14 derogation of the contractual rights of ERIX under the May 2000 Agreements. Initially, CIBC
15 participated in the conspiracy by designating its "point man," David Azoulay, as the restructuring
16 officer for Eagle and the primary negotiator for Eagle and CIBC in the May 2000 Agreements; and
17 by exercising total and complete control over Eagle Precision so that CIBC's economic interests
18 were protected at all costs in derogation of contractual rights of ERIX. Thereafter, ERIX is
19 informed and believes and thereon alleges that the conspiratorial conduct continued in the
20 following manner: CIBC specifically approved of the provision in the asset agreement that it would
21 release and discharge its security interest in the assets which were supposed to have been
22 transferred to ERIX, but which in fact had already been transferred to Eagle Precision and pledged
23 to CIBC as collateral for Eagle Precision's debt owed to CIBC; the execution by CIBC and ELI of a
24 "Consent," purporting to release any security interest of CIBC in the Schedule A Assets, when in
25 fact CIBC remained in *de facto* possession or control of said assets because the consent was
26 executed with ELI, while the Schedule A assets had already been transferred to Eagle and pledged
27 to CIBC; CIBC and the assignee of the ELI assets, Hamer, agreed to a \$350,000 price for sale of
28 the ELI shares in ERIX, and to a 50/50 split in the proceeds of such sale, but CIBC, in conjunction

1 with Eagle and ELI, did not allow the sale to close because CIBC held the ERIX shares "hostage,"
2 while conspiring with Eagle to obtain unjustified concessions from ERIX and Robolix, including
3 but not limited to, waiver and release of all fraud claims and claims based on failure to receive
4 Schedule A Assets and exclusive licenses ERIX was contractually entitled to receive under the May
5 2000 Agreements; CIBC wrongfully took a security interest in the ERIX stock, while never in
6 actuality giving up its interest in the assets that were supposed to be transferred to ERIX under the
7 May 2000 Agreements; while knowing all the foregoing, CIBC entered into a September 13, 2002
8 "Settlement Agreement" with Eagle and the assignee of ELI's assets, Hamer, but not ERIX or
9 Robolix; CIBC asserted as late as February 2003 a superior right to the assets that were supposed to
10 have been transferred to ERIX based on CIBC's general security agreement with Eagle, even
11 though CIBC had previously approved the Asset Agreement and executed the Consent to release
12 the assets; and, CIBC further participated in the conspiracy by agreeing to indemnify and pay the
13 legal fees of the assignee, Hamer. (See, Exhibit "K" attached hereto and fully incorporated herein.)
14 All of the foregoing facts demonstrate active participation by CIBC in a conspiracy with Eagle and
15 ELI to perpetrate a fraud upon ERIX in connection with contractual entitlements that were
16 represented to be coming to ERIX under the May 2000 Agreements, but which in fact never came
17 to ERIX.

18 110. ERIX is informed and believes and thereon alleges that CIBC directed, authorized
19 and/or ratified the misrepresentations of ELI as hereinabove alleged, either expressly or impliedly
20 by conduct. ERIX is further informed and believes and thereon alleges that at all times material
21 hereto, ELI and its parent company, Eagle Precision, were the agents of CIBC (actual or ostensible)
22 stemming from the transactions hereinabove alleged, and that all misrepresentations of Eagle
23 Precision and ELI within the scope of its agency are binding upon CIBC, and CIBC is thus liable
24 for such misrepresentations. Said agency relationship is evidenced by the following facts: Under
25 the Eagle Precision plan of reorganization, it was required that CIBC approve in advance all Eagle
26 Precision/ELI agreements, including but not limited to, the May 2000 Agreements. Eagle Precision
27 had a fiduciary relationship with CIBC, as evidenced by the fact that Eagle Precision installed
28 officers of CIBC on both the Eagle Precision and ERIX Board of Directors; as evidenced by the

1 fact that Eagle Precision enlisted the assistance of CIBC in demanding releases and waivers by
2 ERIX of rights to certain assets and licenses which ERIX had a contractual right to receive under
3 the Asset Agreement and License Agreement; as evidenced by the share certificate representing the
4 ELI shares in ERIX being sent to legal counsel for Eagle Precision and thereafter transmitted to
5 CIBC, in derogation of contractual purchase rights of Robolix under the Shareholder Agreement
6 (see Exhibit L attached hereto and fully incorporated herein); and, as evidenced by Eagle Precision
7 and ELI allowing a CIBC officer, Wim Faassen, to execute the September 13, 2002 Settlement
8 Agreement on behalf of Eagle's Precision's subsidiary company, ELI. All of these facts, combined
9 with CIBC's later conversion of Eagle debt to stock resulting in CIBC becoming the 98%
10 stockholder of Eagle Precision, suggests a relationship of trust between ELI, Eagle Precision and
11 CIBC, with CIBC having the right of ultimate control of the conduct of Eagle Precision and ELI
12 with respect to all of said matters. Accordingly, all fraudulent conduct of Eagle and ELI is binding
13 upon, and chargeable to, CIBC.

14 111. ERIX acted reasonably and with justification in relying upon all representations.
15 From the position of ERIX, all transactions seemed regular and proper on their face and it
16 reasonably appeared to ERIX that CIBC was fully cooperating and participating in all of said
17 transactions and was authorizing the truthfulness of representations made in conjunction with said
18 transactions.

19 112. By reason of the foregoing, CIBC, Eagle Precision and ELI, jointly and severally, are
20 liable for the fraud/deceit perpetrated upon ERIX as hereinabove alleged and are liable for all
21 compensatory damages flowing therefrom in amounts to be proven and established at the time of
22 trial.

23 113. The foregoing conduct was undertaken with a conscious disregard of the rights of
24 ERIX and was and is fraudulent within the meaning of California Civil Code section 3294. By
25 reason thereof, ERIX is entitled to an award of punitive and exemplary damages in an amount to be
26 established at trial to punish such wrongful conduct and deter similar conduct in the future.

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THIRTEENTH COUNTERCLAIM

(Defamation against Eagle Precision and Eagle Services)

114. ERIX incorporates and realleges all prior paragraphs the same as though set forth in full.

115. ERIX is informed and believes and thereon alleges that, within the past one year, the Eagle Parties have made statements, orally and in writing, to one or more third persons, including actual and potential customers or vendors of ERIX, indicating that "Eaton Leonard" was going out of business or was no longer in business, that "Eaton Leonard" was owned by a financially unsound French company, and that a small California company had bought some of the assets of ELI and may be illegally using the "Eaton Leonard" name. These comments were in fact false, defamatory and unprivileged, because the comments were understood by persons receiving such comments in the tube-bending industry as conveying the false impression that (1) ERIX is financially unstable, (2) ERIX is either going out of business or is already out of business, and (3) ERIX has no right to use the Eaton Leonard name. ERIX is informed and believes and thereon alleges that these defamatory statements were extremely misleading to the persons receiving them.

116. As a proximate result of the foregoing, ERIX has suffered substantial damage to its business and reputation in an amount be established at time of trial. In addition, ERIX has suffered consequential economic damages by loss of contracts in an amount to be proven and established at time of trial.

117. The foregoing conduct on the part of the Eagle Parties was malicious, oppressive and despicable within the meaning of California Civil Code section 3294. By reason thereof, ERIX is entitled to an award of punitive and exemplary damages in an amount to be established at trial to punish the Eagle Parties for such wrongful conduct and deter similar conduct in the future.

FOURTEENTH COUNTERCLAIM

(Unfair Competition against Eagle Precision, Eagle Services and CIBC)

118. ERIX incorporates and realleges all prior paragraphs the same as though set forth in full.

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1 119. ERIX is informed and believes and thereon alleges that the conduct of the Eagle
2 Parties and CIBC, as hereinabove alleged, constitutes unfair, fraudulent and/or unlawful business
3 practices within the meaning of California Business and Professions Code sections 17200, *et seq.*
4 and the common law of California. By reason thereof, ERIX is entitled to injunctive relief to
5 restrain such wrongful conduct in the future and to an award of restitutionary relief as may be
6 necessary to restore to ERIX money or property acquired by means of such unfair competition
7 according to proof at time of trial.

8 120. Pursuant to the terms of the Shareholder Agreement, ERIX is also entitled to an
9 award of its attorneys fees on this counterclaim because it involves a "resulting transaction" arising
10 out of said agreement.

11 **FIFTEENTH COUNTERCLAIM**

12 **(Declaratory Relief against All Parties)**

13 121. ERIX incorporates and realleges all prior paragraphs the same as though set forth in
14 full.

15 122. There is an actual and justiciable controversy among the parties regarding their
16 respective rights and obligations with respect to the assets, trademarks, trade name and patents as
17 alleged hereinabove. Pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201, a judicial
18 declaration as to the parties respective rights and obligations with respect to the assets, trademarks,
19 trade name and patents at issue as alleged herein is both necessary and appropriate. With specific
20 regard to CIBC, CIBC has alleged a contrary claim to assets and contract rights of ERIX, as
21 evidenced by the letter from David Kee, counsel for CIBC, dated February 7, 2003, Exhibit J
22 attached hereto and incorporated herein. In said letter, Mr. Kee admits there is a dispute between
23 CIBC and ERIX.

24 123. Based on the foregoing, ERIX is entitled to a judicial declaration that it is the true,
25 lawful and equitable owner of United States Trademark Registration No. 1,066,613, and an order
26 that Eagle Precision immediately transfer ownership of United States Trademark Registration No.
27 1,066,613 to ERIX.

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1 124. Based on the foregoing, ERIX is entitled to a judicial declaration that the Eagle
2 Parties are not entitled to register the marks EATON, EATON LEONARD and EL, that ERIX is
3 the true, lawful and equitable owner of the trademarks and trade names EATON, EATON
4 LEONARD and EL, and an order that Eagle Precision immediately transfer to ERIX ownership of
5 United States Trademark Application Nos. 76,469,744 for the mark EATON LEONARD and
6 76,471,241 for the mark EL now pending before the USPTO, and any other applications for
7 registration of similar trademarks being used by ERIX.

8 125. Based on the foregoing, ERIX is entitled to a judicial declaration that the Eagle
9 Parties are not entitled to register the mark EAGLE EATON LEONARD, and an order canceling
10 Eagle Precision's United States Trademark Application Nos. 76,491,086 and 76,491,087 for the
11 marks EAGLE EATON LEONARD with design and in typewritten form, respectively.

12 126. Based on the foregoing, ERIX is entitled to a judicial declaration that it is the true,
13 lawful and equitable owner of United States Patents Nos. 4,849,643, issued July 18, 1989, and
14 5,008,555, issued April 16, 1991, both entitled "Optical Probe With Overlapping Detection Fields,"
15 including any related or foreign counterpart patents thereto, and the associated VMM Materials,
16 and an order that ELI and/or Eagle Precision immediately transfer to ERIX ownership of said
17 United States Patents, and any related or foreign counterpart patents thereto, and the VMM
18 Materials.

19 127. Based on the foregoing, ERIX is entitled to a judicial declaration that it is the
20 exclusive licensee pursuant to the terms of the License Agreement of United States Patents Nos.
21 4,750,346, issued on June 14, 1988 and entitled "Link Drive for Bending Arm of Tube Bending
22 Machine," 4,760,726, issued on August 2, 1988 and entitled "Bend Arm Apparatus for Tube
23 Bending Machine with Cammed Clamp Die," 4,867,463, issued on September 19, 1989 and entitled
24 "Quick Release Collet," 4,870,849, issued on October 3, 1990 and entitled "Method for Tube
25 Bending with Controlled Clamp Die Arrangement," and 5,426,965, issued on June 27, 1995 and
26 entitled "Carriage Boost Drive," including any related or foreign counterpart patents thereto, and an
27 order compelling Eagle Precision to pay all maintenance fees (or reimburse ERIX for payment of
28 said fees, as the case may be) now owing or coming due on said patents, and enjoining Eagle

1 Precision from granting any licenses under any of said United States Patents, or any related or
2 foreign counterpart patents thereto, to any other persons or entities.

3 128. With specific regard to CIBC, for a declaratory judgment that ERIX has a superior
4 right, title and interest to CIBC in and to all assets, patent rights, royalty rights, tradename and logo
5 rights as hereinabove alleged, including Schedule A assets under the Asset Agreement, and that
6 CIBC must relinquish any claim, right or possessory entitlement thereto.

7 129. Pursuant to the terms of the Shareholder Agreement, ERIX is also entitled to an
8 award of its attorneys fees on this counterclaim because it involves "resulting transaction(s)" arising
9 out of said agreement.

10 SIXTEENTH COUNTERCLAIM

11 (Breach of Shareholder Agreement against ELI and Eagle Precision)

12 130. ERIX incorporates and realleges all prior paragraphs the same as though set forth in
13 full.

14 131. Section 6.1 of the Shareholder Agreement provides that an event of default is deemed
15 to have occurred with respect to a shareholder if "such shareholder makes an assignment for the
16 benefit of creditors. . ." Section 6.2 of the Shareholder Agreement, entitled Rights Upon Default,
17 provides in pertinent part as follows:

18 "In addition to any rights or remedies that may be available to them, if
19 an Event of Default shall occur with respect to a Shareholder, then
20 while the Event of Default is continuing, the other Shareholder shall be
21 entitled to purchase the Shares of the defaulting Shareholder while the
22 default is continuing. . ."

23 132. Section 5.2 of the Shareholder Agreement, entitled Prohibition on Unauthorized
24 Transfers, contains the following provision:

25 "Notwithstanding anything in this Section 5.2 to the contrary, a
26 Shareholder may pledge, charge, mortgage or otherwise specifically
27 encumber its shares to a bank or other financial institution for the
28 purpose of securing any borrowings by such Shareholder, provided

may be too much time as per

standing BSN

1 that such bank or financial institution acknowledges to the parties to
2 this Agreement in writing that the pledge, charge, mortgage or
3 encumbrance of such shares shall at all times be subject to all the terms
4 and conditions of this Agreement.”

5 133. ERIX has performed all conditions, covenants and promises required on its part to be
6 performed under the terms of the Shareholder Agreement. *Not me*

7 134. ELI and Eagle Precision have breached the Shareholder Agreement by pledging the
8 shares of ERIX stock to CIBC without the knowledge, consent or permission of ERIX and without
9 notification to ERIX, by refusing to acknowledge that any pledge of ERIX shares to a bank or
10 financial institution must at all times be subject to all the terms and conditions of the Shareholder
11 Agreement and by refusing to sell or assign the shares of ERIX stock to Robolix as required by the
12 terms of the Shareholder Agreement. *They didn't go thru process*

13 135. As a direct and proximate result of said breach of contract, ERIX has been damaged
14 in its ability to raise financing due to the uncertainty surrounding its stock ownership, and in having
15 to respond to and defend this lawsuit, the exact amount of said damages suffered by ERIX to be
16 proven and established at time of trial.

17 136. The ERIX stock and its rightful ownership by Robolix has a value to ERIX which is
18 difficult to ascertain. Said stock is unique and damages would provide an inadequate remedy as a
19 means of compensating for the breach of the Shareholder Agreement.

20 137. By reason of the foregoing, ERIX requests a judicial decree that Robolix is entitled
21 to purchase the stock of ERIX formerly owned by ELI pursuant to the terms of the Shareholder
22 Agreement, and a judgment and decree of specific performance against ELI and Eagle Precision
23 compelling them to fully perform the Shareholder Agreement by selling the ERIX stock to Robolix,
24 conditioned upon ERIX being required to perform any unexecuted performances required on its
25 part under the terms of said agreement. Without a decree of specific performance, ERIX will be
26 left with inadequate remedies at law which cannot substitute for full performance of the
27 agreements.

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1 138. Pursuant to the terms of the Shareholder Agreement, ERIX is also entitled to an
award of its attorneys fees on this counterclaim.

3 **SEVENTEENTH COUNTERCLAIM**

4 **(Alter Ego against Eagle Precision and ELI)**

5 139. ERIX incorporates and realleges all prior paragraphs the same as though set forth in
6 full.

7 140. ERIX is informed and believes and thereon alleges that there is a complete unity of
8 interest between Eagle Precision and ELI as evidenced by the fact that ELI is a wholly-owned
9 subsidiary of ELI; there are common directors and officers between the two companies; Eagle
10 Precision shut down ELI's operation and stripped ELI of any significant assets without payment of
11 consideration; Eagle Precision has directed ELI's noncompliance with various agreements alleged
12 herein; and by Eagle Precision's tacit admission in the complaint in this action that it is the "real
13 party in interest" under the Asset Agreement and License Agreement, among other agreements.

14 141. The combination of the above factors creates a fiction that there is s separate identity
15 as between Eagle Precision and ELI. Recognition of a separate corporate identity as between Eagle
16 Precision and ELI would, under the circumstances, sanction a fraud and promote injustice.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, counter-claimant Eaton Leonard Robolix, Inc. prays for the following relief
19 under its First Amended Counterclaims:

- 20 (1) For judgment finding ELI liable to ERIX for breach of the Asset Agreement and
21 Conveyance Agreement as alleged herein and an award of all general and special
22 damages of ERIX and/or restitution of unjust enrichment of any of the counter-
23 defendants to ERIX as alleged herein;
- 24 (2) For judgment finding ELI liable to ERIX for breach of the License Agreement as
25 alleged herein and an award of all general and special damages of ERIX and/or
26 restitution of unjust enrichment of any of the counter-defendants to ERIX as alleged
27 herein;

28 ///

- 1 (3) For judgment finding ELI and the Eagle Parties liable to ERIX for breach of the
2 Services Agreements, and ELI liable for breach of the Sublease as alleged herein and
3 an award of all general and special damages of ERIX and/or restitution of unjust
4 enrichment of any of the counter-defendants to ERIX as alleged herein;
- 5 (4) For judicial imposition of a constructive trust against ELI, the Eagle Parties, CIBC
6 and Hamer, and in favor of ERIX to the extent that any of said parties are detaining
7 any trademarks, patents, VMM Materials and other assets that rightfully belong to
8 ERIX as alleged herein;
- 9 (5) For judgment finding ELI and Eagle Precision liable to ERIX for fraud/deceit as
10 alleged herein and an award of all damages sustained by ERIX proximately caused
11 thereby and punitive damages as alleged herein;
- 12 (6) For judgment finding CIBC, Eagle Precision and ELI liable to ERIX for conspiracy
13 to defraud as alleged herein and an award of all damages sustained by ERIX
14 proximately caused thereby and punitive damages as alleged herein;
- 15 (7) For judgment finding the Eagle Parties liable to ERIX for defamation as alleged
16 herein and an award of all damages sustained by ERIX proximately caused thereby
17 and punitive damages as alleged herein;
- 18 (8) For judgment finding the Eagle Parties and CIBC liable to ERIX for unfair
19 competition under California statutory and common laws as alleged herein and an
20 award of injunctive relief and restitutionary relief as alleged herein;
- 21 (9) For judgment finding Eagle Precision and CIBC liable to ERIX for conspiracy to
22 interfere with the Asset Agreement, the Conveyance Agreement, and the License
23 Agreement, as alleged herein, and an award of all damages sustained by ERIX
24 proximately caused thereby and punitive damages as alleged herein;
- 25 (10) For judgment finding ELI, Eagle Precision, CIBC and Hamer liable to ERIX for
26 conversion as alleged herein, and for an award of compensation and punitive
27 damages as herein alleged;

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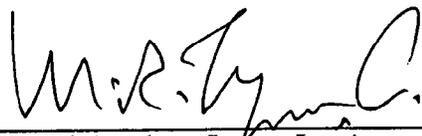
- 1 (11) For a judgment finding that ELI is the alter ego of Eagle Precision, and vice-versa,
2 with the result that in equity the liability of ELI and Eagle Precision concerning the
3 matters complained of herein are deemed to be one and the same;
- 4 (12) For a judicial declaration that ERIX is the lawful and equitable owner of United
5 States Trademark Registration No. 1,066,613 for the Eaton Leonard logo, and an
6 order that Eagle Precision immediately transfer ownership of United States
7 Trademark Registration No. 1,066,613 to ERIX;
- 8 (13) For a judicial declaration that the Eagle Parties are not entitled to register the marks
9 EATON, EATON LEONARD and EL, that ERIX is the lawful and equitable owner
10 of the trademarks and trade names EATON, EATON LEONARD and EL, and an
11 order that Eagle Precision immediately transfer to ERIX ownership of United States
12 Trademark Application Nos. 76,469,744 for the mark EATON LEONARD and
13 76,471,241 for the mark EL;
- 14 (13) For a judicial declaration that the Eagle Parties are not entitled to register the mark
15 EAGLE EATON LEONARD, and an order canceling Eagle Precision's United
16 States Trademark Application Nos. 76,491,086 and 76,491,087 for the marks
17 EAGLE EATON LEONARD with design and in typewritten form, respectively;
- 18 (14) For a judicial declaration that ERIX is the true, lawful and equitable owner of United
19 States Patents Nos. 4,849,643, issued July 18, 1989, and 5,008,555, issued April 16,
20 1991, both entitled "Optical Probe With Overlapping Detection Fields," including
21 any related or foreign counterpart patents thereto, and the associated VMM
22 Materials, and an order that ELI and/or Eagle Precision immediately transfer to
23 ERIX ownership of said United States Patents, and any related or foreign counterpart
24 patents thereto, and all the associated VMM Materials;
- 25 (15) For a judicial declaration that ERIX is the exclusive licensee pursuant to the terms of
26 the License Agreement of United States Patents Nos. 4,750,346, issued on June 14,
27 1988 and entitled "Link Drive for Bending Arm of Tube Bending Machine,"
28 4,760,726, issued on August 2, 1988 and entitled "Bend Arm Apparatus for Tube

1 Bending Machine with Cammed Clamp Die," 4,867,463, issued on September 19,
2 1989 and entitled "Quick Release Collet," 4,870,849, issued on October 3, 1990 and
3 entitled "Method for Tube Bending with Controlled Clamp Die Arrangement," and
4 5,426,965, issued on June 27, 1995 and entitled "Carriage Boost Drive," including
5 any related or foreign counterpart patents thereto, and an order compelling Eagle
6 Precision to pay all maintenance fees (or reimburse ERIX for payment of said fees,
7 as the case may be) now owing or coming due on said patents, and enjoining Eagle
8 Precision from granting any licenses under any of said United States Patents, or any
9 related or foreign counterpart patents thereto, to any other persons or entities;

- 10 (16) For an award of costs of suit and for the reasonable attorney fees of ERIX to the
11 extent allowable by law;
12 (17) For an award to ERIX of pre- and post-judgment interest as authorized by law; and
13 (18) For an award to ERIX of such other and further relief as the Court deems just and
14 proper.

15 WAGNER, ANASTOPOULOS & LYNN, LLP and
16 KNOBBE, MARTENS, OLSON & BEAR, LLP

17
18 Dated: June 28th, 2004

19 By: 

20 M. Richardson Lynn, Jr., Attorneys for
21 Counter Claimant EATON LEONARD
22 ROBOLIX, INC.
23
24
25
26
27
28

SHAREHOLDERS AGREEMENT

This Agreement made as of the 29th day of May, 2000.

AMONG:

EATON LEONARD, INC., a corporation incorporated under the laws of California ("Eaton")

- and -

FINANCIERE ROBOLIX S.A.R.L., a corporation incorporated under the laws of France ("Robolix")

- and -

EAGLE PRECISION TECHNOLOGIES INC., a corporation incorporated under the laws of Ontario ("Eagle")

- and -

EATON LEONARD ROBOLIX, INC., a corporation incorporated under the laws of California (the "Corporation")

- and -

Such other persons as may become bound by this Agreement pursuant to section 5.2 of this Agreement

WHEREAS the authorized capital of the Corporation consists of 1,000,000 shares of common stock;

AND WHEREAS the issued and outstanding shares in the capital of the Corporation consist of 1,000 common shares;

AND WHEREAS Eaton and Robolix are the holders of record and the beneficial owners of the following number of issued and outstanding shares in the capital of the Corporation:

May 24, 2000

EXHIBIT "A"

<u>Holder of Shares</u>	<u>Number and Class of Shares</u>
Eaton	501 common shares
Robolix	499 common shares

AND WHEREAS Eagle is the sole shareholder of Eaton and is entering into this Agreement to provide certain non-competition covenants;

AND WHEREAS the parties to this Agreement wish to make arrangements regarding certain aspects of the organization of the affairs of the Corporation and their respective rights and obligations to the Corporation and each other;

NOW THEREFORE this Agreement witnesses that in consideration of the mutual covenants and agreements contained in it, the parties agree with each other as follows:

ARTICLE I
PRELIMINARY MATTERS

1.1 **Recitals.**

Each party acknowledges and declares that the foregoing recitals, insofar as they relate to it, are true and correct.

1.2 **Prior Agreements.**

Any other agreements regarding the matters contained in this Agreement, whether written or oral, are terminated.

1.3 **Confirmation of Corporation.**

The Corporation confirms its knowledge of this Agreement and agrees to be subject to and abide by the provisions hereof to the full extent of its capacity and ability at law to do so.

1.4 **Shareholders Agreement and Inconsistencies.**

The provisions of this Agreement shall govern the business and affairs of the Corporation to the maximum extent permitted by law, notwithstanding any conflicting provision in the articles or by-laws of the Corporation. In the event of a conflict between this Agreement and any provision in the articles or by-laws of the Corporation, the parties hereto shall take or cause to be taken all such steps and proceedings as may be permitted under the Act to amend the

EXHIBIT "A"

articles or by-laws of the Corporation, as the case may be, to resolve such conflict so that the provisions of this Agreement shall prevail to the maximum extent permitted by law. To the extent that this Agreement specifies that any matter is to be approved by the Shareholders, the Shareholders shall have all of the rights, powers, duties and liabilities of the directors of the Corporation and the discretion and power of the directors of the Corporation to manage and supervise the management of the Corporation is restricted and the directors of the Corporation are relieved of their duties and liabilities in respect thereof.

1.5 Endorsement of Share Certificates.

The share certificates representing the Shares shall bear the following legend:

“This Corporation is a close corporation. The number of holders of record cannot exceed thirty-five (35). Any attempted voluntary *intervivos* transfer which would violate this requirement is void. Refer to the articles, bylaws and shareholder agreements on file with the Secretary of the Corporation for further restrictions.”

ARTICLE II
DEFINITIONS AND INTERPRETATION

2.1 Definitions.

As used in this Agreement or any amendment to this Agreement, the following terms shall have the following meanings:

- (a) “Act” means the California Corporations Code, as the same may be amended, restated or replaced from time to time;
- (b) “Affiliate” means an affiliated body corporate within the meaning of subsection 2.2(g) of this Agreement;
- (c) “Agreement” means this Agreement and all schedules attached hereto and all amendments and supplements hereto and thereto and all restatements and replacements hereof and thereof;
- (d) “Associate” where used to indicate a relationship with any Person means,
 - (i) any body corporate of which the Person beneficially owns, directly or indirectly, voting securities carrying more than 10 per cent of the voting rights attached to all voting securities of the body corporate for the time being outstanding,
 - (ii) any partner of that Person,

- (iii) any trust or estate in which the Person has a substantial beneficial interest or as to which the Person serves as trustee or in a similar capacity,
 - (iv) any relative of the Person, including the Person's spouse, where the relative has the same home as the Person, or
 - (v) any relative of the spouse of the Person where the relative has the same home as the Person;
- (e) **"Assumption Agreement"** means an agreement executed by a transferee of Shares that a Shareholder proposes to Transfer, pursuant to which the transferee of those Shares agrees to be bound by this Agreement in the same manner as if it had been an original party hereto and to the same extent as the transferor Shareholder;
- (f) **"Budget"** means the then current annual budget (including projections of cash flow, capital expenditure and income) and a business and marketing plan for the Corporation approved pursuant to section 3.10;
- (g) **"Business"** means the business of (i) manufacturing, marketing and selling small-diameter (meaning a diameter of less than 45mm) metal tube benders or metal wire benders, (ii) manufacturing, marketing and selling the VB200HP bender or such replacements or upgrades of such machine as may be developed in the future, and (iii) manufacturing, marketing and selling metal tube measuring machines;
- (h) **"Business Day"** means every day except Saturdays, Sundays and statutory holidays in the State of California;
- (i) **"Cash Flow"** means an amount arrived at by (i) determining the net income after tax of the Corporation, and (ii) adding back non-cash charges to income such as depreciation and amortization, all as determined from the audited financial statements of the Corporation in accordance with generally accepted accounting principles;
- (j) **"Common Share"** means a common share in the capital of the Corporation;
- (k) **"Control"** means control in fact, whether direct or indirect; shares are controlled if the voting rights which attach to those shares are controlled;
- (l) **"Event of Default"** has the meaning attributed thereto in section 6.1;
- (m) **"Fair Market Value"** has the meaning attributed thereto in section 6.4;
- (n) **"Fiscal Year"** means the period commencing on March 1st and ending on February 28th or 29th in the following calendar year;
- (o) **"Management Committee"** has the meaning attributed thereto in section 3.7;

- (p) "Material Decision" means any decision involving:
- (i) the declaration or payment of any dividends or any other distribution in respect of any securities of the Corporation except as contemplated by this Agreement or any other distribution of any nature (including repayment of loans) to any Person not acting at arm's length with the Corporation or any of its Shareholders;
 - (ii) the issuance of additional shares in the capital of the Corporation;
 - (iii) the sale or disposition of any assets or property by the Corporation during any Fiscal Year (whether in one or more transactions) with an aggregate book value in excess of \$20,000 which have not been expressly provided for in the Budget for that Fiscal Year;
 - (iv) the Corporation making or committing to make during any Fiscal Year capital expenditures which, in the aggregate, exceed \$20,000 and which have not been expressly provided for in the Budget for that Fiscal Year;
 - (v) the Corporation establishing, acquiring or otherwise becoming involved in any corporate entity or any partnership, joint venture or similar arrangements;
 - (vi) the Corporation hiring any employee whose annual remuneration exceeds \$75,000 per annum (inclusive of all benefits), or amending, terminating or otherwise altering or waiving the terms of any employment, consulting or management contract with respect to an individual whose annual remuneration exceeds that amount;
 - (vii) the Corporation entering into any transactions with officers, directors or employees or other Persons with whom they do not act at arm's length;
 - (viii) the Corporation borrowing any funds from a Shareholder or entering into, modifying or cancelling any credit facility (other than in the ordinary course to fund working capital needs expressly contemplated by the Budget for the applicable Fiscal Year,);
 - (ix) the creation of any mortgage, lien, charge or other form of encumbrance with respect to any of the assets of the Corporation or its subsidiaries other than in the ordinary course of the Corporation's business;
 - (x) the alteration of the nature of the Corporation's business or otherwise engaging in other businesses or activities that are not incidental to the businesses or activities presently undertaken by the Corporation;
 - (xi) the entering into of any agreement with a term in excess of one year which contemplates the payment by or to the Corporation of more than \$20,000

during its term and which has not been expressly provided for in the Budget for that Fiscal Year;

- (xii) the institution, modification or termination of any profit sharing or similar incentive arrangement for employees of the Corporation or its subsidiaries;
 - (xiii) approval of the Budget for any Fiscal Year;
 - (xiv) changing the auditors and/or accountants of the Corporation; or
 - (xv) making any material change to the Corporation's accounting policies;
- (q) "Person" means an individual, partnership, unincorporated association, organization, syndicate, corporation, trustee, executor, administrator or other legal or personal representative;
- (r) "Prime Rate" means, at any time, the variable *per annum* reference rate quoted or published by the Corporation's principal bankers in Carlsbad, California from time to time as its prime rate for commercial loans. With each quoted or published change in the Prime Rate there shall be a corresponding change in any rate of interest payable under this Agreement based on the Prime Rate, all without necessity of any prior notice thereof to any Person;
- (s) "Proportionate Share" means that percentage of all of the Shares which is from time to time owned by each Shareholder;
- (t) "Share" means a share in the capital of the Corporation;
- (u) "Shareholders" means, collectively, Eaton, Robolix and any Person to whom Shares may be Transferred or issued in accordance with this Agreement, so long as such Person holds any Shares; and "Shareholder" means any one of them;
- (v) "Third Party Offer" means a *bona fide* offer in writing for the purchase of Shares from a Person with whom each of the Shareholders reasonably is considered to be acting at arm's length and which Person is demonstrably capable of completing the purchase of the Shares contemplated by this Agreement, and pursuant to which:
- (i) no property other than the Shares is to be Transferred;
 - (ii) the sole consideration for Shares is a stated dollar amount per Share payable in cash at closing;
 - (iii) there are no terms or conditions which are so unique or unusual as to be impossible to satisfy on a commercially reasonable basis;
 - (iv) loans and guarantees are to be dealt with in a manner consistent with the treatment required in a purchase of Shares subject to Article VII ; and

- (v) the Person making the offer certifies that it is not required to give notice of the proposed acquisition to any governmental regulatory body or has given notice as required and received all required approvals;
- (w) "Transfer" means to sell, assign, surrender, gift, transfer, pledge, mortgage, charge, create a security interest in, hypothecate or otherwise encumber any of the Shares or any interest, whether legal or beneficial, in the Shares, whether voluntary, involuntary, by operation of law or otherwise.

2.2

Construction.

In this Agreement, except as otherwise expressly provided:

- (a) all words and personal pronouns relating thereto shall be read and construed as the number and gender of the party or parties require and the verb shall be read and construed as agreeing with the required word and pronoun;
- (b) the division of this Agreement into Articles and sections and the use of headings is for convenience of reference only and shall not modify or affect the interpretation or construction of this Agreement or any of its provisions;
- (c) references in this Agreement to Articles and sections are references to Articles and sections of this Agreement.
- (d) when calculating the period of time within which or following which any act is to be done or step taken pursuant to this Agreement, the date which is the reference day in calculating such period shall be excluded. If the last day of such period is not a Business Day, the period in question shall end on the next Business Day;
- (e) all dollar amounts are expressed in U.S. funds;
- (f) all accounting terms which are not specifically defined shall be construed in accordance with accounting principles which are generally accepted in the United States; and
- (g) one body corporate shall be deemed to be affiliated with another body corporate if, but only if, one of them is the subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same Person.

ARTICLE III
OPERATION OF THE CORPORATION

3.1

Business of the Corporation.

The Shareholders agree that the business of the Corporation shall be the Business.

3.2

Directors.

Until such time as either Eaton or Robolix own less than 40% of the Common Shares, each of Eaton and Robolix shall be entitled to nominate and elect one-half of the members of the board of directors of the Corporation, which shall consist of four directors. The initial directors nominated and elected by the Shareholders are as follows:

<u>Director</u>	<u>Nominator</u>
David Azoulay	Eaton
Alex Kepecs	Eaton
Philippe Jaubert	Robolix
Francois Patanchon	Robolix

Notwithstanding any provision of the Act to the contrary, all Material Decisions shall require the unanimous consent of the directors of the Corporation.

3.3

Altered Structure.

If, at any time, Eaton or Robolix own less than 40% of the outstanding Common Shares:

- (a) it shall cause one of its nominees to the board of directors of the Corporation to resign and the other Shareholder shall be entitled to nominate and elect a director of the Corporation in his or her place; and
- (b) all decisions to be made by the directors of the Corporation shall be made by a majority of the directors voting thereon.

3.4

Meetings of Directors.

Meetings of the board of directors shall be held on the first day of May, August, November and February in each calendar year at a time and place to be determined by the Chairman of the Corporation. At least 15 Business Days before each meeting of the directors, each director shall receive a written notice from the Secretary of the Corporation indicating the time and place of the meeting and providing a summary of the matters to be considered. Additional meetings of the board of directors may be called by any director by the delivery of a written notice to every other director containing the information required and the notice to be delivered in connection with the regularly scheduled meeting. A director may waive notice of a meeting by an instrument in writing delivered to the Chairman of the Corporation at or prior to the meeting.

3.5

Material Decisions.

No Material Decisions shall be implemented without the unanimous prior approval of the directors of the Corporation. All decisions relating to the Corporation which are not Material Decisions shall be implemented by majority decision of the Management Committee.

3.6

Appointment of Directors.

The Shareholders shall take all actions that may be required to ensure the election or appointment of the directors as contemplated by this Article. On the appointment or election of each director, the Secretary of the Corporation shall make note of the nominator, and the nominator shall be entitled by direction in writing from time to time to remove its nominee and nominate a successor who shall, promptly upon the resignation of the existing director, be elected a director to replace the individual previously nominated.

3.7

Management Committee.

The directors of the Corporation will appoint a management committee (the "Management Committee") to oversee and to make all decisions (other than Material Decisions) relating to the management and operations of the Corporation (including, without limitation, the appointment, instruction and direction of the officers of the Corporation). Members of the Management Committee need not be directors of the Corporation. The Management Committee shall consist of one nominee of Eaton and two nominees of Robolix unless and until the Corporation has recorded a negative cumulative Cash Flow of at least \$500,000. In the event that the Corporation has recorded such a negative cumulative Cash Flow, Robolix shall cause one of its nominees to the Management Committee to resign and Eaton shall be entitled to nominate a manager in his or her place.

3.8

Indemnification of the Directors and Officers.

The Shareholders shall, on a several and pro-rata basis (based on their shareholdings in the Corporation), indemnify and save the directors and officers harmless from and against any and all liability, damages, costs (including reasonable counsel fees and disbursements), charges and expenses arising out of or related to any act or omission done or permitted by them to be done in connection with the execution of the duties of their office as directors of the Corporation or by reason of their being or having been directors of the Corporation, including (without limitation):

- (a) any amounts paid to settle an action or satisfy a judgment, that the directors may sustain or incur in respect of any civil, criminal, or administrative action, suit, proceeding, claim, or demand, that is proposed, asserted, commenced or made against them and/or against the Corporation;
- (b) all liability for wages to employees and for income, corporation or other taxes, and fines or penalties arising out of any prosecution in connection therewith; and

- (c) all liability for failure by the Corporation to comply fully with the provisions of the Act or any other applicable law and fines or penalties arising out of any prosecution in connection therewith;

provided that he or she acted honestly and in good faith with a view to the best interests of the Corporation and, in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, he or she had reasonable grounds for believing that his or her conduct was lawful. These rights are in addition to and not in substitution for any and all other indemnities to which the director or officer may be entitled at law or otherwise.

3.9 Books of Account.

Proper books of account and records shall be kept by the Corporation at its registered office and entries shall be made therein in accordance with generally accepted accounting principles. Each of the Shareholders, the directors of the Corporation and their respective representatives shall have access at all reasonable times to examine and copy such books of account and records, provided that any confidential information which is obtained from their examinations shall not be disclosed to Persons who are not directors or officers of the Corporation, members of the Management Committee, Shareholders, directors of Shareholders or authorized legal or financial advisors of the Shareholders or of the Corporation and shall not be used for any improper purpose.

3.10 Budget.

At least four weeks before the beginning of each Fiscal Year, the Management Committee shall send to each director and Shareholder a profit forecast, annual budget and business and marketing plan providing, among other things, a detailed breakdown of projected cash flow, capital expenditures and income. The budget shall be effective upon being approved by the directors, with such changes as they determine to be necessary.

3.11 Periodic Reports.

Within five Business Days after the end of each calendar month, the Management Committee shall send to each director and Shareholder a sales report prepared on a profit centre basis disclosing:

- (a) unit sales on a cumulative, monthly basis compared to corresponding periods in the previous Fiscal Year;
- (b) monthly dollar sales on a cumulative monthly basis compared to corresponding periods in the previous Fiscal Year and compared to the Budget; and
- (c) cumulative year to date statistics.

Within ten Business Days after the end of each calendar month, the Management Committee shall send to each director and Shareholder a profitability report disclosing:

- (a) gross profit for each department on a cumulative, monthly basis and compared to the Budget;
- (b) net profit on a cumulative, monthly basis and compared to the Budget;
- (c) bank collateral calculations compared to operating line borrowings as of the last day of the relevant month;
- (d) cash position as of the last day of the relevant month and compared to the Budget;
- (e) capital expenditures during the month in excess of \$10,000; and
- (f) a brief statement prepared by the chief operating officer analyzing the material results for the month, reasons for any material deviations from the Budget and any material changes in the operations or affairs of the Corporation or its subsidiaries.

3.12

Distributions.

All funds received by the Corporation and available for distribution in accordance with the Act shall be paid and distributed in the following order:

- (a) the payment of all debts and liabilities of the Corporation which are due and payable from time to time to Persons dealing at arm's length with all of the parties to this Agreement;
- (b) the establishment of such reserves as:
 - (i) may be required by the auditors of the Corporation in accordance with generally accepted accounting principles, and
 - (ii) may be approved by the directors of the Corporation;
- (c) the repayment of interest owing on loans advanced by Shareholders to the Corporation *pro rata* in accordance with accrued interest;
- (d) repayment of principal owing on loans advanced by Shareholders to the Corporation *pro rata* in accordance with the principal amount owing; and
- (e) the payment of dividends. No such dividends shall be declared or paid except to the extent that the directors determine that they can be satisfied by the Corporation without incurring any additional liabilities. Additionally, no dividend shall be paid if precluded by any loan agreement to which the Corporation is a party; provided the amount that would have been paid as dividends but for the loan agreement shall be paid when the Corporation may legally do so.

3.13 Insurance.

The Corporation shall obtain and maintain a liability insurance policy in such amount or amounts as the directors of the Corporation may determine.

3.14 Voting of Shares.

Each Shareholder shall vote or cause to be voted the respective Shares held of record or beneficially by such Shareholder in such a manner as shall carry out the intent and purpose of, and cause the implementation of, all covenants and agreements contained herein.

ARTICLE IV
ADDITIONAL FUNDING

4.1 Shareholder Loans.

- (a) If the directors of the Corporation determine that additional funds are required to manage and operate the Business (the "Required Funds") then, as and when requested by the directors of the Corporation, each Shareholder shall have the opportunity (but not the obligation) to lend such additional amount to the Corporation (a "Shareholder Loan") in accordance with its Proportionate Share entitlement at the time the Required Funds are requested and the Corporation shall pay such Shareholder a rate of interest on such loan equal to the lesser of the Prime Rate plus two percent or ten percent per year (simple interest, not compounded).
- (b) As security for the repayment of any Shareholder Loan, the Corporation hereby grants to each lending Shareholder a mortgage, charge and security interest in all the Corporation's present and future property and assets and the proceeds thereof. The parties acknowledge that the foregoing security interest shall be subordinate to all security interests granted by the Corporation in connection with bank financings.
- (c) Notwithstanding anything contained in 4.1(a) no financing shall be implemented which would require any of the Shareholders to guarantee any obligations of the Corporation or its subsidiaries unless all of the Shareholders agree in writing to the implementation of such financing.

4.2 Participation.

- (a) If one Shareholder lends its Proportionate Share of the Required Funds to the Corporation (the "Participating Shareholder") and the other Shareholder the "Non-Contributing Shareholder" does not elect to participate by lending its Proportionate Share of the Required Funds to the Corporation then the Participating Shareholder may (but shall not be obliged to) contribute the amount

to have declined to accept any or all of the Shares offered to them or all of the offered Shares have been accepted, the Corporation shall issue any Shares which have been accepted to the appropriate Shareholder as may be directed in writing by the Shareholder in consideration for their issue price. The Corporation shall then have the next four full calendar months within which it may issue those Shares not accepted as aforesaid to Persons other than Shareholders on terms no less favourable to the Corporation than those upon which such Shares were offered to the Shareholders. If the Corporation does not issue such Shares within those four calendar months, the foregoing pre-emptive rights shall again apply in respect of unissued Shares. Except as provided in this section, no Shareholder shall be entitled as of right to subscribe for, purchase or receive any part of any issue of Shares or securities of the Corporation now or hereafter authorized. The provisions of this section shall apply, *mutatis mutandis*, to securities that by their terms or by agreement are convertible into, exchangeable for or carry the right to purchase Shares.

4.4 Notice.

A notice required by section 4.3 shall specify the total number of Shares then being offered for allotment and issue, the issue price for each Share and the number of Shares being offered to the Shareholder to whom the notice is addressed, and shall limit the time (to be not less than 15 Business Days from the date in which such notice is deemed to have been given) within which such offer, if not accepted, will be deemed to be declined.

4.5 Exception to Pre-emptive Rights.

Notwithstanding section 4.3, no Shareholder shall have a pre-emptive right in respect of Shares to be issued as a Share dividend or pursuant to the exercise of conversion privileges, options or rights previously granted by the Corporation.

ARTICLE V
TRANSFER OF SHARES

5.1 Warranty as to Ownership.

Each Shareholder represents and warrants that it is the registered and beneficial owner of that number of Shares set forth beside its name in the recitals to this Agreement, free and clear of all liens, claims, charges, security interests, encumbrances or rights in favour of other Persons, other than pursuant to this Agreement.

5.2 Prohibition on Unauthorized Transfers.

Except as otherwise expressly permitted in this Agreement or unless the unanimous written consent of the other Shareholders is first obtained, no Shareholder shall Transfer any Shares. A change in the Control of a Shareholder shall be deemed to be a Transfer by such Shareholder of its Shares and shall be prohibited unless otherwise expressly permitted in

this Agreement or unless the written consent of the other Shareholder is first obtained. Notwithstanding anything in this section 5.2 to the contrary, a Shareholder may pledge, charge, mortgage or otherwise specifically encumber its Shares to a bank or other financial institution for the purpose of securing any borrowings by such Shareholder, provided that such bank or financial institution acknowledges to the parties to this Agreement in writing that the pledge, charge, mortgage or encumbrance of such Shares shall at all times be subject to all the terms and conditions of this Agreement.

5.3 **New Shareholders.**

Without limiting the effect of section 5.2, a Person who is not a Shareholder may acquire Shares only if that Person first executes and delivers an Assumption Agreement.

5.4 **Transfer to Permitted Transferees.**

Notwithstanding any other provision of this Agreement, each Shareholder shall be entitled after giving three Business Days' written notice to the other Shareholders and to the Secretary of the Corporation to Transfer any of the Shares beneficially owned by it to a wholly-owned subsidiary (a "Permitted Transferee") provided that:

- (a) the transferor Shareholder and the other shareholders of the Permitted Transferee agree not to transfer or issue any shares of the Permitted Transferee, either directly or indirectly, for so long as such Permitted Transferee shall own any Shares;
- (b) the transferor Shareholder guarantees the obligations of such Permitted Transferee under this Agreement; and
- (c) the Permitted Transferee executes and delivers an Assumption Agreement.

5.5 **Third Party Offer - Right to Purchase or Sell.**

If a Shareholder (the "Offeree") receives a Third Party Offer which it wishes to accept, then before it accepts the Third Party Offer:

- (a) the Offeree shall promptly give notice to the other Shareholder (the "Notified Shareholder") stating its desire to sell all but not less than all of the Shares owned by the Offeree in accordance with the Third Party Offer, a true copy of which shall accompany the notice;
- (b) the Notified Shareholder may elect to either:
 - (i) purchase all the Shares owned by the Offeree for cash at a price per share equal to the price provided in the Third Party Offer on terms no more favourable to the Notified Shareholder than those set out in the Third Party Offer; or

- (ii) sell all of the Shares owned by it on the terms set out in the Third Party Offer.

Such election may be made by the Notified Shareholder by giving notice to the Secretary of the Corporation on or before the 20th Business Day (the "Acceptance Date") following receipt of the Offeree's notice. If no such election is received by the Secretary of the Corporation from the Notified Shareholder, the Notified Shareholder shall be deemed to have elected to sell the Shares owned by the Notified Shareholder pursuant to the Third Party Offer;

- (c) if the Notified Shareholder elects to purchase the Shares owned by the Offeree, then such purchase shall be subject to the provisions of Article VII, and shall be closed on the 30th Business Day following the Acceptance Date; and
- (d) if, prior to the Acceptance Date, the Notified Shareholder elects or is deemed to have elected not to purchase the Shares owned by the Offeree, the Secretary of the Corporation shall so inform the Offeree and the Offeree may arrange for the sale of all, but not less than all the Shares on terms no more favourable to the Person making the Third Party Offer than those provided in the Third Party Offer, provided that the sale is consummated on or before the 30th Business Day after the Acceptance Date.

5.6 Buy-Sell Notice.

Either Shareholder (the "Offeror") shall have the right at any time to give notice (the "Buy-Sell Notice") to the other Shareholder (the "Offeree") and to the Corporation, which Buy-Sell Notice shall contain the following:

- (a) an offer (an "Offer to Purchase") by the Offeror to purchase all of the Shares owned by the Offeree;
- (b) an offer (an "Offer to Sell") by the Offeror to sell all of the Shares owned by the Offeror to the Offeree; and
- (c) the price (the "Purchase Price") to be paid for each Share pursuant to the Offer to Purchase and the Offer to Sell, which price shall be payable in cash on closing and shall be the same for both Offers and shall be accompanied by a certified cheque or bank draft payable to the Offeree in the amount of 15% of the Purchase Price (the "Deposit"). Neither the Offer to Sell nor the Offer to Purchase shall subject the Offeree to any term or condition not otherwise contemplated by this Agreement. If the transaction contemplated by the Offer to Purchase is not completed by reason of a default of the Offeror, the Deposit shall thereupon be forfeited to, become the property of and be retained by the Offeree as liquidated damages for the Offeror's default. The parties agree that the amount of damages sustained by the Offeree as a result of a default by the Offeror hereunder would be impracticable and extremely difficult to quantify.

5.7

Implementation of Buy-Sell Notice.

The Offeree shall accept either the Offer to Purchase or the Offer to Sell on or before the 45th Business Day (the "Notice Date") after receipt of the Buy-Sell Notice by giving notice of such acceptance to the Offeror and to the Secretary of the Corporation. If the Offeree does not accept either the Offer to Purchase or the Offer to Sell by the Notice Date, it shall be deemed to have accepted the Offer to Purchase. If:

- (a) the Offeree accepts or is deemed to accept the Offer to Purchase, the Offeree shall sell and the Offeror shall purchase all of the Shares beneficially owned by the Offeree at the Purchase Price; and
- (b) the Offeree accepts the Offer to Sell, the Offeree shall purchase and the Offeror shall sell all of the Shares beneficially owned by the Offeror at the Purchase Price as contemplated by this Agreement.

In each case, the transaction of purchase and sale shall be subject to the provisions of Article VII and shall be closed on the 20th Business Day following the Notice Date.

If the Offeree accepts or is deemed to accept the Offer to Purchase and the Offeror makes available, at the Corporation's bank or other financial institution, in a separate account and in the form and manner provided in this Agreement; the consideration for the Shares to be purchased in accordance with the provisions of sections 5.6 and 5.7, then from and after such time, the Offeree shall no longer have any rights as a holder of such Shares (other than the rights to receive payment of such consideration in accordance with this Agreement), and such Shares shall be deemed purchased in accordance with the applicable provisions hereof and the Offeror shall be deemed the owner and holder of such Shares with power of attorney to execute such documents and take such actions as may be necessary to effect the transfer of such Shares to the Offeror, whether or not the certificates therefor have been delivered as required by this Agreement.

ARTICLE VI
DEFAULT PROVISIONS

6.1

Events of Default.

An Event of Default shall be deemed to occur with respect to a Shareholder (the "Defaulting Shareholder") if:

- (a) such Shareholder makes an assignment for the benefit of creditors or is declared bankrupt or becomes insolvent;
- (b) any trustee in bankruptcy, receiver, receiver and manager, liquidator or other officer with similar powers is appointed for such Shareholder or for all or any material part of its property;

- (c) a Person acquires Control of such Shareholder except as expressly permitted by this Agreement;
- (d) a Person a beneficial interest in any of the Shares held by such Shareholder except as expressly permitted by this Agreement; or
- (e) such Shareholder fails to perform or observe any other term or condition of this Agreement and such failure continues for a period of 60 days following written notice thereof from any Shareholder or the Corporation.

6.2 Rights Upon Default.

In addition to any rights or remedies that may be available to them, if an Event of Default shall occur with respect to a Shareholder, then while the Event of Default is continuing the other Shareholder shall be entitled to purchase the Shares of the Defaulting Shareholder for Fair Market Value upon an Event of Default described in section 6.1(a), section 6.1(b) or section 6.1(c) or for 75% of their Fair Market Value upon an Event of Default described in section 6.1(d) or section 6.1(e).

6.3 Notice of Default.

The following provisions shall be applicable to any transaction arising under this

Article:

- (a) any Shareholder knowing that another Shareholder is a Defaulting Shareholder shall promptly confirm that fact with the Defaulting Shareholder and shall thereupon deliver notice in writing to the Secretary of the Corporation who shall provide the other Shareholders (collectively, the "Non-Defaulting Shareholders") with written notice of that fact and the number and price of the Shares of the Defaulting Shareholder which may be acquired;
- (b) each of the Non-Defaulting Shareholders may elect to purchase all of the Shares of the Defaulting Shareholder for cash in accordance with this Article by giving notice to the Secretary of the Corporation on or before the 30th Business Day (the "Election Date") following receipt of the notice contemplated by subsection 6.3(a);
- (c) if one or more of the Non-Defaulting Shareholders elects to purchase the Shares of the Defaulting Shareholder, each such Non-Defaulting Shareholder who so elects shall be deemed to have agreed to purchase those Shares in the proportion that its holding of Common Shares is to the aggregate number of Common Shares held by all of the Non-Defaulting Shareholders who so elected and shall, within two Business Days of the Election Date, be given notice by the Secretary of the Corporation of the number of Shares of the Defaulting Shareholder to which it is entitled;

- (d) if any Non-Defaulting Shareholder elects to purchase the Shares of the Defaulting Shareholder, then such purchase shall be subject to the provisions of Article VII and shall be closed on the later of the 30th Business Day following the Election Date and the fifth Business Day following the determination of Fair Market Value.

6.4

Fair Market Value.

"Fair Market Value" means the aggregate fair market value of the applicable Shares as agreed to in writing by all the Shareholders or, failing agreement, as determined by a business valuator (the "Valuator") appointed under this section.

6.5

Determination of Fair Market Value.

If the Shareholders fail to reach unanimous written agreement as to the Fair Market Value of a Shareholder's Shares within 30 days following written request given by any of them, then the Shareholders shall jointly appoint the Valuator and shall instruct the Valuator to determine the Fair Market Value of such Shares within 60 days following his appointment. In making its determination as to the Fair Market Value of any Shares, the Valuator shall not take into account the fact that such Shares do not form part of a "control block". The determination of the Valuator as to the Fair Market Value of the Shares shall be final and binding upon the Shareholders. If the Shareholders fail to jointly appoint the Valuator on or before the 40th day following written request by any Shareholder for a determination of the Fair Market Value of the Shares, then the owner of the Shares being valued, and the remaining Shareholders collectively, shall each appoint one arbitrator. The two arbitrators shall then meet and decide upon the appointment of a Valuator and the decision of the arbitrators shall be final and binding upon the parties. The Valuator shall have access to the books, accounts, records, vouchers, cheques, papers and documents of, or which may relate to, the Corporation. The Shareholders shall cooperate with the Valuator and shall provide all information and documents reasonably requested by the Valuator. All reasonable fees and disbursements charged by the Valuator shall be paid by the Corporation.

ARTICLE VII
CLOSING

7.1

Closing.

The closing of any purchase of Shares by the Corporation or one Shareholder from another Shareholder pursuant to this Agreement shall be held at the head office of the Corporation at 10:00 a.m. (local time) on the prescribed date and shall be subject to the following terms and conditions:

- (a) the Corporation or the Shareholder (the "Buyer") who is to acquire Shares shall pay the applicable purchase price to the Shareholder (the "Vendor") who is to sell

its Shares and the Vendor shall deliver to or to the order of the Buyer certificates for the Shares to be acquired, duly endorsed for transfer, free and clear of all liens, mortgages, charges, security interests and other encumbrances;

- (b) the Vendor and its nominees, if any, shall resign in writing the positions which they then hold with the Corporation and the Vendor and any Person having a legal or beneficial interest in the Vendor (whether direct or indirect) and nominees of the Vendor shall release the remaining Shareholder and the Corporation from all manner of actions, causes of action, suits, claims or demands against any of them which they ever had, then have or may thereafter have, for or by reason of or arising out of any cause, matter or thing but excluding claims arising from the transaction and claims for other moneys then owing pursuant to *bona fide* debts of the Corporation;
- (c) if the Shares to be purchased are subject to any lien, pledge, security interest or encumbrance or the Vendor owes any money to the Corporation or the Buyer, as determined by the auditor of the Corporation, the Buyer shall have the right to deduct from the amount otherwise required to be paid by it to the Vendor the amount required to discharge all such liens, pledges, security interests or encumbrances and repay any moneys so owing by the Vendor and such amount shall be used accordingly;
- (d) the Vendor shall be repaid any amounts owing to it pursuant to loans advanced to the Corporation and shall be released from any guarantees provided for the benefit of the Corporation or, if such releases are not forthcoming, shall be provided security (in form acceptable to the Vendor, acting reasonably) for amounts which may be payable by them pursuant to such guarantees; and
- (e) if, on the date of closing of the transaction, the Vendor fails or refuses to complete the transaction, then the Buyer shall have the right, on payment of the purchase price for the Shares into any chartered bank or trust company which is the principal banker of the Corporation (provided notice is given to the Defaulting Shareholder of such payment) within 15 Business Days after the date of closing, to execute and deliver all such transfers, resignations and other documents and instruments which may be necessary or advisable in order to complete the transaction and for such purpose, the Shareholders who may become Vendors hereby nominate, constitute and irrevocably appoint the Secretary of the Corporation and the Shareholders who may become Buyers as their lawful attorney and agent, which appointment is coupled with an interest, with full power and authority to execute for and in the name of and on behalf of the Vendor any deeds, transfers, conveyances, assignments, assurances, certificates and other documents and to do all things which the Vendor is required to do under the terms hereof.

ARTICLE VIII
NON-COMPETITION

8.1 **Eagle and Eaton Non-Competition Covenant**

Subject to section 8.4, commencing on the date of this Agreement, Eaton and Eagle will not (and will not permit any Affiliate or Associate, except for Burger GmbH) to, without the prior written consent of Robolix (which may be unreasonably withheld):

- (a) compete with the Business anywhere in the world, except that Eagle and Eaton shall not be restricted in any way from conducting their automobile exhaust and structural system business, their servicing and repair business or their tooling manufacture business; or
- (b) acquire any interest in any business activity in direct or indirect competition with the Business other than through an investment in securities listed on a stock exchange in North America or in Europe, and then only so long as those securities do not represent more than two per cent of the issued securities of any class of any one such company.

8.2 **Robolix Non-Competition Covenant**

Subject to section 8.4, commencing on the date of this Agreement, Robolix will not (and will not permit any Affiliate or Associate to), without the prior written consent of Eagle and Eaton (which may be unreasonably withheld):

- (a) engage or compete in the automobile exhaust and structural system business anywhere in the world; or
- (b) compete with the business of creating, manufacturing, marketing and selling machinery relating to the large-diameter tube bending industry (large diameter tubes being tubes with a diameter of 45mm or more) anywhere in the world; or
- (c) compete with the Business in North America, China, Japan, Korea, Thailand, Vietnam, Malaysia, Singapore and Indonesia; or
- (d) compete with the Business in the aerospace industry anywhere in the world; or
- (e) acquire any interest in any business activity in direct or indirect competition with the Business other than through an investment in securities listed on a stock exchange in North America or in Europe, and then only so long as those securities do not represent more than two per cent of the issued securities of any class of any one such company.

8.3 Non-Competition Covenant of Corporation.

Subject to section 8.4, commencing on the date of this Agreement, the Corporation will not (and will not permit any Affiliate or Associate to), without the prior written consent of Eaton and Robolix (which may be unreasonably withheld):

- (a) engage or compete in the automobile exhaust and structural system business anywhere in the world; or
- (b) except for the VB200HP bender or such replacements or upgrades of such machine as may be developed in the future, compete with the business of creating, manufacturing, marketing and selling machinery relating to the large diameter tube bending industry (large diameter tubes being tubes with a diameter of 45mm or more) anywhere in the world.

8.4 Termination of Non-Competition Covenants

Notwithstanding the provisions of sections 8.1, 8.2 and 8.3, the parties agree that the non-competition covenants of the parties set out in sections 8.1, 8.2 and 8.3 of this Agreement shall terminate in the event that:

- (a) either Eaton or Robolix is no longer a shareholder of the Corporation; or
- (b) there is a change in Control of Eagle, Eaton or Robolix.

8.5 Non-Solicitation.

So long as it is a Shareholder and for a period of three years commencing immediately after it ceases to be a Shareholder, a Shareholder will not (and will not permit any Affiliate or Associate to), without the prior written consent of the directors of the Corporation (which may be unreasonably withheld) entice, solicit or endeavour to entice or solicit any officer, employee, contractor, agent or consultant of the Corporation or any Affiliate away from employment with or engagement by the Corporation or any Affiliate, whether or not such Person would commit a breach of contract by reason of leaving such service.

8.6 Scope of Application.

The foregoing restrictions shall apply to any action taken by a Shareholder, directly or indirectly, alone or in concert or in partnership with others, whether as agent, representative, principal, employee, consultant, director or in any other capacity.

8.7 Limitation of Time Periods and Geographic Area.

While these restrictions are considered by the parties to be reasonable, they may fail for unforeseen technical reasons. Accordingly the parties have agreed that if any of these restrictions are determined to be unenforceable as going beyond what is reasonable in the circumstances for the protection of the interests of the Corporation and its Shareholders but

would be valid if, for example, the scope of their time periods or geographic areas were limited, the restrictions shall apply with such modifications as may be necessary to make them valid and effective.

ARTICLE IX
GENERAL CONTRACT PROVISIONS

9.1 Implementation of this Agreement.

The parties hereto shall sign such further and other documents, cause such meetings to be held, cause such resolutions to be passed and such by-laws to be enacted, exercise their vote and influence and do and perform (and cause to be done and performed) such further and other acts or things as may be necessary or desirable in order to give full effect to this Agreement and every part of it. If any conflict shall appear between the articles, by-laws or resolutions of the Corporation and the provisions of this Agreement, the provisions of this Agreement shall govern and supersede the provisions of the articles, by-laws and resolutions. If there shall be any such conflict, the Shareholders shall amend the articles, by-laws and resolutions so as to ensure conformity with the terms of this Agreement.

9.2 Notices.

All notices, requests, demands or other communications required or permitted to be given by one party to another under this Agreement shall be given in writing by personal delivery, facsimile or by registered mail, postage prepaid, addressed to such other party or delivered to such other party as follows:

(a) if to Eagle: Eagle Precision Technologies Inc.
565 West Street
P.O. Box 786
Brantford, Ontario N3T 5R7

Attention: Alex Kepecs

Fax: (519) 756-9301

(b) if to Eaton: Eaton Leonard, Inc.
6030 Avenida Encinas
Carlsbad, California
U.S.A. 92009

Attention: Alex Kepecs

Fax: (760) 929-5066

(c) if to Robolix: Financière Robolix S.A.R.L.
Route de Saint Germier
32430 Cologne
France

Attention: Philippe Jaubert

Fax: 33 (0) 5 62 58 30 39

(d) if to the Corporation: Eaton Leonard Robolix, Inc.
6030 Avenida Encinas
Carlsbad, California
U.S.A. 92009

Attention: Philippe Jaubert

with copy to:

Eagle Precision Technologies Inc.
565 West Street
P.O. Box 786
Brantford, Ontario N3T 5R7

Attention: Alex Kepecs

Fax: (519) 756-9301

or at such other address of which written notice is given and such notices, requests, demands or other communications shall be deemed to have been received when personally delivered, on the next Business Day after sending if sent by facsimile, or, if mailed, on the fourth Business Day after the mailing thereof; provided that if any such notice, request, demand or other communication shall have been mailed and if regular mail service shall be interrupted by strikes or other irregularities on or before the fourth Business Day after the mailing thereof, such notice, request, demand or other communication shall be deemed to have been received only upon personal or facsimile delivery.

9.3 Further Assurances.

The parties shall sign such further and other documents, cause such meetings to be held, resolutions passed and by-laws enacted, exercise their vote and influence, do and perform and cause to be done and performed such further and other acts and things as may be necessary or desirable in order to give full effect to this Agreement and every part hereof.

9.4 Counterparts.

This Agreement may be executed in counterparts and each of which so executed shall be deemed to be an original and such counterparts together shall be one and the same instrument.

9.5 Time of the Essence.

Time shall be of the essence of this Agreement and of every part hereof.

9.6 Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of California and the laws of the United States applicable therein and shall be treated, in all respects, as a California contract. All of the parties to this Agreement hereby irrevocably attorn to the non-exclusive jurisdiction of the courts of the State of California, with venue in San Diego County, and waive any objections to choice of venue and inconvenient forum.

9.7 Entire Agreement.

This Agreement constitutes the entire agreement between the parties with respect to the matter herein. The execution of this Agreement has not been induced by, nor do any of the parties rely upon or regard as material, any representations, promises, agreements or statements whatsoever not incorporated herein and made a part hereof. This Agreement shall not be amended, altered or qualified except by a memorandum in writing signed by all the parties.

9.8 Waiver.

No party to this Agreement shall be deemed or taken to have waived any provision of this Agreement unless such waiver is in writing, and then such waiver shall be limited to the circumstances set forth in such written waiver.

9.9 Severability.

If any Article, section or any portion of any section of this Agreement is determined to be unenforceable or invalid, that unenforceability or invalidity shall not affect the remaining portions of this Agreement and such unenforceable or invalid Article, section or portion thereof shall be deemed curtailed and limited only to the extent necessary to bring it within the requirements of the law.

9.10 Equitable Remedies.

Each party agrees that a monetary remedy for any breach or threatened breach of any provision of this Agreement would be inadequate and impracticable and extremely difficult to prove, and that such breach or threatened breach would cause the other parties irrevocable harm. Accordingly, each party agrees that the other parties shall be entitled to temporary and permanent injunctive relief, specific performance and other equitable relief for any breach or

threatened breach of any provision of this Agreement, including, without limitation, the provisions of Article V above, without the necessity of proving actual damages. Nothing contained in this section, however, shall be construed as prohibiting or precluding any party from pursuing any other rights and remedies that may be available to such party for such breach or threatened breach, including, without limitation, recovery of damages from the defaulting party.

9.11 Arbitration.

Any dispute arising under this Agreement, or any resulting transaction, shall be decided by neutral, binding arbitration. The arbitrator shall be a retired judge or attorney with at least five (5) years business law experience, unless the parties mutually agree to a different arbitrator, who shall render an award in accordance with substantive California law. In all other respects, the arbitration shall be conducted in accordance with Part III, Title 9 of the *California Code of Civil Procedure*. Judgment upon the award of the arbitrator may be entered in any court having jurisdiction. The parties shall have the right to discovery in accordance with *Code of Civil Procedure* Section 1283.5. The arbitration shall take place in San Diego County, California.

9.12 Attorney Fees.

In the event of litigation between the parties, including arbitration, arising out of this Agreement, or any resulting transaction, the prevailing party shall be awarded attorney fees in addition to other litigation costs.

9.13 Binding Effect.

This Agreement shall enure to the benefit of the parties hereto and their respective successors, permitted assigns, heirs, executors and administrators.

9.14 Drafting Presumption

It is acknowledged that the parties and their respective agents have participated in an arms' length negotiation in the preparation of this Agreement. As a consequence, the parties agree that no presumption shall be applied in any interpretation of this Agreement that the terms hereof shall be more strictly construed against one party by reason of any rule of construction, including, without limitation, Section 1654 of the Act, that a document is to be construed more strictly against the party who prepared the same, whether through such party's agents or otherwise.

9.15 Counterparts

This Agreement may be executed in counterparts all of which shall be construed together and shall constitute one agreement.

9.16 Facsimile Signatures

The parties agree that this Agreement may be executed by the parties and transmitted by facsimile transmission to the respective parties at the facsimile numbers set out in

section 9.2 above and, if so executed and transmitted, this Agreement will be for all purposes as effective as if the parties had delivered an executed original Agreement.

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

EATON LEONARD, INC.

Per: *R. J. Kerp*

FINANCIERE ROBOX S.A.R.L.

Per: _____

EATON LEONARD ROBOX, INC.

Per: *R. J. Kerp*

**EAGLE PRECISION TECHNOLOGIES
INC.**

Per: *R. J. Kerp*

section 9.2 above and, if so executed and transmitted, this Agreement will be for all purposes as effective as if the parties had delivered an executed original Agreement.

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

EATON LEONARD, INC.

Per: 

FINANCIERE ROBOLIX S.A.R.L.

Per: 

EATON LEONARD ROBOLIX, INC.

Per: 

EAGLE PRECISION TECHNOLOGIES
INC.

Per: 

ASSET TRANSFER AND SUBSCRIPTION AGREEMENT

THIS AGREEMENT made the 29th day of May, 2000.

BETWEEN:

EATON LEONARD, INC., a corporation
incorporated under the laws of California

("Eaton")

- and -

EATON LEONARD ROBOLIX, INC., a
corporation incorporated under the laws of
California,

("ERIX")

RECITALS:

- A. Eaton has agreed to subscribe for 501 shares in the common stock of ERIX (the "Purchased Stock").
- B. As consideration for Eaton's subscription, Eaton and ERIX have agreed that Eaton will transfer to ERIX assets used by Eaton in carrying on (i) its business of manufacturing small diameter (meaning less than 45 mm) metal tube benders (ii) its business of manufacturing the VB200HP, and (iii) its business of manufacturing metal tube measuring devices, all as more specifically described on Schedule "A" (the "Transferred Assets").

NOW THEREFORE in consideration of the mutual covenants hereinafter set forth, the parties hereby covenant and agree as follows:

ARTICLE I - DEFINITIONS

1.1 Definitions.

Whenever used in this agreement, unless there is something inconsistent in the subject matter or context, the following words and terms shall have the meanings set out below:

- (a) "Agreement" means this Agreement and all schedules attached hereto and all amendments and supplements hereto and thereto and all restatements and replacements hereof and thereof;
- (b) "Assumed Liabilities" has the meaning ascribed thereto in section 2.03;

- (c) "Business" means the business to be carried on by ERIX in place of Eaton, namely, (i) the business of manufacturing, marketing and selling small-diameter (meaning less than 45 mm) metal tube benders or metal wire benders; (ii) manufacturing, marketing and selling the VB200HP and such replacements or upgrades to the VB200HP as may be developed in the future; and (iii) the manufacturing, marketing and sales of metal tube measuring devices;
- (d) "Claim" means any and all losses, damages, taxes, expenses, liabilities (whether accrued, actual, contingent or otherwise), claims, demands and actions of whatever nature or kind, including legal fees and expenses on a solicitor/attorney and client basis and other professional fees and disbursements;
- (e) "Closing Date" means 10:00 a.m. Toronto time on May 24, 2000 or such other time or date as may be agreed upon by the parties;
- (f) "Person" means an individual, partnership, unincorporated association, organization, syndicate, corporation, trustee, executor, administrator or other legal or personal representative;
- (g) "Purchased Stock" has the meaning ascribed thereto in Recital A of this Agreement;
- (h) "Transferred Assets" has the meaning ascribed thereto in Recital B of this Agreement;
- (i) "Transferred Employees" has the meaning ascribed thereto in Section 4.1 of this Agreement.

ARTICLE II - SUBSCRIPTION

2.1 Subscription.

Eaton hereby subscribes for and agrees to purchase from ERIX, pursuant to the terms and conditions of this Agreement, the Purchased Stock for \$300,000 (the "Subscription Price").

2.2 Subscription Price.

Eaton shall satisfy the Subscription Price by transferring the Transferred Assets to ERIX on the Closing Date. Eaton and ERIX agree that the Subscription Price equals to fair market value of the Transferred Assets less the Assumed Liabilities.

2.3 Assumption of Liabilities.

On the Closing Date, ERIX shall assume the outstanding customer deposit liabilities on work-in-progress of Eaton listed on Schedule "A" related to the Transferred Assets, together with all outstanding vacation pay liabilities in connection with the Transferred

Employees as set out on Schedule "A" (collectively, the "Assumed Liabilities"). ERIX will not assume any other liabilities associated with the Transferred Assets.

2.4 Allocation of Subscription Price.

The parties agree that the Subscription Price shall be allocated among the Transferred Assets and the Assumed Liabilities in the manner determined by the parties and attached hereto as Schedule "A" and such determinations will be binding on both parties.

2.5 Taxes.

ERIX shall pay to Eaton or to the appropriate taxing authority within the time limits required by the applicable legislation all goods and services, sales, use, consumption, or transfer or other similar taxes to the extent required by any federal, provincial or local legislation in connection with the transfer of the Transferred Assets.

2.6 California Securities Legislation

The sale of the securities which are the subject of this Agreement has not been qualified with the Commissioner of Corporations of the State of California and the issuance of such securities or the payment or receipt of any part of the consideration therefore prior to such qualifications is unlawful, unless the sale of securities is exempt from qualification by Section 25100, Section 25102, or Section 25105 of the *California Corporations Code*. The rights of all parties to this Agreement are expressly conditioned upon such qualification being obtained, unless the sale is so exempt. The parties to this Agreement hereby irrevocably attorn to the non-exclusive jurisdiction of the courts of the State of California with venue in San Diego County and hereby waive any objection to such choice of venue and inconvenient forum.

2.7 Bulk Sales

ERIX agrees to waive compliance with the provisions of any applicable bulk sales legislation in respect of the purchase and sale of the Transferred Assets on the condition that Eaton shall indemnify and save harmless ERIX as provided in Article III hereof.

ARTICLE III - INDEMNITIES

3.1 ERIX Indemnity

ERIX hereby agrees to indemnify and save harmless Eaton from and against any Claims made against Eaton related to:

- (a) the Assumed Liabilities;
- (b) the Transferred Assets, provided that such Claims relate to facts arising entirely on or after the Closing Date; and

- (c) any inaccuracy in or breach of the representations and warranties set out in Section 5.2 of this Agreement.

3.2 Eaton Indemnity.

Eaton hereby agrees to indemnify and save harmless ERIX from and against any Claims made against ERIX related to:

- (a) all liabilities associated with the Transferred Assets, other than the Assumed Liabilities;
- (b) all liabilities relating to bulk sales or similar legislation concerning creditors' rights; and
- (c) any inaccuracy in or breach of the representations and warranties set out in Section 5.1 of this Agreement.

3.3 Minimum Threshold for Claim.

Notwithstanding any of the provisions of Article III, neither party will be liable for any Claim incurred by the other directly or indirectly resulting from any inaccuracy or misrepresentation in any representation or warranty contained in this Agreement unless and until the aggregate of all such Claims exceed \$10,000 in which event the amount of all such Claims, including such \$10,000, may be recovered by the party making such Claim.

3.4 Maximum Liability of Each Party.

The maximum aggregate liability of each party for all Claims made by the other party under Article III shall be limited to the amount of the Subscription Price. The maximum liability of Eaton for any single Claim made by ERIX under subsection 3.2(c) in respect of any single Transferred Asset shall be limited to the book value of such Transferred Asset. Notwithstanding the foregoing, the parties agree that there shall be no maximum liability for any claims made against ERIX by creditors of Eaton relating to bulk sales or similar legislation concerning creditors' rights.

3.5 Amounts Recovered.

The amount of any Claim shall be determined after giving effect to any amount recovered from any insurer or any other third party, provided that nothing herein obliges either party to make a claim against its insurer or any third party or to accept a settlement.

3.6 Set-Off.

Each party shall be entitled to set-off the amount of any Claim submitted under Article III as damages or by way of indemnification against any other amounts payable by the other parties whether under this Agreement or otherwise, provided that if any amount set-off by such party is finally determined to be less than the actual amount of the Claim, such party shall,

promptly after receipt of such notice of final determination, pay the amount of such difference to the other party.

ARTICLE IV - EMPLOYMENT MATTERS

4.1 Employees.

- (a) On the Closing Date, ERIX shall extend offers of employment to all employees of Eaton who are listed on Schedule "B" on substantially the same or comparable terms and conditions as to salary, benefits, duties and working conditions as those in force immediately prior to the Closing Date. For greater certainty, ERIX will recognize the length of service with Eaton of each such employee. The employees who accept the offer from ERIX shall be referred to as the "Transferred Employees".
- (b) Nothing contained herein shall confer any former, current or future employee of Eaton or ERIX or legal representative or beneficiary thereof, any rights or remedies, including without limitation, any right to employment or continued employment of any nature, for any specified period.
- (c) Except for those liabilities set out on Schedule "B", which shall be for the account of ERIX, all liabilities and costs in respect of the Transferred Employees including premiums for applicable pension and benefit plans and statutory payroll deductions, accrued wages, salaries and commissions, vacation pay, employee benefit plan payments and employee bonus and incentive payments shall be for the account of Eaton to the extent that they relate to the period preceding the Closing Date and for the account of ERIX, to the extent that they relate to the period following the Closing Date. For greater certainty, ERIX shall, following the Closing Date, honour all obligations arising after the Closing Date, including normal compensation and severance arrangements, due to Transferred Employees.
- (d) ERIX agrees to indemnify and save harmless Eaton with respect to any Claims (including claims for severance, notice of termination, breach of contract, constructive dismissal or damages in connection therewith) relating to the employment of any of the Transferred Employees or the termination of employment of any of the Transferred Employees after the Closing Date, including continuation, discontinuation or provision of the employment policies, benefit plans or other benefits previously provided by Eaton.

ARTICLE V - REPRESENTATIONS AND WARRANTIES

5.1 Representations and Warranties of Eaton.

Eaton hereby represents and warrants to the Purchaser that:

- (a) **Organization:** Eaton is a corporation duly incorporated, validly existing and in good standing under the laws of California. Eaton has all necessary corporate power, authority and capacity to own its property and assets and to carry on its business as presently owned and carried on by it and is duly licensed, registered and qualified as a corporation to do business and is in good standing in each jurisdiction in which the nature of its business and assets make such qualification necessary;
- (b) **Authorization:** Eaton has all necessary corporate power, authority, capacity and right to enter into and deliver this Agreement and to perform its obligations hereunder. The execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate action on the part of Eaton;
- (c) **Binding Obligation:** This Agreement constitutes a valid and legally binding obligation of Eaton, enforceable in accordance with its terms subject to applicable bankruptcy, insolvency, reorganization and other laws of general application limiting the enforcement of creditors' right generally and to the fact that specific performance is an equitable remedy available only in the discretion of the court;
- (d) **No Contracts:** Other than in connection with security granted to Canadian Imperial Bank of Commerce ("CIBC"), Eaton is not a party to, bound or affected by or subject to any indenture, mortgage, lease, agreement, instrument, statute, regulation, arbitration award, charter or by-law provision, order or judgment which would be violated, contravened or breached by or under which any default would occur as a result of the execution and delivery of this Agreement or the consummation of any of the transactions contemplated in this Agreement. Other than in connection with security granted to CIBC, there is no contract, option or any other right of another binding upon or which at any time in the future may become binding upon Eaton to sell, transfer, assign, pledge, charge, mortgage or in any other way dispose of or encumber any of the Transferred Assets other than pursuant to the provisions of this Agreement. At Closing, the security granted to CIBC in connection with the Transferred Assets will be released and discharged;
- (e) **Title to Transferred Assets:** On closing, Eaton will be, and ERIX shall become, the absolute beneficial and legal owner of the Transferred Assets with a good title, free and clear of any liens, charges, mortgages, security interests, encumbrances or rights or claims of others and Eaton is exclusively entitled to possess and dispose of the same, and in particular, without limiting the generality of the foregoing, there has been no assignment, subletting or granting of any licence (of occupation or otherwise) of or in respect of any of the Transferred Assets;
- (f) **Location of Transferred Assets:** Other than finished goods, all the Transferred Assets are situate at 6030 Avenida Encinas, Carlsbad, California;

- (g) **Intellectual Property:** To the best knowledge of Eaton, the use by ERIX of the Optical Probe with Overlapping Detection Fields (U.S. Patent application no. 4,849,643) and the Eaton Leonard name (the "Intellectual Property") will not infringe upon the intellectual property rights of any other Person. Eaton has received no claim or threatened claim of infringement from any Person relating to the Intellectual Property and knows of no basis for any such claim. No employee of Eaton owns, directly or indirectly in whole or in part, the Intellectual Property;
- (h) **Liabilities:** To the best knowledge of Eaton, there are no liabilities of Eaton of any kind whatsoever, whether or not accrued and whether or not determined or determinable, in respect of which ERIX may become liable on or after the Closing Date other than the Assumed Liabilities;
- (i) **Employees:** Schedule "B" sets out the names, current annual salaries or hourly rates, job descriptions, length of employment or date of hire, dates and amounts of the most recent increases in salary, the amounts of any bonus payments, commissions, accrued vacation pay and other amounts owing to all employees listed thereon. Other than an internal severance policy implemented by Eaton in 1995 pursuant to which Eaton determined to provide a maximum of 12 weeks severance pay per employee, Eaton is not a party to any written contracts of employment with any of the employees listed on Schedule "B" or any oral contracts of employment which are not terminable on the giving of reasonable notice and/or severance pay in accordance with applicable law and no inducements to accept employment with Eaton were offered to any such employees which have the effect of increasing the period of notice of termination to which any such employee is entitled. Eaton has deducted and remitted to the relevant governmental authorities all income taxes, remittances, deductions or other amounts which it is required by law to collect and remit to any governmental authority or other entity relating to the employment of such employees;
- (j) **Employment Payments:** Eaton has paid to the date of this Agreement all amounts payable on account of salary, bonus payments and commission to or on behalf of any and all employees listed in Schedule "B";
- (k) **Labour Matters:** To the best knowledge of Eaton, there is no unfair labour practice complaint by any of the employees listed on Schedule "B" against Eaton under any agency or body having jurisdiction therefor. To the best knowledge of Eaton, there is no labour strike threatened against or involving Eaton and there is no grievance or arbitration proceeding or governmental proceeding relating to any of the employees listed on Schedule "B" pending, nor is there any such proceeding threatened against Eaton which might have a material adverse effect on ERIX or on the conduct of the Business. To the best knowledge of Eaton, no collective bargaining agreement is currently being negotiated by Eaton with respect to the employees listed on Schedule "B". To the best knowledge of Eaton,

there are no employees listed on Schedule "B" in receipt of or who have claimed benefits under any weekly indemnity, long term disability or workers' compensation plan or arrangement or any other form of disability benefit program;

- (l) **Litigation:** There are no actions, suits or proceedings (whether or not purportedly on behalf of or against Eaton) pending or threatened against or materially adversely affecting, or which would materially adversely affect the Transferred Assets, or before or by any federal, state, municipal or other government, court, department, commission, board, bureau, agency or instrumentality, and which would involve the possibility of any lien, charge, encumbrance or any other right of another against the Transferred Assets;
- (m) **Consents:** Other than the consent of CIBC to be obtained by Closing, there are no consents, authorizations, licences, permits, approvals or orders of any Person or governmental authority required to permit Eaton to complete this transaction with ERIX other than consents, authorizations, licenses, permits, approvals or orders which, if not obtained, would not have a material adverse affect on the Transferred Assets.

5.2 Representations and Warranties of ERIX.

ERIX hereby represents and warrants to Eaton that:

- (a) ERIX is a corporation duly organized, validly existing and in good standing under the laws of California with full corporate power to own or lease its properties and to conduct its business in the manner and in the places where such properties are owned or leased or such business is conducted by it.
- (b) it has full corporate power and authority to enter into this Agreement and to consummate the transactions contemplated hereby; and
- (c) its authorized capital consists of one million shares in its common stock;
- (d) its issued and outstanding capital consists of no shares of its common stock; and
- (e) the Purchased Stock, upon its issuance in accordance with this Agreement, will be validly issued as fully paid and non-assessable.

5.3 Survival.

The representations and warranties contained in this shall survive Closing of the within transactions for a period of two (2) years.

SCHEDULE "A"
TRANSFERRED ASSETS AND ASSUMED LIABILITIES

Transferred Assets includes all of the following:

- (a) a royalty-free license to use the names "EATON" and "EATON LEONARD";
- (b) the Eaton Leonard logo as shown in Exhibit 1 attached hereto;
- (c) all right, title and interest of Eaton to all patents (including patent applications), inventions, processes, technology, designs, drawings, plans, engineering reports, production specifications, raw material specifications, copyrights, know-how, trade secrets and similar materials relating to the design and manufacture of the VMM, including the following patent:

<u>Title</u>	<u>Country</u>	<u>Application No.</u>	<u>Date</u>
Optical Probe with overlapping detection fields	United States	4,849,643	

- (d) raw material inventory as listed in the Net Asset Schedule attached hereto;
- (e) work-in-process inventory as listed in the Net Asset Schedule (Sub-schedule A) attached hereto;
- (f) finished goods inventory as listed in the Net Asset Schedule (Sub-schedule B) attached hereto; and
- (g) fixed assets as listed in the Net Asset Schedule (Sub-schedule C) attached hereto.

The Assumed Liabilities are as follows:

- (a) Customer deposits as listed in the Net Asset Schedule (Sub-schedule D) attached hereto; and
- (b) Vacation liability as listed in the Net Asset Schedule (Sub-schedule E) attached hereto.

EXHIBIT 1



MPT

5/25/00

Net Asset Schedule Rev 9. 052300

Eagle-Eaton Leonard					
Net Asset Schedule - Rev G - May 23, 2000					
Newco					
(USD in 000's)					
		Total			
Raw Material Inventory	409,171				
WIP Inventory	0	Schedule A			
Finished Goods Inventory	141,943	Schedule B			
Fixed Assets	60,423	Schedule C			
Customer Deposit	(263,182)	Schedule D			
Vacation Liability	(48,355)	Schedule E			
	300,000				
	300,000				
Note: Backlog small Benders					
Concept (Cambridge)	Configurable Vectorband 100HP				
Cooper Tire	Configurable Vectorband 25XP				
Carrier	CFGM-Vectorband 50HP				
Carrier	Configurable Vectorband 25XP				
Cooper Tire	Configurable Vectorband 25XP				
Cooper Tire	Configurable Vectorband 25XP				
Liabert	Configurable Vectorband 200HP				
Tubelronics	Manually Configurable Vectorband				
Cooper Tire	Configurable Vectorband 25XP				

Eagle-Eaton Leonard
Schedule A
Work In Process
Newco

No work in process as of 05/24/00

Eagle-Eaton Leonard
Schedule B
Finished Goods
Newco

<u>Location</u>	<u>Description</u>	<u>Material</u>	<u>MOH</u>	<u>Labor</u>	<u>LOH</u>
France	Configurable Vector 1 Optima	23,707.61	3,153.11	3,716.88	11,221.26
France	Configurable Vector 1 Optima	30,801.98	4,096.66	3,716.88	11,221.26
France	Configurable Vector 1 Optima	31,216.89	4,151.85	3,716.88	11,221.26

Total
Cost
41,798.86
49,836.78
50,306.88
141,942.52

Eagle-Eaton Leonard														
Schedule C														
Fixed Asset List														
Tag	Description	Dept	Type	Code	Tag #	Date	Status	U/L	Perfctd	Desq	Rebhd	Cost	Accum	Book Value
208	DRILL FIXTURE-V8100HP BED	51	R	F&F	11357	10/1/89	A	3	30	36	SL	1,098.00	1,099.00	0.00
1164	COMPUTER	51	R	DPE	12164	6/1/87	A	7	84	43	SL	1,482.37	745.78	718.39
94	2 INCH TOOLING SET	51	R	TOOL	11244	7/1/88	A	5	60	80	SL	3,014.82	3,014.82	0.00
303	FILE CABINET	52	R	F&F	11442	12/1/80	A	5	60	60	SL	288.08	288.08	0.00
30	10 LB COUNTING SCALE	52	R	M&E	11200	5/31/87	A	5	60	60	SL	1,293.77	1,293.77	0.00
1269	Office Furniture for Purchasing Dept	52	R	F&F	122304	11/1/85	A	6	60	13	SL	6,448.87	1,180.12	4,268.55
948	DESKS & CHAIRS	52	R	F&F	11934	10/1/84	A	5	80	60	SL	374.50	374.50	0.00
1193	VIEWSONIC 15" MONITOR	52	R	DPE	12183	11/1/87	A	3	30	24	SL	376.05	250.72	128.33
1047	17" MONITOR - VIEWSONIC	52	R	DPE	12042	7/1/85	A	5	60	63	SL	780.73	898.50	82.23
1178	VIEWSONIC 21 INCH MONITOR	52	R	DPE	12186	7/30/87	A	3	30	28	SL	1,020.11	1,493.44	426.57
1213	V88	51	R	TESTQ	1213	4/1/88	A	5	80	18	SL	47,028.84	16,082.40	32,546.24
1010	HANGING FILE CABINET	52	R	F&F	12016	4/1/85	A	5	80	58	SL	911.30	850.58	60.72
1288	INTEL ATLANTA 4401X PENTIUM II-288MMX/6512K/CAL 4401X W/A/CCESSORIES	57	R	DPE	12270	1/1/89	A	5	60	11	SL	1,361.86	248.70	1,112.28
1290	INTEL ATLANTA 4401X PENTIUM II-288MMX/512K/CAL 4401X W/A/CCESSORIES	57	R	DPE	12272	1/1/89	A	5	60	11	SL	1,361.86	249.70	1,112.26
1282	INTEL ATLANTA 4401X PENTIUM II-288MMX/512K/CAL 4401X W/A/CCESSORIES	57	R	DPE	12274	1/1/89	A	5	60	11	SL	1,361.86	248.70	1,112.26
1284	INTEL ATLANTA 4401X PENTIUM II-288MMX/512K/CAL 4401X W/A/CCESSORIES	57	R	DPE	12276	1/1/89	A	5	60	11	SL	1,361.86	248.70	1,112.26
1286	INTEL ATLANTA 4401X PENTIUM II-288MMX/512K/CAL 4401X W/A/CCESSORIES	57	R	DPE	12278	1/1/89	A	5	60	11	SL	1,361.86	248.70	1,112.26
1300	INTEL ATLANTA 4401X PENTIUM II-288MMX/512K/CAL 4401X W/A/CCESSORIES	57	R	DPE	12280	1/1/89	A	5	60	11	SL	1,361.86	248.70	1,112.28
1302	INTEL ATLANTA 4401X PENTIUM II-288MMX/512K/CAL 4401X W/A/CCESSORIES	57	R	DPE	12282	1/1/89	A	5	60	11	SL	1,361.86	248.70	1,112.28
1304	INTEL ATLANTA 4401X PENTIUM II-288MMX/512K/CAL 4401X W/A/CCESSORIES	57	R	DPE	12284	1/1/89	A	5	60	11	SL	1,361.86	248.70	1,112.26
1306	INTEL ATLANTA 4401X PENTIUM II-288MMX/512K/CAL 4401X W/A/CCESSORIES	57	R	DPE	12286	1/1/89	A	5	60	11	SL	1,361.86	248.70	1,112.26
1308	INTEL ATLANTA 4401X PENTIUM II-288MMX/512K/CAL 4401X W/A/CCESSORIES	57	R	DPE	12288	1/1/89	A	5	60	11	SL	1,361.86	248.70	1,112.26
1310	INTEL ATLANTA 4401X PENTIUM II-288MMX/512K/CAL 4401X W/A/CCESSORIES	57	R	DPE	12290	1/1/89	A	5	60	11	SL	1,361.86	248.70	1,112.28
1312	INTEL ATLANTA 4401X PENTIUM II-288MMX/512K/CAL 4401X W/A/CCESSORIES	57	R	DPE	12292	1/1/89	A	5	60	11	SL	1,361.86	248.70	1,112.28
1314	INTEL ATLANTA 4401X PENTIUM II-288MMX/512K/CAL 4401X W/A/CCESSORIES	57	R	DPE	12294	1/1/89	A	5	60	11	SL	1,361.86	248.70	1,112.26
1316	INTEL ATLANTA 4401X PENTIUM II-288MMX/512K/CAL 4401X W/A/CCESSORIES	57	R	DPE	12296	1/1/89	A	5	60	11	SL	1,361.86	248.70	1,112.26
1290	PENTIUM COMPUTER SYSTEM W/A/CCESSORIES	57	R	DPE	12288	1/1/89	A	5	60	11	SL	1,361.86	248.70	1,112.26
1228	PENTIUM COMPUTER SYSTEM W/A/CCESSORIES	57	R	DPE	12281	6/1/88	A	5	80	17	SL	1,417.99	401.76	1,016.23
1226	PENTIUM COMPUTER SYSTEM W/A/CCESSORIES	57	R	DPE	12279	6/1/88	A	5	80	17	SL	1,478.33	418.88	1,059.47
1221	PENTIUM COMPUTER SYSTEM W/A/CCESSORIES	57	R	DPE	12217	6/1/88	A	5	60	18	SL	1,563.82	478.08	1,115.54
1220	PENTIUM COMPUTER SYSTEM W/A/CCESSORIES	57	R	DPE	12212	6/1/88	A	5	60	18	SL	1,675.85	487.78	1,138.16
		57	R	DPE	12211	5/1/88	A	5	60	18	SL	1,678.82	503.05	1,175.87

Net Asset Schedule for 5/25/89

Tag Number	Description	Dept	Type	Code	Tag #	Date	Status	Life	Periods	Uth	Periods	Dept	Method	Cost	Accum	Debit	Book Value
311	VECTOR I SERIES 3	50	R	TESTQ	11450	1/7/91	A	5	60	60	60	SL	17,370.00	17,370.00	0.00	0.00	
103	FIXTURE ENCODER LASER/VISN	51	R	MAE	11452	1/7/91	A	5	60	60	SL	370.05	370.05	0.00	0.00	0.00	
674	PROBE ASSY, AAI/CEP-4800	51	R	MAE	11253	6/1/88	A	5	80	80	SL	808.75	808.75	0.00	0.00	0.00	
127	LASER PROBE INSPECT FIXT	51	R	FAF	11890	3/1/84	A	5	80	80	SL	1,187.13	1,187.13	0.00	0.00	0.00	
356	80000 PROBE	51	R	TESTQ	11276	12/1/88	A	5	80	80	SL	1,552.75	1,552.75	0.00	0.00	0.00	
236	LASER PROBE FIXTURE	51	R	MAE	11484	5/1/81	A	5	60	60	SL	2,386.94	2,386.94	0.00	0.00	0.00	
137	CLEANFLOW WORK BENCH	51	R	MAE	11382AB	4/1/80	A	5	60	60	SL	3,341.29	3,341.29	0.00	0.00	0.00	
218	MICRO-SYSTEM TROUBLESHOOT	51	R	TESTQ	11288	1/7/88	A	5	60	60	SL	3,952.82	3,952.82	0.00	0.00	0.00	
29	GLUE UP FIXTURE FOR VISA	51	R	MAE	11368	12/1/89	A	5	80	80	SL	5,782.83	5,782.83	0.00	0.00	0.00	
	MOLDS FOR VECTOR 1 CASTIN	51	R	MAE	11199	4/30/87	A	5	80	80	SL	19,433.27	19,433.27	0.00	0.00	0.00	
573	OPTICAL LIGHT SOURCE	62	R	TESTQ	11884AAB	2/7/83	A	5	60	60	SL	428.81	428.81	0.00	0.00	0.00	
322	CIRCUIT BOARD DESIGN	62	R	MAE	11462	3/1/81	A	5	80	80	SL	428.00	428.00	0.00	0.00	0.00	
842	LASER ROOM MODIFICATIONS	62	R	LH	11928	8/1/84	A	5	80	80	SL	650.00	650.00	0.00	0.00	0.00	
310	ARTWORK/ PREPARER VTI	62	R	FAF	11449	1/1/81	A	5	60	60	SL	2,588.00	2,588.00	0.00	0.00	0.00	
826	INFRA-RED VU-SCOPE	62	R	TESTQ	11744	6/1/83	A	5	60	60	SL	4,478.24	4,478.24	0.00	0.00	0.00	
														157,428.43	97,009.13	60,429.30	

EXHIBIT "B"

Not Actual Schedule Rev 9-89

Eagle-Eaton Leonard
Schedule D
Customer Deposit
Newco

Customer	Order #	Machine	05/23/00 Balance
Liebert	4089	VB200	(76,630.50)
Crane Resistoflex	3286	Vector 1 LVO	(26,901.00)
Cooper	4020	VB25	(28,950.00)
Concept	3968	VB100	(63,320.00)
Tubetronics AMCI	4167	VB50 / LV	(67,380.00)
			(263,181.50)

Eagle-Eaton Leonard
 Schedule E
 Vacation Liability
 Newco

<u>Name</u>	<u>Hire Date</u>	<u>Vacation Liability</u>
Bishop, Melvin	04/26/1993	780.72
Cole, Jeffrey	05/09/1994	1,866.76
Cooper, Corina	01/03/2000	288.37
Cooper, Glen	09/16/1985	1,939.39
Dempster, Hayden	06/28/1993	1,205.58
Dolleton, Michael M	04/10/1995	1,039.03
Granillo, Harvey		0.00
Hopf, Werner G	08/23/1982	657.42
Hopkins, Charles M	10/26/1998	0.00
Howard, Roxanne	12/14/1987	6,417.79
Keays, Maureen	03/08/1999	485.45
Magistro, Nancy L	09/29/1994	684.81
McDonnell, Jeffrey	12/17/1984	8,356.66
Nowicki, Richard	05/22/1995	1,239.12
Nurrenbern, Wayne T	01/16/1978	1,674.43
Palacios, Jorge	10/21/1994	642.21
Pawloski, Stacy	09/26/1995	26.25
Rocha, Frank	Temp	0.00
Salanga, Cris D.	03/22/1993	1,837.74
Statzer, Terry B	06/17/1974	7,727.11
Stotts, Kenneth	07/26/1999	941.83
Tarmey, Richard T	08/21/1995	0.5 1,446.57
Taylor, Rayetta	Temp	0.00
Traub, Zeno	03/24/1980	6,277.98
Vu, Ngoc	02/17/1987	728.74
Wallace, Christopher B	10/05/1998	1,474.97
Wasser, Dax	04/20/1992	716.93
	Total	48,354.85

**SCHEDULE "B"
EMPLOYEES**

MPT

EMPLOYEE NAME	JOB TITLE	NEWCO JOB TITLE	DATE OF HIRE	ANNUAL SALARY	Accrued Vac pay
Eagle-Fallon Leonardo	EEL				
NewCo Personnel Analysis					
Schedule D					
Richard Tammy	General Manager 1/2	General Manager 1/2	05/821/95	71,500	2,750
Bishop, Melvin	GLV Vector Assembler	GLV Vector Assembler	1/4/26/93	33,010	754
Christopher Wallace	Application Engineer	Small Bender Product Manager	1/10/5/98	54,800	1,284
Cole, Jeffrey	Mechanical Designer	VMM Designer	1/5/8/94	45,700	1,887
Cooper, Corina	Mechanical Assembler	Assembler	1/7/9/00	18,824	223
Cooper, Glen	Sr. Test Technician	Test Technician	1/9/7/85	35,540	1,764
Dempster, Hayden	Vector Assembler	Vector Assembler	1/8/28/93	22,750	1,191
Granillo, Harvey	Test Technician	Test Technician	1/7/5/91	28,760	1,375
Hopf, Werner G	Sr Mech Design Engr	Mechanical Engineer	1/8/23/82	68,494	317
Hopkins-Charles M	Manufacturing Mgr	Robolix Product Manager	1/10/26/98	91,000	0
Howard, Roxanne	Inside Sales Mgr	Sales Administrator	1/12/14/87	59,200	6,129
Jorge Palacios	Sr Quality Insp	Assembler	1/10/21/94	23,180	530
Keays, Maureen	Executive Assistant	Administration Assistant	1/3/8/99	38,800	350
Magistro, Nancy L	Sales Contract Admin	General Administration	1/9/29/94	38,000	665
McDonnell, Jeffrey	Application Engineer	Application Engineer	1/4/21/78/4	53,700	8,091
Michael Doltalon	Acci Payable Supervisor	Buyer	1/4/10/95	35,743	883
Nowicki, Richard	Engineering SupSprv	Designer	1/5/22/95	38,300	1,077
Nurrebarn, Wayne T	GL Manufacturing	Assembler	1/1/16/78	34,424	1,504
Pawloski, Slacy	Data Entry/Inventory	Print Room Clerk	1/9/26/95	20,040	0
Rocha, Frank	Mechanical Assembler	Assembler	1 temp	24,000	0
Salanga, Chris D.	Electrical Engineer	Electrical Engineer	1/3/22/93	55,203	2,854
Slatzer, Terry B	Production Ctl Super	Buyer	1/6/17/74	58,300	7,438
Slotts, Kenneth	Supervisor Gen Acct	General Accountant	1/7/28/99	53,170	757
Taylor, Rayella	Mechanical Assembler	Assembler	1 temp	24,000	0
Traub, Zeno	Product Dev Mgr	Technical Director	1/3/24/80	89,800	6,177
Vu, Ngoc	Vector Technician	Vector Technician	1/2/17/87	27,270	593
Wasser, Dax	Prod Planner B	Stockroom Clerk	1/4/20/92	25,880	681
			26,5	1,168,369.54	49,064

5/2/00

New CO monthly P&L end cash with Robolix employee

pe

GENERAL CONVEYANCE AND ASSUMPTION AGREEMENT

THIS AGREEMENT made the 29th day of May, 2000.

BETWEEN :

EATON LEONARD, INC.

(the "Transferor")

- and -

EATON LEONARD ROBOLIX, INC.

(the "Transferee")

WHEREAS pursuant to the terms of an asset transfer and subscription agreement dated May 29th, 2000 (the "Agreement"), the Transferor has agreed to transfer the Transferred Assets (as defined in the Agreement) to the Transferee in return for 501 common shares in the capital of the Transferee;

AND WHEREAS pursuant to the terms of the Agreement, the Transferee has agreed to assume the Assumed Liabilities (as defined in the Agreement);

AND WHEREAS capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Agreement;

NOW THEREFORE for the sum of ten dollars (\$10.00) and other good and valuable consideration now paid by the Transferee to the Transferor (the receipt and sufficiency of which are hereby irrevocably acknowledged by the Transferor), the Transferor and the Transferee agree as follows:

1. The Transferor hereby grants, bargains, sells, assigns, transfers, conveys and sets over unto the Transferee, its successors, assigns and legal representatives, as at and from the Closing Date, all of the Transferred Assets and all the right, title, interest and property of the Transferor in and to the Transferred Assets and every part thereof, all in accordance with and subject to the terms of the Agreement.
2. The Transferor covenants and agrees with the Transferee, its successors, assigns and legal representatives, that it will from time to time and at all times hereafter, upon every reasonable request, and at the expense of the Transferee, its successors, assigns or legal representatives, make, do and execute or cause and procure to be made, done and executed all such further acts, deeds or assurances as may be reasonably required by the Transferee, its successors, assigns and legal representatives, whether for more effectually and completely vesting in the Transferee, its successors, assigns and legal representatives, the Transferred Assets hereby sold, assigned, transferred or conveyed in accordance with the terms hereof and the terms of the Agreement or for the purpose of registration or otherwise.

3. The Transferee, from and after the Closing Date, hereby assumes all liability for and covenants to, in a due and proper manner, discharge, perform and fulfil those agreements, covenants, obligations, debts, liabilities, accounts payable, contracts and commitments of the Transferor constituting the Assumed Liabilities, and in a due and proper manner to pay, satisfy, discharge, perform and fulfil the Assumed Liabilities.

4. This General Conveyance shall be governed by and construed in accordance with the laws of the State of California and shall be treated, in all respects, as a California contract. Each of the parties to this agreement hereby irrevocably attorn to the non-exclusive jurisdiction of the courts of the State of California.

5. This General Conveyance may be signed in one or more counterparts, each of which so signed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument. Notwithstanding the date of execution of any counterpart, each counterpart shall be deemed to bear the effective date set forth above.

6. The signature of any of the parties hereto may be evidenced by a facsimile copy of this document bearing such signature.

DATED as of the date first written above.

EATON LEONARD, INC.

Per: *Alex Kepcs*
Name: ALEX KEPES
Title: PRESIDENT

EATON LEONARD ROBOLIX, INC.

Per: *Alex Kepcs*
Name: ALEX KEPES
Title:

G73/PARTRIDN2-0260162

Patent No.: 5,008,555
Issue Date: April 16, 1991

PATENT
Client Code: FINROBO.000GEN
Page 1

ASSIGNMENT

WHEREAS, Eagle Precision Technologies, Inc., a corporation having offices at 565 West Street, P.O. Box 786, Brantford, Ontario, N3T 5R7, Canada (hereinafter "ASSIGNOR"), represents and warrants that it is the sole owner of the entire right, title, and interest to certain new and useful improvements for which the following United States issued Letters Patent (hereinafter "the Patent") was filed:

<u>Patent No.</u>	<u>Issue Date</u>	<u>Title</u>
5,008,555	April 16, 1991	OPTICAL PROBE WITH OVERLAPPING DETECTION FIELDS

WHEREAS, Eaton Leonard Robelix, Inc., a corporation having offices at 6030 Avenida Encinas, Carlsbad, California 92009, U.S.A. (hereinafter "ASSIGNEE") desires to acquire the entire right, title, and interest in and to the inventions disclosed in the Patent;

NOW, THEREFORE, in good and valuable consideration, the receipt of which is hereby acknowledged, ASSIGNOR hereby further acknowledges that it has sold, assigned, and transferred, and by these presents does hereby sell, assign, and transfer, unto ASSIGNEE, its successors, legal representatives, and assigns, the entire right, title, and interest throughout the world in, to, and under the said improvements, and the said Patent and all Patents that may be granted thereon, and all divisions, continuations, reissues, reexaminations, renewals, and extensions thereof, and all rights of priority under International Conventions and applications for Letters Patent filed for said improvements or for the said Patent in any country or countries foreign to the United States.

ASSIGNOR does hereby sell, assign, transfer, and convey to ASSIGNEE, its successors, legal representatives, and assigns all claims for damages and all remedies arising out of any violation of the rights assigned hereby that may have accrued prior to the date of assignment to ASSIGNEE, or may accrue hereafter, including, but not limited to, the right to sue for, collect, and retain damages for past infringements of the said issued Letters Patent.

ASSIGNOR hereby covenants and agrees that it will communicate to ASSIGNEE, its successors, legal representatives, and assigns any facts known to ASSIGNOR respecting the Patent immediately upon becoming aware of those facts, and that it will testify in any legal proceeding involving the Patent, will sign all lawful papers, execute all divisional, continuing, and reissue applications, make all rightful oaths, and will generally do everything possible to aid ASSIGNEE, its successors, legal representatives, and assigns to obtain and enforce the Patent in all countries.

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this _____ day of _____, 20__.

EAGLE PRECISION TECHNOLOGIES, INC.

By: _____

Name Printed: _____

Title: _____

S:\DOCS\MCB\MCB-1027.DOC
071806

*Delivered to Graham Phillips
at Vineburg Aug 3/00 for
signature*

Patent No.: 4,849,643
Issue Date: July 18, 1989

PATENT
Client Code: FINROBO 000GEN
Page 1

ASSIGNMENT

WHEREAS, Eaton Leonard, Inc., a California corporation having offices at 6030 Avenida Encinas, Carlsbad, California, 92009 U.S.A. (hereinafter "ASSIGNOR"), represents and warrants that it is the sole owner of the entire right, title, and interest to certain new and useful improvements for which the following United States issued Letters Patent (hereinafter "the Patent") was filed:

<u>Patent No.</u>	<u>Issue Date</u>	<u>Title</u>
4,849,643	July 18, 1989	OPTICAL PROBE WITH OVERLAPPING DETECTION FIELDS

WHEREAS, Eaton Leonard Robolix, Inc., a corporation having offices at 6030 Avenida Encinas, Carlsbad, California 92009, U.S.A. (hereinafter "ASSIGNEE") desires to acquire the entire right, title, and interest in and to the inventions disclosed in the Patent;

NOW, THEREFORE, in good and valuable consideration, the receipt of which is hereby acknowledged, ASSIGNOR hereby further acknowledges that it has sold, assigned, and transferred, and by these presents does hereby sell, assign, and transfer, unto ASSIGNEE, its successors, legal representatives, and assigns, the entire right, title, and interest throughout the world in, to, and under the said improvements, and the said Patent and all Patents that may be granted thereon, and all divisions, continuations, reissues, reexaminations, renewals, and extensions thereof, and all rights of priority under International Conventions and applications for Letters Patent filed for said improvements or for the said Patent in any country or countries foreign to the United States.

ASSIGNOR does hereby sell, assign, transfer, and convey to ASSIGNEE, its successors, legal representatives, and assigns all claims for damages and all remedies arising out of any violation of the rights assigned hereby that may have accrued prior to the date of assignment to ASSIGNEE, or may accrue hereafter, including, but not limited to, the right to sue for, collect, and retain damages for past infringements of the said issued Letters Patent.

ASSIGNOR hereby covenants and agrees that it will communicate to ASSIGNEE, its successors, legal representatives, and assigns any facts known to ASSIGNOR respecting the Patent immediately upon becoming aware of those facts, and that it will testify in any legal proceeding involving the Patent, will sign all lawful papers, execute all divisional, continuing, and reissue applications, make all rightful oaths, and will generally do everything possible to aid ASSIGNEE, its successors, legal representatives, and assigns to obtain and enforce the Patent in all countries.

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this _____ day of _____, 20__.

EATON LEONARD, INC.

By: _____

Name Printed: _____

Title: _____

LICENSE AGREEMENT

THIS AGREEMENT made as of the 29th day of May, 2000.

BETWEEN:

EATON LEONARD, INC., a corporation incorporated under the laws of California

(the "Licensor")

- and -

EATON LEONARD ROBOLIX, INC., a corporation incorporated under the laws of California

(the "Licensee")

RECITALS

- A. The Licensor is the owner of the Patent Rights, as defined herein, and has the right to grant rights thereunder.**
- B. The Licensor has agreed to grant the Licensee a license to use the Patent Rights upon the terms and conditions hereinafter set forth.**

NOW THEREFORE in consideration of the premises and the following mutual covenants and for other good and sufficient consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I - DEFINITIONS

1.1 Definitions.

Wherever used in this Agreement, unless there is something in the subject matter or context inconsistent therewith, the following words and terms shall have the respective meanings ascribed to them as follows:

- (a) "Agreement" means this agreement entitled "License Agreement," the Schedules hereto, and all instruments supplemental hereto or in amendment or confirmation hereof;**
- (b) "Confidential Information" shall mean and include any and all know-how, trade secrets, engineering and technical information and data, commercial and marketing information and data related in any way to the Patent Rights, Products or Improvements disclosed by either party to the other pursuant to the terms or**

related to the objects of this Agreement whether disclosed orally or in drawings or other documents and which have not been made public anywhere by anyone;

- (c) "Improvements" means any technical improvement, development, invention, modification, betterment and the like to the Patent Rights or Products made or acquired by the Licensor or the Licensee;
- (d) "Know-how" means information of a scientific or technical nature now or hereafter possessed by the Licensor within the scope of this Agreement (including reports, drawings, specifications, test data, and any other information disclosed by the Licensor to the Licensee) relating to the Patent Rights, Products and Improvements;
- (e) "Products" means small-diameter (meaning less than 45mm) metal tube benders;
- (f) "Patents" means the patent applications set out on Schedule A;
- (g) "Patent Rights" means the Licensor's right, title and interest in and to the Patents, the Know-how, and Improvements, subject to any security interests, title or other issues described in correspondence dated April 18, 2000 from Brown, Martin, Haller & McGlain LLP attached hereto as Schedule "B";
- (h) "Term" has the meaning given to such term in Section 3.1 hereof.

1.2 Schedules.

The following schedule is annexed hereto and forms part of the Agreement:

Schedule "A" - Patents

Schedule "B" - Patent Rights

ARTICLE II - GRANT

2.1 Grant and Term.

Subject to the provisions of this Agreement, the Licensor hereby grants to the Licensee for the Term of this Agreement a royalty-free license to use the Patent Rights for the manufacture and sale of Products worldwide, subject to the amendment of the exclusive license granted by the Licensor or Fabbrica Macchine Curvatubi Crippa Agastino S.p.A. ("Crippa") in respect of U.S. patent application no. 4,495,788 (Multiple Curvature Bender - "Head Shift") to permit a license of such patent in favour of each of the Licensee and Eagle Precision Technologies Inc.

2.2 Acknowledgement of the Licensor's Rights.

The Licensee acknowledges the Licensor as the owner of the Patent Rights and recognizes that the Licensor shall be free to use the Patent Rights other than in connection with

the manufacture and sale of the Products in North America and that Burger GmbH is free to use the Patent Rights in connection with the manufacture and sale of the Products worldwide.

ARTICLE III - TERM

3.1 Term.

The term of the license for each Patent is the period commencing on the date of this Agreement and ending on the date on which such Patent expires.

ARTICLE IV - REPRESENTATIONS AND COVENANTS OF THE LICENSOR

4.1 Representations and Warranties.

The Licensor represents and warrants to the Licensee that:

- (a) except for the license in favour of Crippa, it is the owner of the entire right, title and interest in and to the Patent Rights and that it has the right to grant to the Licensee the license hereby granted;
- (b) the Patent Rights, to the best of the Licensor's knowledge, do not infringe the rights of any other person, firm or corporation;
- (c) except for the license in favour of Crippa, no other person, firm or corporation has any right, title, or claim to the Confidential Information or Patent Rights and there are no outstanding assignments, grants, licenses, encumbrances, obligations, or agreements, either written or oral, express or implied, inconsistent with this Agreement; and
- (d) the Licensor has applied for or obtained the Patent Rights listed in Schedule "A" to this Agreement.

4.2 Confidential Information.

The Licensor shall furnish to the Licensee all Confidential Information presently in its possession and subsequently acquired during the term hereof as may reasonably required by the Licensee. The Licensee shall not disclose the Confidential Information provided to it by the Licensor without the prior consent of the Licensor except such matters as may first be made public by the Licensor or others who have obtained such information from the Licensor. The Licensor shall not disclose any Confidential Information provided to it by the Licensee without the prior consent of the Licensee except such matters as may first be made public by the Licensee or others who have obtained such information from the Licensee.

Handwritten notes:
1/11/2011
W
2/1
boc.
nentes
Eagle
PT

ARTICLE V - PATENT FILING AND ENFORCEMENT

5.1 Patent Filing and Prosecution.

The Licensor hereby consents to the filing and prosecution by the Licensee in the name at the expense of the Licensee of all patent applications that the Licensee is desirous of instituting in connection with the Products or any Improvements devised or acquired by the Licensor or Licensee at any time during the term of this Agreement, including, without limitation, any divisions, continuations, continuations-in-part, reissues and renewals of such patent(s) and shall co-operate with and assist the Licensor or Licensee with respect thereto. The Licensor shall maintain all Patent Rights in good standing by paying any required maintenance, renewal or annuity fees required. The Licensor shall, without charge to the Licensee, execute such documents as shall be required in order to give effect to the provisions of this paragraph and shall, without charge to the Licensee, provide direction, technical assistance and advice for attorneys in the filing and prosecution thereof.

5.2 Enforcement of Patents.

Each party shall keep diligent watch during the term of this Agreement for any devices which may, in the opinion of such party, infringe any or all claims of any or all of the Patent Rights, and the parties agree as follows:

- (a) Upon discovery of any such infringement, suspected, threatened or actual, a party shall promptly deliver to the other party notice of the facts known to it and upon which it bases its opinion of suspected, threatened, or actual infringement and outlining any proceedings considered necessary to enforce any or all of the Patents.
- (b) Upon discovery of such infringement or upon receipt of the notice referred to in paragraph 5.2(a), the Licensor shall have 90 days to commence appropriate proceedings against the alleged infringer. The benefits of any proceedings commenced by the Licensor shall accrue to, and the costs of any such proceedings shall be borne by, the Licensor. Nothing in this paragraph makes it mandatory for the Licensor to commence such proceedings.
- (c) If within said 90 day period the Licensor does not commence appropriate proceedings against the alleged infringer, the Licensor must notify the Licensee. Upon receipt of such notice, if the alleged infringement has not ceased, the Licensee shall have the right to commence appropriate proceedings against the alleged infringer. If the Licensee institutes such proceedings, the Licensor shall execute any papers necessary for such proceedings and shall provide any evidence and available technical information to the Licensee. The benefits of any proceedings commenced by the Licensee shall accrue to, and the costs of any such proceedings shall be borne by, the Licensee. Nothing in this paragraph makes it mandatory for the Licensee to commence such proceedings.

royalty free

(d) If within six months of the discovery of the infringement or receipt of notice referred to in paragraph 5.2(a) the infringement shall not have ceased, the royalty obligations of the Licensee hereunder shall be suspended unless and until appropriate proceedings have been commenced and are being diligently prosecuted.

In the event that proceedings are instituted pursuant to paragraphs 5.2(b) or 5.2(c), if the party commencing the action does not prosecute the action diligently, the other party hereto may, at its option, take over prosecution of the action and assume the benefits and costs related thereto.

ARTICLE VI - TECHNICAL ASSISTANCE

6.1 Technical Assistance.

The Licensor shall, at its own expense, provide or cause to be made available such technical assistance and instruction in the use and application of the Patent Rights as the Licensee may from time to time reasonably require.

ARTICLE VII - IMPROVEMENTS

7.1 Ownership and License of the Licensee Improvements.

If the Licensee devises or acquires any substantial or patentable Improvement, but not including development of the manufacturing methods, processes and equipment, the Licensee shall disclose such Improvement. The Licensee agrees that such Improvement shall be the sole property of the Licensor and that the Licensor shall (at the Licensor's expense) have the right to apply for whatever patents it wishes in respect of such Improvements. The Licensor acknowledges that any Improvements made or acquired by the Licensee shall be deemed to be included in the license granted to the Licensee hereunder and subject to the terms and conditions hereof. The parties agree to execute such assignments and other documents as may be necessary to give effect to this section 7.1.

7.2 Ownership and License of the Licensor Improvements.

The Licensor acknowledges that any Improvements made or acquired by it shall be deemed to be included in the license granted to the Licensee hereunder and subject to the terms and conditions hereof. The Licensee acknowledges and agrees that any Improvements made or acquired by it shall without payment of any additional consideration become the property of the Licensor. Such Improvements shall be deemed to be included in the license granted to the Licensee hereunder and subject to the terms and conditions hereof. The parties agree to execute such assignments and other documents as may be necessary to give effect to this section 7.2.

ARTICLE VIII - QUALITY OF PRODUCTS

8.1 Quality Control.

The Licensee shall take such precautions and institute procedures as to assure that all Products comply with applicable laws and regulations, and that all Products manufactured and sold under this Agreement shall be in all material respects safe, non-injurious and fit for use by the persons for whom such Products are intended.

ARTICLE IX - PATENT MAINTENANCE

9.1 Maintenance, Registration, and Approvals.

The Licensor agrees that it will, during the currency of this Agreement, maintain the Patent Rights in good standing at its expense. The parties agree to execute further forms of this Agreement for registration purposes if required and cause them to be registered in the appropriate patent registries in respect of patents now or hereafter granted related to the Patent Rights.

ARTICLE X - INFRINGEMENT

10.1 Infringement by Unauthorized Persons.

The Licensee shall defend or settle at its sole cost and expense any suit or proceeding brought against the Licensee based on a claim that the Products or the use thereof constitutes an infringement of an existing patent or other industrial property right existing at the date of this Agreement and shall pay all damages and costs awarded therein against the Licensee. The benefits of any such suit or proceeding shall accrue to the Licensee. If the Products, in the reasonable opinion of the Licensee, are likely to or do become the subject of a claim for patent or other industrial property right infringement, the Licensor shall, at the option of the Licensee and at the Licensee's sole cost and expense, procure for the Licensee the right to continue using same, or modify same to become non-infringing if such is reasonably possible.

10.2 Prosecution of Action.

In the event that proceedings are instituted pursuant to paragraph 12.1 hereof, if the Licensee does not prosecute the action diligently, the Licensor may, at its option, take over prosecution of the action. The benefits of any action so assumed by the Licensor shall accrue to the Licensor and costs related thereto shall be borne by the Licensor.

ARTICLE XI - TERM AND TERMINATION

11.1 Term and Termination.

This Agreement shall continue until the expiration of the Term provided that the Licensee shall be deemed to be in default under this Agreement and the Licensor may at its

option terminate this Agreement and all rights granted herein effective immediately without notice or prior opportunity to cure the default if the Licensee:

- (a) makes a general assignment for the benefit of creditors, if a petition in bankruptcy is filed against the Licensee, if the Licensee shall be declared or adjudicated bankrupt, if a liquidator, trustee in bankruptcy, custodian, receiver, receiver and manager or any other officer with similar powers shall be appointed of or for the Licensee or if the Licensee shall commit any act of bankruptcy or institute proceedings to be adjudged bankrupt or insolvent or consents to the institution of such appointment or proceedings or admits in writing inability to pay debts generally as they become due; or
- (b) is in default of any obligations under this Agreement and fails to cure such default or satisfy the Licensor that such default has been cured within 30 days after receiving notice from the Licensor to cure the same.

11.2 Termination by Agreement.

The parties may terminate this Agreement at any time by mutual agreement.

11.3 Rights on Termination.

In the event of the expiration or termination of this Agreement for any reason, all future and continuing rights and obligations under this Agreement shall terminate, subject to:

- (a) the obligations of confidentiality;
- (b) the rights of either party to enforce any right accrued, and seek remedies for breach of this Agreement committed during the Term of this Agreement; and
- (c) the right of the Licensee to

- (i) complete the manufacture of Products in the process of manufacture at the date of termination;
- (ii) manufacture Products with respect to which manufacture has been firmly committed at the date of termination by reason of either any contract for the sale Products or any contract for the purchase of materials or components to be used in the manufacture of Products; and
- (iii) dispose of Products on hand at the date of expiration or termination or made under the authority of clauses (i) or (ii) hereof.

ARTICLE XII - ASSIGNMENT AND SUCCESSION

12.1 Non-Assignability.

This Agreement or any interest herein is not assignable by either party without the prior written consent of the other party, which consent shall not be unreasonably withheld provided, however, that the Licensee shall be able to assign its interest hereunder to an affiliate without the consent of the Licensor.

12.2 Written Agreement.

Any assignment authorized hereunder shall require the delivery to the other party hereto of the assignee's written agreement by an instrument of equal formality to this Agreement to be bound hereby.

12.3 Successors and Assigns

This Agreement shall be binding upon and, except as otherwise expressly provided therein, shall enure to the benefit of the parties hereto and their respective heirs, administrators, executors, successors and permitted assigns.

ARTICLE XIII - MISCELLANEOUS

13.1 Article and Section Headings.

The insertion of headings and the division of this Agreement into articles and sections are for convenience of reference only and shall not affect the interpretation hereof.

13.2 Entire Agreement.

This Agreement and the schedules hereto constitute the entire agreement between the parties pertaining to the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions with respect to the subject matter hereof whether oral or written. Except as provided in such materials, there are no conditions, representations, warranties, undertakings, promises, inducements or agreements whether direct, indirect, collateral, express or implied made by the Licensor to the Licensee. No supplement,

modification or waiver of this Agreement shall be binding unless executed in writing by authorized officers of the Licensor and the Licensee.

13.3 Applicable Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of California and the laws of the United States applicable therein and shall be treated, in all respects, as a California contract. The parties to this Agreement hereby irrevocably attorn to the non-exclusive jurisdiction of the courts of the State of California with venue in San Diego County and hereby waive any objection to such choice of venue and inconvenient forum.

13.4 Force Majeure.

If the performance of this Agreement or of any obligations hereunder by either party, other than the payment of royalties or other sums payable under this Agreement, is prevented, restricted or interfered with by reason of any circumstance whatsoever beyond the reasonable control of the party so affected, such party, upon giving prompt notice to the other party, shall be excused from such performance to the extent of such prevention, restriction or interference; provided that the party so affected shall use its best efforts to avoid or remove such causes of non-performance and shall continue performance hereunder with the utmost dispatch whenever such causes are avoided or removed.

13.5 Severability.

The invalidity or unenforceability of any provision of this Agreement or any covenant herein contained shall not affect the validity or enforceability of any other provision or covenant hereof or herein contained and any other invalid provision or covenant shall be deemed to be severable.

13.6 Non-Waiver.

The failure of either party to exercise any right, power or option given hereunder or to insist upon the strict compliance with the terms and conditions hereof by the other party shall not constitute a waiver of the terms and conditions of this Agreement with respect to that or any other or subsequent breach thereof nor a waiver by such party of its rights at any time thereafter to require strict compliance with all terms and conditions hereof.

13.7 Survival.

All obligations of the Licensor and the Licensee which expressly or by their nature survive termination or transfer of this Agreement shall continue in full force and effect subsequent to and notwithstanding such termination or transfer and until they are satisfied or by their nature expire.

13.8 Notices and Language.

All notices, requests, demands or other communications required or permitted to be given by one party to another under this Agreement shall be given in writing by personal delivery, facsimile or by registered mail, postage prepaid, addressed to such other party or delivered to such other party as follows:

(a) if to the Licensor: 6030 Avenida Encinas
Carlsbad, California 92009
U.S.A.

Attention: Alex Kepecs

(b) if to the Licensee: Route de Sarrant
32430 Cologne - France

Attention: Philippe Jaubert

with a copy to: 6030 Avenida Encinas
Carlsbad, California 92009
U.S.A.

Attention: Alex Kepecs

or at such other address of which written notice is given and such notices, requests, demands or other communications shall be deemed to have been received when personally delivered, on the next Business Day after sending if sent by facsimile, or, if mailed, on the fourth Business Day after the mailing thereof, provided that if any such notice, request, demand or other communication shall have been mailed and if regular mail service shall be interrupted by strikes or other irregularities on or before the fourth Business Day after the mailing thereof, such notice, request, demand or other communication shall be deemed to have been received only upon personal or facsimile delivery.

13.9 Cumulative Rights.

The rights of each party hereunder are cumulative and no exercise or enforcement by a party of any right or remedy hereunder shall preclude the exercise or enforcement by such party of any other right or remedy hereunder or which such party is otherwise entitled by law to enforce.

13.10 Further Assurances.

The parties agree to do or cause to be done all acts or things necessary to implement and carry into effect this Agreement to its full extent.

13.11 **Time of Essence.**

Time shall be of the essence of this Agreement and of each and every part thereof.

13.12 **Counterparts.**

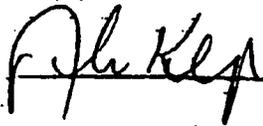
This agreement may be executed in counterparts all of which shall be construed together and shall constitute one agreement.

13.13 **Facsimile Signatures.**

The parties agree that this Agreement may be executed by the parties transmitted by facsimile transmission to the respective parties at the facsimile numbers set out in Section 13.8 above and, if so executed and transmitted, this Agreement will be for all purposes as effective as if the parties had delivered an executed original Agreement.

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

EATON LEONARD, INC.

Per:  _____

EATON LEONARD ROBOLIX, INC.

Per:  _____

SCHEDULE A

PATENTS

Title	Country	Application No.	Application Date
Multiple Curvature Bender - "Head Shift"	United States	4,495,788	01/29/85
Link Drive for Bending Arm of Tube Bending Machines	United States	4,750,346	06/14/88
Bend Arm Apparatus for Tube Bending Machine with Cammed Clamp	United States	4,760,726	02/8/88
Method for Tube Bending with Controlled Clamp Die Arrangement	United States	4,870,849	03/10/89
Quick Release Collet	United States	4,867,463	09/19/89
Carriage Boost Drive	United States	5,426,965	06/27/95
Real Time Process Controller with Serial I/O Bus	United States	4,910,658	

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SCHEDULE "A"
CARLSBAD SPACE

11

SCHEDULE "B"
FORM OF SUBLEASE

EXHIBIT "E"

SCHEDULE "C"
CARLSBAD SERVICES

<u>Service</u>	<u>Monthly Fee</u>
Shared reception	1,483.33
Payroll processing (up to 26 employees)	775.00
Employee benefits administration (up to 26 employees)	1,366.67
Business insurance coverage (including product liability, general liability, inventory and equipment coverage)	1,675.00
Computer support:	
Pro E (3 out of 10 licenses)	2,858.33
Syteline (13 out of 50 users)	1,300.00
Networking (20 of 58 machines)	2,833.33
Telephone services (15 of 64 lines, includes local and long distance charges)	<u>3,350.00</u>
Total monthly fee	<u>\$15,741.66</u>

SERVICES AGREEMENT

THIS AGREEMENT made as of the 29th day of May, 2000.

AMONG:

EAGLE PRECISION TECHNOLOGIES INC., a corporation incorporated under the laws of Ontario ("Eagle")

- and -

EATON LEONARD, INC., a corporation incorporated under the laws of California ("Eaton")

- and -

EATON LEONARD S.A., a corporation incorporated under the laws of France ("ELSA")

- and -

EATON LEONARD ROBOLIX, INC., a company incorporated under the laws of California ("ERIX")

- and -

EAGLE TECHNOLOGIES SERVICES LTD., a corporation incorporated under the laws of Indiana ("ETS")

RECITALS:

A. Pursuant to a subscription and transfer agreement dated May 24th, 2000, Eaton agreed to transfer to ERIX certain assets used in connection with its small diameter (being less than 45 mm) metal tube and metal tube measuring machine business in return for 501 shares in the common stock of ERIX;

B. Pursuant to a subscription and transfer agreement dated May 24th, 2000, Financiere Robolix S.A.R.L. ("Robolix") agreed to transfer to ERIX certain assets used in connection with Robolix's small diameter (being less than 45 mm) metal tube and metal wire benders business in return for 499 shares of the common stock of ERIX;

C. Eaton and Robolix are parties to a shareholders agreement dated May 24th, 2000 relating to their respective interests in ERIX

D. The parties hereto have agreed to provide to each other certain services, all as set out in this Agreement.

NOW THEREFORE in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties covenant and agree as follows:

ARTICLE I
INTERPRETATION

1.1 Definitions

In this Agreement, unless something in the subject matter or context indicates otherwise:

“Agreement” means this Agreement including all written amendments made by the parties;

“Business” means the business carried on by ERIX, namely the business of (i) manufacturing, marketing and selling small diameter (meaning a diameter of less than 45mm) metal tubes or metal wire benders, (ii) manufacturing, marketing and selling the VB200 HP machine or such other replacements of or upgrades to the VB200 HP machine as may be developed in the future, and (iii) the manufacturing, marketing and sales of metal tube measuring machines;

“Carlsbad Space” means that portion of the land and premises located at 6030 Avenida Encinos, Carlsbad, California outlined in red in the attached Schedule “A”;

“Closing Date” means 10:00 a.m. (Toronto time) on May 24th, 2000 or such other time or date as may be agreed by the parties; and

“Services” means any services to be provided by any of Eaton, ELSA, Eagle or ERIX, as the case may be, to any of the others as required by this Agreement.

ARTICLE II
SERVICES

2.1 Provision of Services

- (a) Subject to the terms and conditions of this Agreement, the parties agree to provide the Services during the periods agreed to by the parties.
- (b) Notwithstanding anything else in this Agreement, the parties may agree to provide any of the Services for a period longer than what is contemplated by this Agreement. Any such extension shall be on the terms and conditions as agreed to by both parties, acting reasonably.

ARTICLE III
SUBLEASE OF CARLSBAD SPACE TO ERIX

3.1 Sublease of Carlsbad Space

On the Closing Date, ERIX shall enter into a sublease for the Carlsbad Space substantially the form attached hereto as Schedule "B".

ARTICLE IV
CARLSBAD SERVICES

4.1 Provision of Carlsbad Services

Beginning on the date of this Agreement, Eaton will provide the services set out on Schedule "C" (the "Carlsbad Services") to ERIX in connection with ERIX's sublease of the Carlsbad Space.

4.2 Fees for Carlsbad Services

ERIX shall pay a monthly fee for the Carlsbad Services to Eaton as set out on Schedule "C".

4.3 Term and Termination of Carlsbad Services

- (a) Eaton will provide the Carlsbad Services to ERIX for an initial term beginning on the date of this Agreement and ending on May 31, 2001. Unless otherwise terminated in accordance with Section 4.3(b), the Carlsbad Services shall thereafter automatically be renewed for successive one year terms.
- (b) Notwithstanding Section 4.3(a), the Carlsbad Services shall automatically terminate on the day ERIX's sublease for the Carlsbad Space terminates. In addition, either ERIX or Eaton may terminate some or all of the Carlsbad Services on at least 60 days prior written notice to the other party.

ARTICLE V
NORTH AMERICAN AND ASIAN AGENCY SERVICES

5.1 Appointment of Agent

Subject to the terms of this Agreement and for the duration of the ETS Agency Term (as defined below), ERIX hereby appoints ETS as its exclusive agent for the sale of small diameter (being less than 45 mm) metal tube benders, VB200 HP (or successor) machines and metal tube measuring machines (the "ERIX Products") in North America and Asia. ETS acknowledges that, ERIX wire benders will be sold by HBE Engineering in North America. Subject to the

terms of this Agreement and for the duration of the ETS Agency Term (as defined below), ERIX hereby appoints ETS as its exclusive agent for the sale of wire benders in Asia.

5.2 Term of Agency

ETS shall act as ERIX's agent in accordance with the provisions of this Article V for a period of one year beginning on the date of this Agreement, provided such appointment shall be automatically renewed for further one year terms on each anniversary of this Agreement (the "ETS Agency Term"). Notwithstanding the foregoing, either ETS or ERIX may terminate the ETS Agency Term at any time on 90 days' prior written notice to the other.

5.3 Sale of ERIX Products

ETS agrees that it will not:

- (a) supply any ERIX Products (i) outside of North America and Asia, or (ii) within North America and Asia to any entity it reasonably believes will resell the ERIX Products outside of North America and Asia; or
- (b) solicit customers for ERIX Products outside of North America and Asia.

All ERIX Products sold by ETS shall be sold at ERIX's then prevailing prices and terms of sale, which are subject to change or variance from time to time at ERIX's full discretion. Nothing herein shall prohibit or restrict in any manner whatsoever ERIX from discontinuing marketing or sales of any ERIX Product in North America and Asia or any part thereof.

5.4 Representations

ETS agrees to establish and maintain a level of representation for ERIX Products satisfactory to ERIX and for this purpose shall, at no expense to ERIX, ensure that a reasonable number of persons have been adequately informed of and trained in the marketing of ERIX Products.

5.5 Marketing

ETS agrees to promote in every reasonable manner to the satisfaction of ERIX and at their sole expense the sale of ERIX Products throughout North America and Asia. ERIX agrees to use commercially reasonable efforts to assist ETS in the marketing of the ERIX Products in North America and Asia.

5.6 Remuneration

In consideration for its services as agent for the ERIX Products in North America and Asia, ETS shall be entitled to a commission equal to 10% of the net sales price of each sale of ERIX Products in North America and Asia where ETS has been principally responsible for obtaining the contract for such sale. The rate of commission payable for any sale where ERIX has also been involved in obtaining the contract shall be agreed to by the parties on a case by

case basis. Commission shall be paid to ETS by ERIX on the 15th day of each month following the month in which payment has been received from the customer by ERIX.

5.7 Relationship Between Parties

This Agreement does not in any way create an employer/employee relationship between ERIX and ETS, or their respective employees or both. ETS shall be solely responsible for the discharge of its obligations under this Article V, including, without limitation, any and all expenses incurred by ETS in connection therewith, and liabilities to third parties (including, without limitation, taxes, if any, payable by ETS) and shall have no right to indemnity or contribution from ERIX in respect thereof.

ARTICLE VI EUROPEAN AGENCY SERVICES

6.1 Appointment of Agent

Subject to the terms of this Agreement and for the duration of the ELSA Agency Term (as defined below), ERIX hereby appoints ELSA as its exclusive agent for the sale of the ERIX Products in Europe.

6.2 Term of Agency

ELSA shall act as ERIX's agent in accordance with the provisions of this Article VI for a period of one year beginning on the date of this Agreement, provided such appointment shall be automatically renewed for further one year terms on each anniversary of this Agreement (the "ELSA Agency Term"). Notwithstanding the foregoing, either ELSA or ERIX may terminate the ELSA Agency Term at any time on 90 days' prior written notice to the other.

6.3 Sale of ERIX Products

ELSA agrees that it will not:

- (a) supply any ERIX Products (i) outside of Europe, or (ii) within Europe to any entity it reasonably believes will resell the ERIX Products outside of Europe; or
- (b) solicit customers for ERIX Products outside of Europe.

All ERIX Products sold by ELSA shall be sold at ERIX's then prevailing prices and terms of sale, which are subject to change or variance from time to time at ERIX's full discretion. Nothing herein shall prohibit or restrict in any manner whatsoever ERIX from discontinuing marketing or sales of any ERIX Product in Europe or any part thereof.

6.4 Representations

ELSA agrees to establish and maintain a level of representation for ERIX Products satisfactory to ERIX and for this purpose shall, at no expense to ERIX, ensure that a reasonable number of persons have been adequately informed of and trained in the marketing of ERIX Products.

6.5 Marketing

ELSA agrees to promote in every reasonable manner to the satisfaction of ERIX and at their sole expense the sale of ERIX Products throughout Europe. ERIX agrees to use commercially reasonable efforts to assist ELSA in the marketing of the ERIX Products in Europe.

6.6 Remuneration

In consideration for its services as agent for the ERIX Products in Europe, ELSA shall be entitled to a commission equal to 10% of the net sales price of each sale of ERIX Products in Europe where Robolix has been principally responsible for obtaining the contract for such sale. The rate of commission payable for any sale where ERIX has also been involved in obtaining the contract shall be agreed to by the parties on a case by case basis. Commission shall be paid to ELSA by ERIX on the 15th day of each month following the month in which payment has been received from the customer by ERIX.

6.7 Relationship Between Parties

This Agreement does not in any way create an employer/employee relationship between ERIX and ELSA, or their respective employees or both. ELSA shall be solely responsible for the discharge of its obligations under this Article V, including, without limitation, any and all expenses incurred by ELSA in connection therewith, and liabilities to third parties (including, without limitation, taxes, if any, payable by ELSA) and shall have no right to indemnity or contribution from ERIX in respect thereof.

ARTICLE VII **FRENCH AGENCY SERVICES**

7.1 Appointment of Agent

Subject to the terms of this Agreement and for the duration of the Eagle/Eaton Agency Term (as defined below), Eagle and Eaton hereby appoint ELSA as their exclusive agent for the sale of all benders produced by Eagle and/or Eaton (the "Eagle/Eaton Products") in France. ELSA shall not have any rights to act as agent for the sale of products manufactured by Eagle Precision Technologies Ltd. or by Burger GmbH.

7.2 Term of Agency

ELSA shall act as Eagle and Eaton's agent in accordance with the provisions of this Article V for a period of one year beginning on the date of this Agreement, provided such appointment shall be automatically renewed for further one year terms on each anniversary of this Agreement (the "Eagle/Eaton Agency Term"). Notwithstanding the foregoing, ELSA, Eagle or Eaton may terminate the Eagle/Eaton Agency Term on 90 days' prior written notice to the others.

7.3 Sale of Eagle and Eaton Products

ELSA agrees that it will not:

- (a) supply any Eagle/Eaton Products (i) outside of France, or (ii) within France to any entity it reasonably believes will resell the Eagle/Eaton Product outside of France; or
- (b) solicit customers for Eagle/Eaton Products outside of France.

All Eagle/Eaton Products sold by ELSA shall be at Eagle's or Eaton's then prevailing prices and terms of sale, which are subject to change or variance from time to time at Eagle or Eaton's full discretion. Nothing herein shall prohibit or restrict in any manner whatsoever Eagle or Eaton from discontinuing manufacturing, marketing or sales of any Eagle/Eaton Product in the Eagle/Eaton Agency Territory or any part thereof.

7.4 Representations

ELSA agrees to establish and maintain a level of representation for Eagle/Eaton Products satisfactory to Eagle and Eaton and for this purpose shall, at no expense to Eagle and Eaton, ensure that a reasonable number of persons have been adequately informed of and trained in the marketing of Eagle/Eaton Products.

7.5 Marketing

ELSA agrees to promote in every reasonable manner to the satisfaction of Eagle and Eaton and at its sole expense the sale of Eagle/Eaton Product throughout France. Eagle and Eaton agree to use commercially reasonable efforts to assist ELSA in the marketing of the Eagle/Eaton Products in France.

7.6 Remuneration

In consideration for its services as agent for Eagle/Eaton Products in the Eagle/Eaton Agency Territory, ELSA shall be entitled to a commission equal to 10% of the net sales price of each sale of Eagle/Eaton Products in France where ELSA has been principally responsible for obtaining the contract for such sale. The rate of commission payable for any sale where Eagle or Eaton have also been involved in obtaining the contract shall be agreed to by the parties on a case by case basis. Commission shall be paid to ELSA by Eagle or Eaton, as the case may be, on the

15th day of each month following the month in which payment has been received from the customer by Eagle or Eaton, as the case may be.

7.7 Relationship Between Parties

This Agreement does not in any way create an employer/employee relationship between Eagle or Eaton, on the one hand, and ELSA, on the other hand, or their respective employees or both. ELSA shall be solely responsible for the discharge of its obligations under this Article V, including, without limitation, any and all expenses incurred by ELSA in connection therewith, and liabilities to third parties (including, without limitation, taxes, if any, payable by ELSA) and shall have no right to indemnity or contribution from Eagle and Eaton in respect thereof.

ARTICLE VIII OTHER SERVICES

8.1 Numerical Controller

Eagle agrees that it will, at ERIX's request, supply ERIX with the numerical controller of machines, including any required spare parts, at a price equal to Eagle's cost plus 15%.

8.2 Maintenance Services

ETS and ELSA each agree that they will make their respective employees available to provide warranty and repair services on an "as required" basis and for such fees as agreed to by the parties, acting reasonably, in respect of the ERIX Products or Eagle and Eaton Products sold by each other pursuant to the terms of this Agreement.

8.3 Other Agents

Each of the parties agree that any agent used by any one of them for the sales of their products in any territory not covered by Articles V, VI or VII of this Agreement may act as agent for any of the other parties to this Agreement in connection with the sale of their respective products in such territories.

ARTICLE IX GENERAL

9.1 Term and Termination

This Agreement shall be effective as of the date first written above and shall remain in force until terminated in accordance with its terms.

9.2 Confidentiality

Each party covenants and agrees that it will not disclose at any time any confidential information or trade secrets of any other party to which it may have access pursuant to this Agreement or otherwise until such confidential information or trade secrets are in the public domain through no breach of this Agreement, nor shall either party use or exploit, directly or indirectly, confidential information or trade secrets of the others for any purpose whatsoever. Notwithstanding the foregoing, any party shall be entitled to disclose confidential information if required by law or pursuant to a subpoena or order issued by a court, arbitrator or governmental body, agency or official provided that the disclosing party covenants to:

- (a) promptly notify the other party of the required disclosure;
- (b) if possible, consult with the other party on the advisability to resist or narrow such disclosure; and
- (c) if possible, co-operate with the other party in any attempt to obtain an order or other assurance that such disclosure will be accorded a confidential treatment.

9.3 Limited Liability

No express or implied warranties or conditions are made pursuant to this Agreement with respect to the Services or any equipment or systems which will be used to provide such Services, including any warranties or conditions of merchantable quality or fitness for a particular purpose. In no event will either party be liable for special or consequential damages or loss of profit relating to or arising out of the provision or failure to provide the Services. In addition, neither party shall be liable with respect to the Services except to the extent that it caused the other to suffer any loss, damage, cost or expense through its gross negligence or intentional failure to comply with this Agreement.

9.4 Notices.

All notices, requests, demands or other communications required or permitted to be given by one party to another under this Agreement shall be given in writing by personal delivery, facsimile or by registered mail, postage prepaid, addressed to such other party or delivered to such other party as follows:

- (a) if to Eaton:
Eaton Leonard, Inc.
6030 Avenida Encinas
Carlsbad, California
U.S.A.
92009

Attention: Alex Kepecs
Facsimile: (760) 929-5066

(b) if to ELSA:

Eaton Leonard S.A.
c/o Eagle Precision Technologies Inc.
565 West Street
P.O. Box 786
Brantford, Ontario
N3T 5R7

Attention: Alex Kepecs
Facsimile: (519) 756-9301

with copy to:

18 rue des rosieristes
69419 Champagne au mont d'or
France

Attention: President directeur general
Fax: 33 4 72 52 36 47

(c) if to ERIX:

Eaton Leonard Robolix, Inc.
6040 Avenida Encinas
Carlsbad, California
U.S.A.
92009

Attention: Phillippe Joubert
David Azoulay

(d) if to Eagle:

Eagle Precision Technologies Inc.
565 West Street
P.O. Box 786
Brantford, Ontario
N3T 5R7

Attention: Alex Kepecs
Facsimile: (519) 756-9301

(d) if to ETS:

Eagle Precision Technologies Services Inc.
c/o Eagle Precision Technologies Inc.
565 West Street
P.O. Box 786
Brantford, Ontario
N3T 5R7

Attention: Alex Kepecs
Facsimile: (519) 756-9301

or at such other address of which written notice is given and such notices, requests, demands or other communications shall be deemed to have been received when personally delivered, on the next Business Day after sending if sent by facsimile, or, if mailed, on the fourth Business Day after the mailing thereof; provided that if any such notice, request, demand or other communication shall have been mailed and if regular mail service shall be interrupted by strikes or other irregularities on or before the fourth Business Day after the mailing thereof, such notice, request, demand or other communication shall be deemed to have been received only upon personal or facsimile delivery.

9.5 Time of Essence

Time is of the essence to every provision of this Agreement. Extension, waiver or variation of any provision of this Agreement shall not be deemed to affect this provision and there shall be no implied waiver of this provision.

9.6 Further Acts

The parties shall do or cause to be done all such further acts and things as may be necessary or desirable to give full effect to this Agreement.

9.7 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California and the laws of the United States applicable therein and shall be treated, in all respects, as a California contract. All of the parties to this Agreement hereby irrevocably attorn to the non-exclusive jurisdiction of the courts of the State of California.

9.8 Amendment

This Agreement may be amended only by written agreement of the parties.

9.9 Waiver

No waiver of any provision of this Agreement shall be binding unless it is in writing. No indulgence or forbearance by a party shall constitute a waiver of such parties' right to insist on performance in full and in a timely manner of all covenants in this Agreement. Waiver of any provision shall not be deemed to waive the same provision thereafter or any provision of this Agreement at any time.

9.10 No Partnership

Nothing in this Agreement shall be construed or interpreted to create any partnership, joint venture relationship or agency whatsoever as between any of the parties hereto and such parties shall not, by reason of any provision contained in this Agreement, be deemed to be the partner of, agent of, legal representative of or joint venture with any of the others nor to have any right, ability or authority to assume or create, in writing or otherwise, any obligation of any kind, express or implied, in the name of any of the other parties.

9.11 Entire Agreement

This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all previous understandings and agreements between the parties with respect to such subject matter. There are no representations, warranties, terms, conditions or undertakings, express or implied between the parties other than those expressly set forth herein.

9.12 Counterparts

This Agreement may be executed in one or more counterparts each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.

9.13 Binding Effect

This Agreement shall enure to the benefit of and shall be binding upon the parties hereto and the successors or permitted assigns of each. Without limiting the generality of the foregoing, this Agreement and the covenants contained herein shall survive any amalgamation or corporate reorganization of any or all of the parties hereto, such that the resulting entity shall benefit from and be entitled to enforce the Agreement against the other parties as if such resulting entity had been a party and signatory to this Agreement.

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

**EAGLE PRECISION TECHNOLOGIES
INC.**

Per: _____

EATON LEONARD, INC.

Per: _____

EATON LEONARD S.A.

Per: _____

EATON LEONARD ROBOLIX, INC.

Per: _____

**EAGLE TECHNOLOGIES SERVICES
LTD.**

Per: _____

Q23/PARTRID/MJ423171,5

SUBLEASE

This Sublease is entered into as of May _____, 2000 between Eaton Leonard, Inc., a California corporation ("Sublessor"), and Eaton Leonard Robolix, Inc., a California corporation ("Sublessee"), subject to that certain Lease dated March 17, 1993 (the "Lease") for certain premises (the "Lease Premises"), entered into by JMB Industrial Properties Fund II, as Lessor and Sublessor. The Lease Premises are located at 6030 Avenida Encinas, City of Carlsbad, County of San Diego, State of California. Cabot Industrial Properties, L.P., a Delaware limited partnership, is the successor to JMB Industrial Properties Fund II as Lessor under the Lease. A copy of the Lease is attached hereto as Exhibit "A". Sublessor wishes to sublease to Sublessee, and Sublessee wishes to sublease from Sublessor, a portion of the Lease Premises on the terms and conditions contained in this Sublease. Terms with initial capital letters are defined terms which shall have the meanings ascribed to them in the Lease, unless the context of this Sublease requires otherwise.

AGREEMENT

1. Premises.

Sublessor hereby subleases to Sublessee on the terms and conditions set forth in this Sublease that certain portion of the Lease Premises which consists of 16,952 square feet based on the Industrial Standard of measurement (the "Sublease Premises") and is depicted in Exhibit "B" attached hereto.

2. Term.

The initial term ("Term") of this Sublease shall commence on June 1, 2000 ("Commencement Date"), and shall terminate on May 31, 2005 (the "Termination Date"), unless otherwise sooner terminated in accordance with the provisions of this Sublease.

3. Delay in Commencement.

If for any reason Sublessor cannot deliver possession of the Sublease Premises to Sublessee on the Commencement Date, Sublessor shall not be subject to any liability therefore, nor shall such failure affect the validity of this Sublease or the obligations of Sublessee hereunder or extend the term hereof, but in such case Sublessee shall not be obligated to pay rent until possession of the Sublease Premises is tendered to Sublessee.

4. Early Possession.

Sublessee may enter the Sublease Premises before the Commencement Date for the limited purpose of completing its improvements necessary for its occupancy of the Sublease Premises, including the installation of its trade fixtures, furnishings, and telephone and computer equipment. Such entry shall be subject to all of the terms and conditions of this Sublease.

During such early entry period, Sublessee shall not be required to pay Base Rent or Utility charges during the early entry period. Such early entry shall not advance the Termination Date.

5. Rent.

Sublessee shall pay to Sublessor as rent for the Sublease Premises monthly instalments of base rent ("Base Rent") in advance on the first day of each month of the term hereof in accordance with the following schedule:

Commencement Date to May 31/01	\$5.97 per square foot annually (\$101,203)
June 1/01 to May 31/03	\$6.27 per square foot annually (\$106,289)
June 1/03 to Termination Date	\$6.59 per square foot annually (\$111,714)

Plus \$1,933.33 per month for utilities and janitorial.

Therefore the monthly rent inclusive of janitorial and utilities will be:

Commencement Date to May 31/01	\$10,366.91 per month
June 1/01 to May 31/03	\$10,366.91 per month
June 1/03 to Termination Date	\$10,790.75 per month

Rent for any period less than one month shall be a pro rate portion of the monthly instalment. Rent shall be payable without notice or demand and without any deduction, offset or abatement in lawful money of the United States of America to Sublessor or to such other persons as Sublessor may designate in writing. The provisions of section 4.4 of the Lease relating to late payment shall apply to payments of Base Rent by Sublessor. Sublessee shall pay to Sublessor the first month's rent upon Sublessee's execution of the Sublease.

6. Sublease Improvements.

Prior to the Commencement Date, Sublessor shall make, at the expense of Sublessor, the following improvements ("Sublease Improvements") to the Sublease Premises:

- Clear the Sublease Premises of all machinery, parts, materials and other such items in order to allow the Sublessee to use the Sublease Premises and make such improvements thereto as the Sublessee may deem necessary.

7. Condition of Sublease Premises.

Upon completion of the Sublease Improvements, Sublessee shall accept the Sublease Premises in their condition existing as of the Commencement Date subject to all applicable

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zoning, municipal, county and state laws, ordinances and regulations governing and regulating the use of the Sublease Premises, and any covenants or restrictions of record, and accepts the Sublease subject thereto and to all matters disclosed thereby. Sublessee acknowledges that Sublessor has not made any representation or warranty as to the present or future suitability of the Sublease Premises for the conduct of Sublessee's business. Occupancy of the Sublease Premises by Sublessee shall constitute full acceptance of said Sublease Premises by Sublessee.

8. Operating Expenses.

Following the first twelve (12) months of the term, in addition to the Rent provided for in Section 5, Sublessee shall pay to Sublessor monthly its share of the Operating Expenses of the Lease Premises as determined pursuant to Section 8.2 below.

8.1 Operating Expenses Defined.

Operating Expenses shall include but not be limited to all Operating Expenses, Real Property Taxes, Common Area Maintenance charges, Property Management fees, Insurance premiums and fees, Personal Property Taxes or other costs and expenses charge to or incurred by Sublessor pursuant to the Lease. Such Operating Expenses, for the purposes of this Sublease, shall not include utility expenses for electricity, gas, telephone, water or cable television (the "Utilities").

8.2 Computation of Sublessee's Share.

Sublessee's monthly share of the Operating Expenses shall be calculated by multiplying (a) the difference between the current monthly Operating Expenses of the Lease Premises, as charged to or incurred by Sublessor, and the Monthly Base Expenses by (b) a fraction whose numerator shall be the square footage of the Sublease Premises and whose denominator shall be the square footage of the Lease Premises.

8.3 Payment of Operating Expenses.

All payments by Sublessee pursuant to this section shall be due and payable no later than 10 days after the submission of a written statement of such charges by Sublessor to Sublessee.

8.4 Audit.

Sublessee shall have the right to audit Sublessor's records regarding such Operating Expenses.

9. Utilities/Janitorial Services.

The Base Rent includes Sublessor's estimate of the costs of providing Utilities (as that term is defined in Section 8 above) and Janitorial Services to the Sublease Premises. Sublessee shall not be responsible for payment of any Utilities or Janitorial Services, except to the extent such Utilities or Janitorial Services are included in the Base Rent. Sublessor shall pay for all

Utilities and Janitorial Services provided to the Sublease Premises. In the event Sublessor has underestimated the costs of providing such Utilities and Janitorial Services to the Sublease Premises, Sublessee shall not be responsible for the difference in cost. For the purposes of this paragraph, "Janitorial Services" shall mean those Janitorial Services set forth in the Schedule of Janitorial Services attached hereto as Exhibit "D", which may be modified by the Sublessor in its sole discretion.

10. Operating Systems.

10.1 Security Systems.

Sublessee may install, or have installed, at its own cost, a separate security system, subject to the approval of Sublessor, which shall not unreasonably withhold such approval.

10.2 Communications Systems.

All existing cabling for computers and telephone systems shall not be removed by the Sublessor. Sublessor may modify such cabling upon providing prior notification to the Sublessee.

11. Security Deposit.

Sublessee shall deposit with Sublessor within 180 days of the execution hereof \$20,000 (the "Deposit") as security for Sublessee's faithful performance of Sublessee's obligations hereunder. If Sublessee fails to pay rent or other charges due hereunder, or otherwise defaults with respect to any provision of this Sublease, Sublessor may use, apply or retain all or any portion of the Deposit for the payment of any rent or other charge in default or for the payment of any other sum to which Sublessor may become obligated. Sublessee shall, within ten (10) days after written demand, deposit cash with Sublessor in an amount sufficient to restore the Deposit to the full original amount, less any prior refund. Sublessee's failure to do so shall be a breach of this Sublease, and Sublessor may, at its option, terminate this Sublease. Sublessor shall not be required to keep the Deposit separate from other funds of Sublessor. If Sublessee performs all of Sublessor's obligations hereunder, the deposit, or so much thereof as has not been applied by Sublessor, shall be returned without interest to Sublessee (or, at Sublessor's option, to the last permitted assignee, if any, of Sublessee) within ten days after the expiration of the Term or the Extension Term, if any, or after Sublessee has vacated the Premises, whichever is later.

12. Option to Extend.

Provided Sublessee is not in default under any terms and conditions of this Agreement, then Sublessee shall have the option ("Extension Option") to extend the Term from the Termination Date to the end of the Lease Term, May 31, 2009, (the "Extension Term"), provided, however, that if the Lease Term extends beyond May 31, 2009, the Extension Term shall expire at the earlier of the expiration of the term of the Lease or August 31, 2009. Sublessee shall exercise the Extension Option by giving written notice of Sublessee's exercise to Sublessor at least 180 days prior to the expiration of the Term. Upon exercise of such option by

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Sublessee, the Term shall automatically be extended for the Extension Term upon the same terms, covenants and conditions of this Sublease, except that Base Rent shall be adjusted as provided in section 14.1 below.

12.1 Extension Term Base Rent Escalation.

In the event the Extension Option is exercised, the Base Rent, including any other rent under this Sublease, shall be subject to adjustment at the beginning of each year of the Extension Option period to reflect any change in the cost of living. The adjustment, if any, shall be calculated upon the basis of the United States Department of Labour, Bureau of Labour statistics, Revised Consumer Price Index for ALL ITEMS - ALL URBAN CONSUMERS, Los Angeles (1982-84 = 100) (the "CPI"). The CPI published as of December 31, 1999 shall be considered the "Base." The adjustment shall take effect beginning with the first day of the first full calendar month of the Extension Option period, at which time the monthly rental payment for the ensuing twelve (12) months shall be increased by the greater of (a) the percentage increase, if any, in the CPI as of the last month of 2004, over the "Base," or (b) three percent (3%). Additional adjustments will be made in the same manner at the end of each ensuing twelve (12) month period during the Extension Option period by increasing the rent by the greater of (a) the annual percentage CPI increase, or (b) three percent (3%). If, for any reason, there is a major change in the method of calculation or formulation of such CPI, or should such CPI no longer be published, Sublessor shall use the index most nearly the same as the CPI to make such calculation. If no such index is available, then Lessor shall use such index or procedure which reasonably reflects increases or decreases in consumer prices in the San Diego area.

13. Use.

The Sublease Premises shall be used and occupied only for permitted uses in compliance with City of Carlsbad zoning regulations and ordinances, and only for activities related to general office space and internet research and development.

14. Inspection of Property.

Sublessee acknowledges that it has inspected the Sublease Premises and has determined them to be suitable for its purposes. Sublessor has made no representations as to the condition of the Sublease Premises or their suitability for the conduct of Sublessee's business.

15. Parking.

During the Term and any Extension Term, Sublessee shall be entitled to the use of 25 parking spaces in front of the Lease Premises, and use of 5 additional underground parking spaces. All parking by Sublessee shall be subject to compliance with the terms and conditions regarding parking contained in the Lease.

16. Signage.

Subject to the applicable provisions of the Lease and any consent required to be obtained from Lessor, Sublessee may install an exterior sign on the exterior of the building in which the Sublease Premises are located and on the monument sign located at the driveway entrance to the Sublease Premises. Sublessee also may install an interior sign in the lobby entry of such building. All such signage shall be at the sole cost and expense of Sublessee. Sublessee shall be responsible for the approvals, construction, cost and installation of said signage. All signage shall be in compliance with the Lease and shall be subject to the approval of the Sublessor, in its sole discretion. All signage shall conform to applicable laws, regulations, guidelines and ordinances.

17. Lease Provisions Applicable.

All applicable terms and conditions of the Lease are incorporated into and made a part of this Sublease as if Sublessor were the landlord thereunder, Sublessee the tenant thereunder, and the Sublease Premises were the Lease Premises. Notwithstanding the foregoing sentence, the following provisions of the Lease are not incorporated into nor made a part of this Sublease: paragraphs 1.1, 1.2, 1.3, 1.4, 2.0, 4.0, 4.1, 4.2, 4.3, 5.0, 6.0, 6.1, 7.2, 9.0, 12.2, 20.12, 20.13, 24.0, 25.0, 28.0, 29.0, 30.0, 31.0, 32.0, 34.0, 35.0, 36.0, 37.0, 38.0, 39.0, and Exhibit C. Notwithstanding the foregoing, the following provisions of the Lease are incorporated into and made a part of this Sublease but are modified as follows: (i) paragraph 7.0(a), provided, however, that the amount of coverage shall be "not less than \$1,000,000" instead of "not less than \$5,000,000"; and (ii) Schedule 1 (Permitted Hazardous Material), provided, however, that the Permitted Hazardous Materials shall be those set forth on Exhibit "C" attached to this Sublease. As between Sublessor and Sublessee only, in the event of a conflict between the terms of the Lease and the terms of this Sublease, the terms of this Sublease shall control. Sublessee assumes and agrees to perform tenant's obligations under the Lease to the extent that such obligations have been incorporated into this Sublease, except that the obligation to pay rent to Lessor under the Lease shall be considered performed by Sublessee to the extent and in the amount rent is paid to Sublessor in accordance with section 5 of this Sublease. Sublessee shall not commit or suffer any act or omission that will violate any of the provisions of the Lease, including, but not limited to, section 40.0 regarding Hazardous Materials. If the Lease terminates, this Sublease shall terminate and the parties shall be relieved of any further liability or obligation under this Sublease, provided however, that if the Lease terminates as a result of a default or breach by Sublessor or Sublessee under this Sublease and/or the Lease, then the defaulting party shall be liable to the nondefaulting party for all damages suffered as a result of such termination except special or consequential damages.

18. Warranties of Sublessor.

Sublessor warrants and represents to Sublessee that: (i) the Lease has not been amended or modified; (ii) neither Sublessor nor, to the best knowledge of Sublessor, Lessor is now in default or breach of any of the provisions of the Lease; (iii) Sublessor has no knowledge of any claim by Lessor that Sublessor is in default or breach of any of the provisions of the Lease; (iv)

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all outstanding and current obligations of Lessor under the Lease have been satisfied to date; and (v) Sublessor has neither given nor received a notice of default pursuant to the Lease.

19. Indemnification of Lessor and Sublessor.

Sublessee will hold harmless, protect, indemnify and defend Sublessor and Lessor from and against any claims, demands, penalties, fees, liens, damages, losses, expenses or liabilities (including the costs of clean-up and reasonable professional fees, including fees of counsel) incurred by Sublessor or Lessor as a result of the presence of any substances designated as, or containing components designated by an existing or future law or regulation as hazardous, extra hazardous, dangerous, toxic or harmful (or terms of similar import), including all pollutants and contaminants, excluding, however, office supplies used in the ordinary course of business and in accordance with all applicable laws, regulations, and governmental orders, (collectively referred to as "Hazardous Substances") on the Sublease Premises resulting from or in any way arising in connection with any act or omission of Sublease whether negligent or otherwise, and occurring after the date of actual possession of the Sublease Premises by Sublessee. The indemnity and other duties provided for in this Section shall survive the expiration or other termination of the Sublease, and shall apply notwithstanding any approval, knowledge, acquiescence, or notice of Sublessor or Lessor of any activity of Sublessee on the Sublease Premises.

20. Covenants of Sublessor.

Sublessor covenants as follows: (i) not to voluntarily terminate the Lease except as permitted by the terms of the Lease, but such termination shall be permitted only if Sublessor first notifies Sublessee in writing of its intent to terminate; (ii) not to modify the Lease so as to adversely affect Sublessee's rights under this Sublease; (iii) to take all actions reasonably necessary to preserve and enforce the Lease; (iv) to provide Sublessee with copies of all notices of default delivered or received by Sublessor under the Lease promptly after said notices are delivered or received by Sublessor; and (v) to provide Sublessee with copies of all modifications or amendments to the Lease promptly after full execution of such modifications or amendments.

21. Quiet Enjoyment.

Sublessor covenants that Sublessee shall be entitled to quiet enjoyment of the Premises, provided that Sublessee complies with the terms of this Sublease.

22. Lessor's Consent.

This Agreement, its terms and conditions, shall be subject to the consent of the Lessor pursuant to the terms of the Lease.

23. Assignment.

Sublessee shall not have the right to assign and/or sublease the Sublease provided that Sublessee may assign or sublease the Sublease to (1) a purchaser of all, or substantially all, of the assets of Sublessee, or (2) a subtenant of Sublessee that shall occupy all of the Sublease Premises after Sublessee has vacated all of the Sublease Premises. Such assignment or sublease shall be

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subject to the prior written approval of the Sublessor, which shall not be unreasonably withheld. Sublessor's approval may be contingent upon, among other things, Sublessor's satisfaction with the financial condition of Sublessee's subtenant or assignee. Sublessee's assignment or sublease of the Sublease shall not relieve Sublessee of its obligations under terms and conditions of this Sublease.

24. Broker Participation.

Sublessor warrants and represents that it has dealt with no real estate broker or finder in connection with this Sublease. Sublessee warrants and represents that it has dealt with no real estate broker or finder in connection with this Sublease.

25. Attorney's Fees.

If Sublessor or Sublessee shall commence an action against the other arising out of or in connection with this Sublease, the prevailing party shall be entitled to recover its actual costs and attorneys' fees. Attorneys' fees incurred in enforcing any judgment are recoverable as a separate item, and this provision for post-judgment attorneys' fees shall survive any judgment and shall not be deemed merged into any judgment.

26. Modification.

No change or modification of this Sublease shall be valid unless the same be in writing and signed by all parties hereto.

27. Authority.

Each party represents that it is duly authorized to execute and carry out the provisions of this Sublease.

28. Headings.

The headings of the various sections and paragraphs hereof are for convenience of reference only, and shall in no way alter or affect the meaning or construction of any of the provisions of this Sublease.

29. Counterparts.

This Sublease may be signed in counterparts and shall have the same force and effect as if all parties executed one document.

30. Exhibits.

All exhibits attached to this Sublease are incorporated in and made a part of this Sublease.

31. Interpretation.

This Sublease shall not be interpreted against a party by virtue of such party's participation in the drafting of the Sublease or any provisions herein.

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

SUBLESSOR:

EATON LEONARD, INC.
a California corporation

Per: _____
Title

SUBLESSEE:

EATON LEONARD ROBOLIX, INC.

Per: _____
Title

G23PARTRIDM2418703,3

CONSENT

Canadian Imperial Bank of Commerce ("CIBC") hereby consents to the transfer of certain assets as more particularly described in Schedule "A" to the Asset Transfer and Subscription Agreement dated May 29, 2000 (the "Asset Transfer Agreement"), a copy of which Schedule "A" is attached hereto (the "Transferred Assets"), from Eaton Leonard, Inc., ("Eaton") a subsidiary of Eagle Precision Technologies Inc. ("Eagle") to Eaton Leonard Robolix, Inc. ("ERIX"), a corporation incorporated under the laws of California, in consideration of the settlement of the judgement of the United States District Court for the Southern District of California dated December 14, 1999 in favour of Financiere Robolix S.A.R.L. against Eaton.

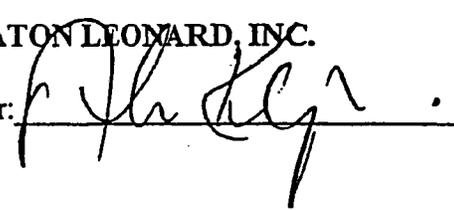
CIBC agrees to release and discharge its security interest against the Transferred Assets contemporaneously with the transfer of ownership of the Transferred Assets to ERIX. CIBC claims and Eaton acknowledges CIBC's security interest over the shares in common stock of ERIX for which Eaton will subscribe pursuant to the Asset Transfer Agreement and in consideration of which the Transferred Assets are to be transferred by Eaton to ERIX, pursuant to the General Security Agreement dated July 29, 1999.

Dated this 5th day of June, 2000.

CANADIAN IMPERIAL BANK OF
COMMERCE

Per: 

EATON LEONARD, INC.

Per: 

LETTER OF INTENT

This letter of intent is made between THE HAMER GROUP, Assignee for Benefit of Creditors of Eaton Leonard, Inc. ("Hamer") and FINANCIERE ROBOLIX S.A.R.L., a corporation ("Robolix").

Robolix and Eaton Leonard, Inc. are each shareholders in Eaton Leonard Robolix, Inc., a corporation ("ERIX"). Hamer is obligated to liquidate the shares owned by the assigned estate ("the Shares"), but the Shares are subject to a written SHAREHOLDERS AGREEMENT made as of May 29, 2000 giving Robolix the right to purchase the Shares for a contractually specified price of "Fair Market Value" as defined therein. The parties have been negotiating that value and hereby express their current intentions, subject to further reflection and the drafting and execution of a fully integrated sale agreement. The terms are as follows:

1. In consideration of the free and clear sale of 100% of the ERIX shares owned by Eaton Leonard, Inc. to Robolix or its nominee, Robolix or its nominee will pay or cause to be paid to Hamer U.S \$350,000.

2. As additional consideration for the stock transfer, ERIX shall assign to Hamer any rights that ERIX might have to collect royalties now due or hereafter coming due to Erix from the licensing of patent rights to Pedrazoff, Crippa, Bema and Trumpf Pulzer. There is a dispute as to who owns or is entitled to the use of the patents from which those royalties are payable, and nothing herein is intended to add or detract from whatever licensing rights currently exist, except as to the entitlement to the approximately \$425,000 in outstanding royalties payable by those four licensees.

3. Robolix or its nominee will pay \$75,000 down upon delivery of the stock certificate representing the Shares, free and clear, which is not refundable under any circumstance. Upon delivery to Robolix or its nominee of confirmation of title to patent numbers 5,008,855 and 4,849, 643, Robolix will cause to be delivered to Hamer the royalty assignment. Fifteen days after said delivery, Robolix or its nominee will cause to be paid one third or more of the remaining \$275,000 cash consideration, to be followed 45 days after the delivery by another one third or more payment, and 75 after delivery a final payment for the balance of the \$275,000.

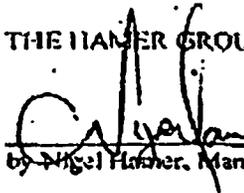
4. Hamer will exercise its best efforts to obtain and deliver the free and clear Shares (which are understood to currently be in the possession of Canadian International Bank of Canada, pledged as collateral for Eaton Leonard Inc.'s guaranty of debts owed by Eagle) and free and clear Patents Rights (understood to have been transferred to Eagle and also possibly pledged to CIBC) as soon as reasonably possible. Robolix acknowledges its understanding that Eagle and CIBC claim interests in the Shares and patents and litigation may be required to recover that property or obtain a determination of those interests. In the event litigation is required, Robolix will cooperate to facilitate Hamer's prosecution of the action, at Hamer's sole expense, in the name and under the

right of ERIX. Hamer will be using the \$75,000 initial payment to fund any necessary litigation.

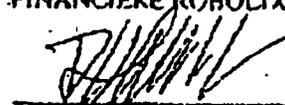
5. Pending the delivery by Hamer to Robolix or its nominee of the free and clear Shares, Hamer acknowledges that Robolix shall have the sole and exclusive authority to manage ERIX and to make all business or Material Decisions.

SO INTENDED:

THE HAMER GROUP, Assignee


by Nigel Hamer, Managing Director

FINANCIERE ROBOLIX S.A.R.L.


Philippe Jaubert, Gérant

Cologne 1 April 2002

SETTLEMENT AGREEMENT

Settlement Agreement ("Agreement") dated as of September 13, 2002, between Eagle Precision Technologies, Inc. ("Eagle") and Canadien Imperial Bank of Commerce ("Bank") on the one hand, and The C.F. Boham Company, dba The Hamer Group of Los Angeles, California ("Hamer") and Eaton Leonard, Inc. ("ELI") on the other hand.

RECITALS:

A. In October of 2001, ELI assigned (the "Assignment") its assets to Hamer for the benefit of the creditors of ELI (Hamer, in such capacity, the "Assignee"). ELI is a 100% corporate subsidiary of Eagle.

B. Bank has filed a proof of claim with the assignment estate ("Assignment Estate") in the amount of approximately \$27,476,795.38.

C. Eagle and an affiliate have filed proofs of claim with the Assignment Estate in the aggregate amount of approximately \$7,077,178.00.

D. Bank is the beneficiary of a guaranty granted by ELI that is secured by a security agreement that covers all personal property of ELI including without limitation the ERIX shares, discussed below.

E. ELI was insolvent at the time of the Assignment. Effective the date hereof, aggregate proofs of claim filed against the Assignment Estate total \$41,294,600.38, exclusive of tax claims, and net cash of the Assignment Estate totals \$276,635.67. The statement of receipts and disbursements of the Assignment Estate as of September 13, 2002 is attached hereto as Schedule A.

F. Following the Assignment, third parties raised a question as to the proper party to whom the European Royalties (defined below) should be paid and, accordingly, this matter is addressed in the Agreement.

G. Without making any admission of liability whatsoever, it is the desire of the parties hereto to settle all differences or potential differences among them and to permit the collection of certain funds as more fully described below.

NOW, THEREFORE, in consideration of the foregoing recitals and the representations, warranties, covenants and agreements set forth below, intending to be legally bound by the terms of this Agreement, the parties agree as follows:

1. Patents and Intellectual Property. It is agreed that 100% of all past and present revenue (which are unpaid) and all future revenue from the patent licenses to Pedrazoli, Crippa, Bema and Trumpf Pulzer ("European Royalties") are payable to Eagle and, together with the underlying patents, are not part of the Assignment Estate. Eagle is authorized to begin collection immediately and shall bear all costs of collection following the execution of this Agreement. Simultaneously with execution of this Agreement, Hamer is executing and delivering to Eagle payment directions substantially in the form attached hereto as Schedule B authorizing payment by said European entities directly to Eagle. Hamer acknowledges and agrees that as between Hamer (both on behalf of the Assignment Estate and in Hamer's capacity as Assignee) and Eagle, Eagle owns all right, title and interest in and to all, and, in furtherance of the foregoing, Hamer (as Assignee and on behalf of the Assignment Estate) hereby transfers and assigns to Eagle all the Assignee's (if any) and all the Assignment Estate's (if any) right, title and interest in and to, such patents, all royalties therefrom and all other intellectual property previously assigned by ELI to Eagle including all patents, the ELI logo and names, the Premier Software source code and all intellectual property relating to the greater than 45 mm benders, subject to the patent interests of Eaton Leonard Robolix, Inc. ("ERIX") discussed below. Hamer's expenses will not be deducted from the revenues derived from, and Hamer will receive no fee as to, the European Royalties.

2. ERIX Shares.

(a) 50/50 Sharing Arrangement. Bank and the Assignment Estate will share the net proceeds from the sale of the shares of ERIX on a 50/50 basis. Hamer will use best efforts to complete the sale. Eagle will prepare the necessary documents (i) for the outright transfer by Eagle to ERIX of the two patents referred to in the memorandum ("LOI Memorandum") included in Schedule C hereto and (ii) to provide to ERIX the benefit of the license agreement for the six patents at issue (also see Schedule C hereto in which it is noted that the final expiration date of one of the original seven patents has passed so that such patent is not renewable), with the understanding that Eagle will use reasonable efforts (if appropriate) to revive two of those latter patents which lapsed because maintenance fees were not timely paid. Eagle has advised Hamer that (i) patent counsel advises that there is approximately a 10% to 20% likelihood of reviving those two patents and it would take approximately six months for the U.S. Patent and Trademark Office to make a determination, (ii) one of the patents was only concerned with tooling and thus not relevant to ERIX's business and (iii) the other patent is not of significance and involves technology that is generally accessible. In view of the foregoing, Eagle has concluded that it may not be practical under the circumstances to seek revival of the two lapsed patents.

The reasonable legal and other fees and expenses of Hamer in completing the stock purchase and the reasonable legal and other fees and expenses of Eagle in preparing and dealing with the patent-related matters will be deductible from the ERIX

sale proceeds and reimbursed to the parties who incurred same. Hamer is entitled to a 5% fee on gross proceeds of the ERIX sale, which fee will be deducted from the gross proceeds together with the aforementioned expenses to give the net ERIX proceeds, 50% of which shall be distributed by Hamer in cash to Bank upon closing of such sale. In connection with the ERIX stock sale, Hamer and Hamer's legal counsel shall use their best efforts to obtain Eagle's access to the source code for the Premier Software.

(b) Letter of Intent; Etc. Bank and Eagle shall have joint approval with Hamer in the event of a proposed sale of the ERIX Shares to Financiere Robolix, S.A.R.L. ("Robolix") for less than \$350,000 or a sale to a third party and in such events Eagle or assigns shall have the right to acquire the ERIX shares for a purchase price equal to the last written offer (less than \$350,000) made by Robolix or the third party, provided that such share acquisition right shall be subject to the Shareholders Agreement (the "Shareholders Agreement") dated May 29, 2000 among ELI, Robolix, Eagle and ERIX if and to the extent applicable. The sale to ERIX is subject to the Letter of Intent ("LOI") between Hamer and Robolix, also attached in Schedule C, but as modified in accordance with the LOI Memoranda, provided that Hamer has agreed that as a consequence of the terms of the Shareholders Agreement (notwithstanding Schedule C), Hamer shall exercise its best efforts to require that the full payment for the ERIX shares is made in cash at closing. If Hamer cannot reach agreement to get full payment from Robolix at closing in cash, then the alternate payment terms set forth in Section 3 of the LOI Memorandum shall apply. It is understood that as a result of the LOI Memoranda, no material change to the proposed sale of the ERIX shares shall be made without the prior written consent of Bank and Eagle. Simultaneously with execution of this Agreement, Bank is delivering to Hamer the ERIX shares certificate. Hamer shall hold such certificates in trust for Bank in accordance with the terms of this Agreement and shall not transfer or otherwise dispose of them except as permitted under this Agreement.

(c) Intellectual Property Matters. Except for the patent matters addressed in Schedule C and the provisions above with respect to the Premier Software source code, Eagle and Bank will not require any conditions to the ERIX stock sale relating to patents or other intellectual property (so long as Robolix also requires no such conditions) and Hamer shall cause Hamer's counsel to exercise best efforts to persuade Robolix to forego consideration of such matters in order to promote an efficient and successful sale of the ERIX shares and avoid counter action by Eagle.

3. Accounts Receivable. Hamer (a) will retain the proceeds of accounts receivable in the approximate amount of \$19,000.00 collected by the Assignment Estate after September 13, 2002, (b) shall bear all legal and other costs of collecting such accounts receivable and (c) shall be entitled to a fee at its contractual rate of 6% of all sums collected, as well as reimbursement of its costs from the Assignment Estate.

4. Preferences. Hamer (a) shall be entitled to retain the proceeds of all preference claims collected after September 13, 2002, (b) shall bear the legal and other costs of collecting such claims, and (c) shall be entitled to a fee at its contractual rate of 6% of such sums collected as well as reimbursement of its costs from the Assignment Estate.

5. Taxes.

(a) Claims Payment. The IRS has asserted that it has a tax claim in the amount of approximately \$164,222.74 against ELI for the tax periods ending December 31, 1997, 1998 and 1999 which includes certain interest and penalties. "Tax Claim" means such amount plus additional claims by the IRS or other taxing authorities against ELI or the Assignment Estate for taxes actually owed for other tax periods. Hamer agrees to exercise its best efforts to manage the Assignment Estate's funds to enable payment of the Tax Claim to the extent possible, consistent with priority law. The parties understand that possible tax refunds of ELI may be applied against the Tax Claim. It is understood that "Ernst & Young ("E&Y") will attempt to achieve a final settlement/resolution with the IRS for ELI for the tax periods commencing January 1, 2000 and ending period February 28, 2002 as reflected in the Tax Action Plan (described below). Hamer shall pay to Bank 50% of the amount of any tax refunds upon application or payment of such tax refunds by the taxing authority from the available funds or, if not then fully available, as and when funds become available. Hamer is entitled to a 6% fee on the amount of any tax refund.

(b) Tax Indemnity. Bank hereby provides a tax indemnity to Hamer for tax liability incurred by Hamer as a result of tax liability of the Assignment Estate. The aggregate amount payable by Bank pursuant to such indemnity shall not exceed the amount of cash received (and retained) by Bank from the Assignment Estate's bank account (including tax refunds) and net proceeds of the ERIX stock sale paid to Bank, but not from or relating to the currently unpaid European Royalties, which are Eagle property and do not enter the Assignment Estate, except such indemnity cap shall be increased to cover possible withholding tax (if any) due and owing on the European Royalties actually hereafter received by Eagle. Before proceeding on the indemnity, Hamer first agrees to exhaust all funds available to Hamer and not otherwise payable to Eagle or Bank, including the proceeds of accounts receivable and preference claims described above, Hamer's share of the ERIX sales proceeds and Hamer's share of cash in Assignment Estate accounts including tax refunds, subject to payments consistent with the budget provisions described below in Schedule E, and provided that, consistent with such budget provisions, Hamer shall exercise best efforts to maintain a reserve for the Tax Claim until resolution with the IRS.

Hamer shall give prompt written notice to Bank of any claim that may give rise to Bank's tax indemnity and, if requested by Bank, from time to time shall provide to Bank

such information as Bank shall reasonably request regarding any such claim. Hamer shall bear all attorneys' fees and expenses and other costs incurred in connection with any such claim, provided that Bank's tax indemnity, subject to the cap on the amount of such indemnity, shall apply to reasonable accountant's costs incurred by Hamer in connection with defending a claim that is covered by Bank's tax indemnity.

(c) Tax Action Plan. The parties have agreed to the revised action plan for tax issues attached hereto as Schedule D, which, where appropriate, is reflected in the Budget.

6. Assignment Estate Account; Payments.

(a) Initial Bank Payment; Etc. Simultaneously with the execution of this Agreement, Hamer is making payment to Bank of the amount of \$136,317.84. This amount is calculated as 50% of the net cash in the Assignment Estate's account at September 13, 2002 in the amount of \$276,635.67 reduced by a reserve for expenditures to E&Y anticipated to be \$4,000.00 (prepare NOL carry-back claims for 2000 and 2001 (Forms 1120X or 1139) including disbursements). Hamer shall make no payments or disbursements of Assignment Estate funds except in accordance with and as provided in this Agreement.

(b) Budget. Except for Hamer's contractual fee as set forth above, no fees, expenses, disbursements or costs of any kind shall be paid from Assignment Estate funds to Hamer or Hamer's accountants or lawyers, Eagle's lawyers or any third parties other than in accordance with budget set forth in Schedule E hereto ("Budget"), without the prior written approval of Bank, Eagle and Hamer, which shall not be unreasonably withheld, provided that a party that desires such additional expenditures shall request that the other parties approve expenditures beyond such amounts with a reasonably detailed written request setting forth the basis and other pertinent factors relating to the requested additional expense.

(c) Payments. All payments by Hamer shall be made in accordance with applicable law.

7. Mutual Releases.

(a) Except for the obligations created by this Agreement, each of Hamer and ELI knowingly and voluntarily waives and releases all rights and claims, known and unknown, which it, its subsidiary entities and successors and any of its or their current or former officers, directors, shareholders, employees, agents, representatives, managers, members, accountants and/or lawyers (collectively, "Representatives") may have against Bank or Eagle or any of Bank's or Eagle's subsidiary entities or successors, or any of Bank's or Eagle's or their current or former Representatives, including any and all charges, complaints, claims, liabilities, obligations, promises, agreements, contracts,

controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts and expenses of any kind, at law, in equity or otherwise, whether known or unknown, suspected or unsuspected (collectively, "Bank - Eagle Liabilities"), which Hamer or ELI or any of the foregoing has or may have against any of them.

(b) Except for the obligations created by this Agreement, each of Bank and Eagle knowingly and voluntarily waives and releases all rights and claims, known and unknown, which it, its subsidiary entities and successors and any of its or their current or former Representatives may have against Hamer or ELI or any of Hamer's or ELI's subsidiary entities or successors, or any of Hamer's or ELI's or their current or former Representatives, including any and all charges, complaints, claims, liabilities, obligations, promises, agreements, contracts, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts and expenses of any kind, at law, in equity or otherwise, whether known or unknown, suspected or unsuspected (collectively "Hamer-ELI Liabilities"), which Bank or Eagle or any of the foregoing has or may have against any of them.

(c) The parties and each of them hereby warrant, represent and agree that, as a condition of this Agreement, the parties expressly release all rights and claims relating to or arising out of the Hamer-ELI Liabilities and relating to or arising out of the Bank-Eagle Liabilities that they know about as well as those they may not know about as of the date of this Agreement, except for the obligations set forth in this Agreement. The parties, and each of them, hereby warrant, represent and agree that each of them is fully aware of the provisions of California Civil Code Section 1542, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

The parties and each of them knowingly and voluntarily waive the provisions of California Civil Code Section 1542, and any other statutes or common law principle of similar effect, as to any and all Liabilities, except for the obligations set forth in this Agreement, and further agree that this waiver is a material aspect of the consideration for entering into this Agreement.

(d) For the purposes of this Section 7, "Hamer" refers to (i) the Assignment Estate, (ii) Hamer in its capacity as Assignee for the benefit of the creditors of ELI, and (iii) The C.F. Boham Company, dba The Hamer Group of Los Angeles, California, in its individual capacity.

8. Severability and Governing Law. Should any of the provisions in this Agreement be declared or be determined to be illegal or invalid, all remaining parts,

terms or provisions shall be valid, and the illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement. This Agreement is made and entered into in the State of California and shall in all respects be interpreted, enforced and governed under the laws of California, without giving effect to the principles of conflicts of laws of such State.

9. Construction. The language of all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning, and not strictly for or against any of the parties. As used in this Agreement, the term "or" shall be deemed to include the term "and/or" and the singular or plural number shall be deemed to include the other whenever the context so indicates or requires. The paragraph headings used in this Agreement are intended solely for convenience of reference and shall not in any manner amplify, limit, modify or otherwise be used in the interpretation of any of the provisions hereof. The words "including," "includes" and other forms thereof shall be deemed to be followed by the words "without limitation." "\$" means United States dollars.

10. Signatures; Counterparts. This Agreement may be signed in counterparts, all of which will constitute a simple agreement. Facsimile signatures will bind the parties. The parties will promptly deliver original signatures to each other.

[Remainder of page intentionally blank.]

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement as of the date first set forth above.

Eagle Precision Technologies, Inc.

By: Douglas Boughner
Douglas Boughner
Title: Chief Executive Officer

Canadien Imperial Bank of Commerce

By: _____
W.G. Faassen
Title: General Manager

The C.F. Boham Company
dba The Hamer Group of Los Angeles, California

By: _____
Nigel Hamer
Title: President

Eaton Leonard, Inc.

By: _____
Wim Faassen
Title: Authorized Signatory

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement as of the date first set forth above.

Eagle Precision Technologies, Inc.

By: _____

Douglas Boughner

Title: Chief Executive Officer

Canadien Imperial Bank of Commerce

By: _____

W.G. Faassen

Title: General Manager

The C.F. Boham Company

dba The Hamer Group of Los Angeles, California

By: _____

Nigel Hamer

Title: President

Eaton Leonard, Inc.

By: _____

Wim Faassen

Title: Authorized Signatory

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement as of the date first set forth above.

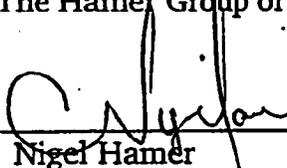
Eagle Precision Technologies, Inc.

By: _____
Name: _____
Title: _____

Canadien Imperial Bank of Commerce

By: _____
Name: _____
Title: _____

The C.F. Boham Company
dba The Hamer Group of Los Angeles, California

By:  _____
Nigel Hamer
Title: President

Eaton Leonard, Inc.

By: _____
Name: _____
Title: _____

EATON LEONARD, INC.
REVISED ACTION PLAN FOR TAX ISSUES
As of September 12, 2002

<u>Project</u>	<u>Firm</u>	<u>Due Date</u>
Prepare income tax returns for year ended 02/28/2001 (Forms 1120) Estimated fees: \$14,000 + 12% for disbursements	Ernst & Young	September 13, 2002
Prepare income tax returns for year ended 02/28/2002 (Forms 1120) and withholding tax returns for 2000 and 2001 (Forms 1042) Estimated fees: \$14,000 + 12% for disbursements	Ernst & Young	September 20, 2002
Prepare NOL carry-back claim for 2000 Prepare NOL carry-back claim for 2001 (Form 1120X or 1139) Estimated fees: \$4,000 including disbursements	Ernst & Young Ernst & Young	September 11, 2002 September 20, 2002
Estimate exposure for additional withholding tax, interest and penalties	Ernst & Young	September 27, 2002
Review Forms 1120 and 1042 and NOL carry-back claim (Forms 1120X or 1139) Estimated fees: \$5,000	Grobstein	September 27, 2002
File returns and request prior IRS exam team; Review of returns by Revenue agent	Ernst & Young	October 4, 2002
Final resolution of income tax and withholding issues through February 28, 2002 for Eaton Leonard: IRS determination completed with proposed adjustments or returns accepted as filed Estimated fees: \$5,000	IRS - Ernst & Young	March 31, 2003 (estimated)

NOTES:

1. Tax return 02/2002

It was agreed (Grobstein - E/Y) that the tax return for the year of the assignment has to be done as of February 28, 2002.

For tax purposes, they will recognize the sale of assets as of October 26, 2001, date of the assignment for the benefit of creditors.

2. Tax returns 02/2001 and 02/2002

It was agreed that no interest would be imputed on the loan for these two years (as Eagle stopped charging interest in November 1999). However, E/Y will file the form 1042 (re disclosure of the inter-company transactions).

SCHEDULE E

Budget

Budget
Assignment Estate of Eaton Leonard, Inc.
September 13, 2002

Company	Description ⁽¹⁾	Periodic	Aggregate
The Hamer Group (Assignee)	Administrative Closing Bulletin/Statement of Assets Priority Claim Analysis and Disbursements Bank Charges, Computer, Mail, Fax, Copies, Phone, Supplies	N/A N/A \$2,500.00	\$5,000.00 \$4,000.00 N/A
Grobstein, Horwath et al. (Accounting)	Assignee, General Consulting Assignee, Tax Advice Review Forms 1120 and 1042 and NOL Carry-Back Claims (Forms 1120X or 1139) Preference Litigation Support	N/A N/A N/A N/A	\$5,000.00 \$17,000.00 \$5,000.00 \$10,000.00
Plotkin, Rapoport & Nahmias (Legal)	Nonpreference Preference	\$12,000.00 ⁽²⁾ N/A	N/A \$75,000.00
Ernst & Young	Prepare NOL Carry-Back Claims for 2000 and 2001 (Forms 1120X or 1139) Including Disbursements Final resolution of income tax and withholding issues through February 28, 2002 for ELI: IRS determination completed with proposed adjustments or returns accepted as filed	N/A N/A	\$4,000.00 \$5,000.00
Blakely Sokoloff Taylor & Zafman/Rutter Hobbs & Davidoff (Legal)	Patent-related services in connection with sale of ERIX Shares	N/A	\$15,000.00 ⁽³⁾

⁽¹⁾ Whether or not noted below, disbursements are included.

⁽²⁾ For up to four months.

⁽³⁾ Does not reflect cost to revive two lapsed patents.

Sam Poss

From: Sam Poss
Sent: Wednesday, September 18, 2002 2:53 PM
To: 'anahmias@pmlaw.com'
Cc: 'mcoutu@dazoulayinc.com'; 'david.kee@blakes.com'

The budget referred to in the settlement agreement is attached. Maryse will forward it to Nigel, although please feel free to do so yourself.



BUDGET FOR
SIGNMENT ESTATE

Sam Poss
Rutter Hobbs & Davidoff Incorporated
1900 Avenue of the Stars
Suite 2700
Los Angeles, CA 90067-4301

(310) 286-1700 (Voice)
(310) 286-1728 (Fax)
SPoss@rutterhobbs.com

For more information about Rutter Hobbs & Davidoff,
please visit our website: www.rutterhobbs.com

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If you have received this transmission in error,
please notify us by telephone at (310) 286-1700
or by electronic mail.

***** END OF FILE *****

EXHIBIT "I"

BLAKE, CASSELS & GRAYDON LLP

BARRISTERS & SOLICITORS | PATENT & TRADE-MARK AGENTS

Box 25, Commerce Court West
199 Bay Street
Toronto, Ontario, Canada
M5L 1A9

February 7, 2003

Deliveries: 28th Floor
Telephone: 416.863.2400
Facsimile: 416.863.2653
www.blakes.com

VIA FACSIMILE

David J. Kee
Direct Dial: 416.863.2514
E-mail: david.ke@blakes.com

Reference: 2101/61572

Mr. J.J. Kaplan
Symphony Towers
750 B. Street
Suite 1040
San Diego, California
USA 92101-8126

WITHOUT PREJUDICE

Dear Mr. Kaplan:

RE: Eaton Leonard Robolix Inc. ("ERIX")

I refer to your letter of January 17, 2003 (received by us on January 30th) in which as counsel to Financiere Robolix S.A.R.L. ("Robolix"), you have advanced certain claims against various parties including Canadian Imperial Bank of Commerce ("CIBC"). I confirm that we act as Canadian counsel to CIBC in connection with this matter.

CIBC does not agree with the allegations contained in your letter and expressly denies the claims which you make against CIBC.

CIBC holds a guarantee from Eaton Leonard, Inc. ("ELI") dated October 26, 1999 in respect of the indebtedness of Eagle Precision Technologies Inc. ("Eagle Precision") to CIBC. In addition, CIBC holds a general security agreement from ELI dated July 29, 1999 in favour of CIBC and relating to all present and future personal property of ELI. The security agreement is sufficient to provide CIBC with a security interest in the shares of ERDX owned by ELI. This security was obtained by CIBC prior to the dates of the agreements to which you refer in your letter. As you know, CIBC is not a party to any of these agreements.

CIBC holds security over the assets of Eagle Precision by several security documents including a general security agreement dated October 26, 1999. To the extent that the patents and licences to which you refer in your letter are assets of Eagle Precision, then CIBC has security over such assets.

11310121.1

Montreal • Ottawa • Toronto • Calgary • Vancouver • London • Beijing

BLAKE, CASSELS & GRAYDON LLP

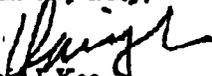
BARRISTERS & SOLICITORS | PATENT & TRADE-MARK AGENTS

Page 2

The Letter of Intent to which you refer in your letter is an expression of the "current intentions" of the parties "subject to further reflection" and would not appear to be a legally binding document. It is interesting to note that the Letter of Intent expressly refers to the pledge of the ERIX shares in favour of CIBC.

We understand that Eagle does not agree with your letter and has issues with your client. It would appear that these issues should be resolved and CIBC is prepared to co-operate in an overall resolution.

Yours very truly,


David J. Kees

DJK:lk

c Russell H. Rapoport
Samuel Posa
Wim Feayen

11510121.1

EXHIBIT "J"



FAX

Date February 1, 2002

Number of pages including cover sheet

TO: Nigel Hamer
The Hamer Group

RE: Eaton Leonard

Phone 818-382-7500

Fax Phone 818-382-9990

FROM: Wim C. Faassen
General Manager
Special Loans, Head
Office
Risk Management Division
CCW-6, Toronto, Ont
e-mail Wim.faassen@cibc.com
Phone (416) 980-2693
Fax Phone (416) 861-3602

CC:

REMARKS:

Referring to your January 24 letter, I attach our consent re the invoice for \$404.03.

Please amend your records to show my correct address, as per this fax cover sheet (the address on your letter is the branch location)

02/01/02 FRI 16:10 FAX 416 861 3602

CIBC SPECIAL LOANS

002

The Hamer Group

15303 Ventura Boulevard • Suite 1080
Sherman Oaks, California 91403

Email thg@thehamergroup.com
Website www.thehamergroup.com

Telephone (818) 382-7500
Facsimile (818) 382-9990

via Facsimile: 416-861-3602

January 24, 2002

W.C. Faassen, General Manager
Canadian Imperial Bank of Commerce
Commerce Place 1 King Street West
Hamilton, Ontario CN, L8P 1A4

Re: Eaton Leonard, Inc. - General Assignment for the Benefit of Creditors
File: EAT1001 Date of Assignment: 10/26/01
Payment of Legal Billing

Dear Mr. Faassen:

This letter is regarding the General Assignment for the Benefit of Creditors of the subject Corporation and payment of legal billing therein.

As you are aware the Assignment between the Assignor, Eaton Leonard, Inc., and the Assignee, The Hamer Group, provides for payment of the Assignor's legal bills. Therefore we are enclosing invoices from Rutter, Hobbs & Davidoff for your review. Your signature in the space provided on page two authorizes your consent for payment of the invoices.

Should you have any questions please contact the undersigned.

Very truly yours,

THE HAMER GROUP

Dictated But Not Read

Nigel W. Hamer

cc: David Kee, Esq. CIBC (via Facsimile)
Joel Weinstein, Esq. (via Facsimile)
Samuel Poss, Esq. (via Facsimile)
Alan Nahmias, Esq. (via Facsimile)

Signature Page to Follow

EXHIBIT "K"

02/01/02 FRI 16:10 FAX 416 861 3602

CIBC SPECIAL LOANS

003

The Hamer Group

W.C. Faassen, CIBC
January 14, 2002
Page Two



Date: 01/ /02

W.C. Faassen, General Manager
Canadian Imperial Bank of Commerce

PRECISION

GOODMAN PHILLIPS & VINEBERG

BARRISTERS & SOLICITORS

250 YONGE STREET • SUITE 2400 • TORONTO ONTARIO CANADA M5B 2M6
TELEPHONE (416) 979 2211 • TELECOPIER (416) 979 1234

DIRECT LINE: (416) 597-4257
E-mail: partridge@tor.gpv.com

June 20, 2000

Our File No.: 994398

BY COURIER

Andrew W. Pollock
Blake, Cassels & Graydon
Box 25, Commerce Court West
Toronto, Ontario
M5L 1A9

Dear Andrew:

Re: Eaton Leonard Robolix, Inc.

I enclose an original share certificate representing 501 shares of the common stock of Eaton Leonard Robolix, Inc. registered in the name of Eaton Leonard, Inc. This certificate is being delivered to you to be held by Canadian Imperial Bank of Commerce as contemplated by CIBC's consent to the Erix transaction dated May 5, 2000. Please do not hesitate to call if you have any questions.

Yours truly,

GOODMAN PHILLIPS & VINEBERG

Per: 

Michael Partridge

COPY

MJP/j

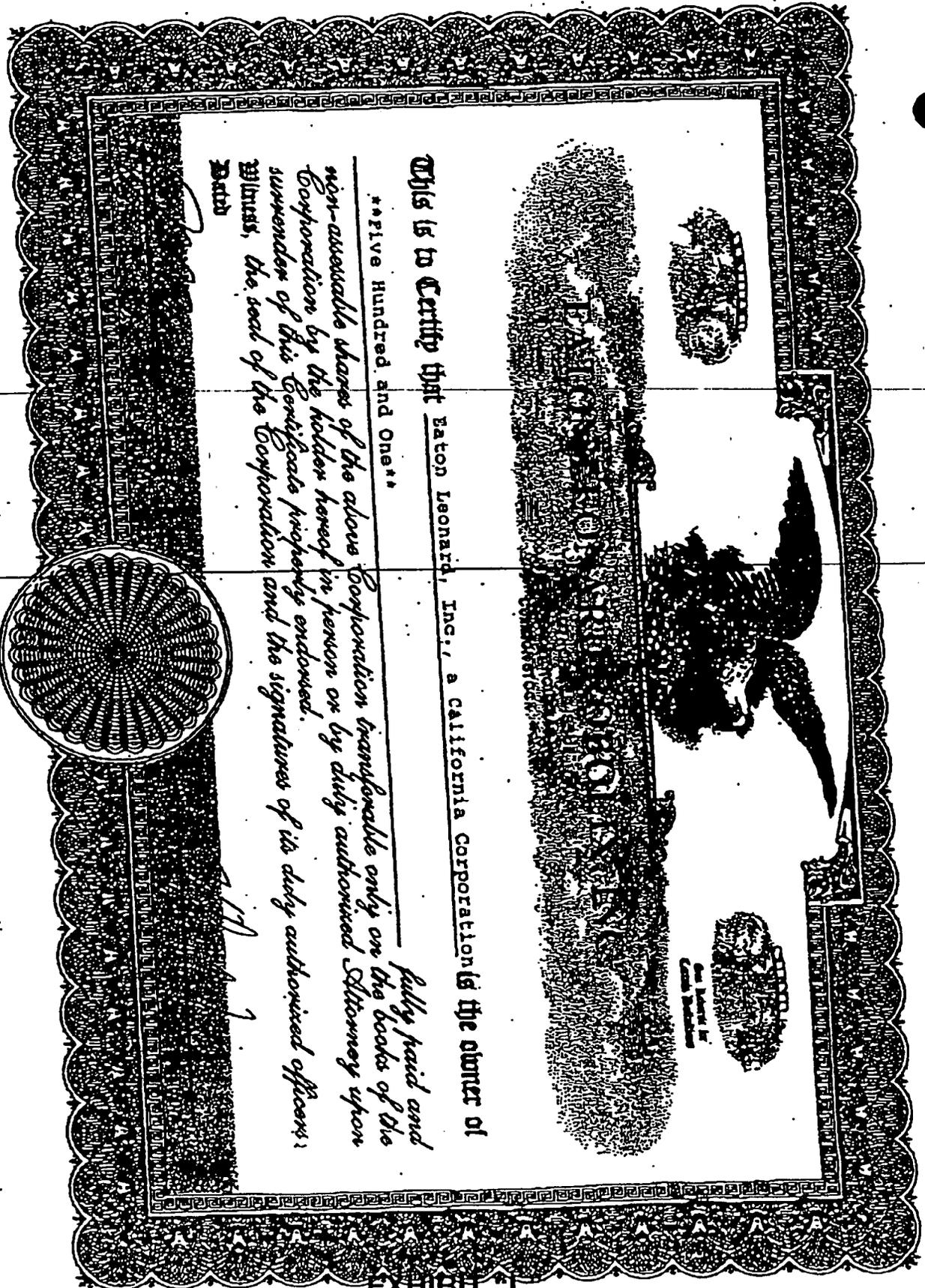
Enclosure

David Azoulay, Eagle Precision Technologies Inc. (w/o enclosure)

Joe Latham, Goodman Phillips & Vineberg (w/o enclosure)

Susan Garvie, Goodman Phillips & Vineberg (w/o enclosure)

0279AKTIDM0001134



This is to Certify that Eaton Leonard, Inc. a California Corporation is the owner of

****Five Hundred and One****

non-assessable shares of the above Corporation transferable only on the books of the Corporation by the holder hereof in person or by duly authorized Attorney upon surrender of this Certificate properly endorsed.

Witness, the seal of the Corporation and the signatures of its duly authorized officers:

Date:

FILED

04 JUL 12 PM 4:17

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

1 FRANK D. HOBBS (State Bar No. 76790)
2 OLIVIA GOODKIN (State Bar No. 100800)
3 GREGORY J. SATER (State Bar No. 157486)
4 RUTTER HOBBS & DAVIDOFF INCORPORATED
5 1901 Avenue of the Stars, Suite 1700
6 Los Angeles, CA 90067-6018
7 Telephone: (310) 286-1700
8 Facsimile: (310) 286-1728

BY:

DEPUTY

9 Attorneys for Plaintiffs, Counter-Claim
10 Defendants, and Counter-Claimants
11 EAGLE PRECISION TECHNOLOGIES, INC.
12 and EAGLE TECHNOLOGIES SERVICES, LTD.

13 UNITED STATES DISTRICT COURT
14 SOUTHERN DISTRICT OF CALIFORNIA

15

16 EAGLE PRECISION TECHNOLOGIES, INC.,)
17 an Ontario, Canada corporation; and EAGLE)
18 TECHNOLOGIES SERVICES, LTD., an Indiana)
19 corporation,)

Case No.: 03CV352 BEN (WMC)

[U.S. District Court Judge Roger Benitez]

20 Plaintiffs,)

COUNTERCLAIMS OF EAGLE PRECISION
TECHNOLOGIES, INC. AND EAGLE
TECHNOLOGIES SERVICES, LTD.

21 v.)

22 EATON LEONARD ROBOLIX, INC., a)
23 California corporation,)

24 Defendant.)

25 EATON LEONARD ROBOLIX, INC., a)
26 California corporation,)

27 Counter-Claimant,)

28 v.)

29 EAGLE PRECISION TECHNOLOGIES, INC.,)
30 an Ontario, Canada corporation; EAGLE)
31 TECHNOLOGIES SERVICES, LTD., an Indiana)
32 corporation; EATON LEONARD, INC., a)
33 California corporation; CANADIAN IMPERIAL)
34 BANK OF COMMERCE, a Canadian)
35 corporation; and THE HAMMER GROUP, a)
36 California corporation)

37 Counter-Defendants.)

RUTTER 28

CAPTION CONTINUED ON NEXT PAGE

HOBBS

DAVIDOFF

INDEPENDENT
LAWYERS

{4435.011-00221173.DOC-0}

-1-

COUNTERCLAIMS

F. 7/12/04

1 FINANCIERE ROBOLIX, S.A.R.L., a French)
corporation,)
2)
Counter-Plaintiff/Intervenor,)
3)
v.)
4)
5 EAGLE PRECISION TECHNOLOGIES, INC.,)
an Ontario, Canada corporation; EAGLE)
6 TECHNOLOGIES SERVICES, LTD., an Indiana)
corporation; EATON LEONARD, INC., a)
7 California corporation; CANADIAN IMPERIAL)
BANK OF COMMERCE, a Canadian)
8 corporation; and THE C.F. BOHAM)
COMPANY, INC., dba THE HAMMER GROUP,)
9 a California corporation)
Counter-Defendants.)
10)

11)
12 EAGLE PRECISION TECHNOLOGIES, INC.,)
an Ontario, Canada corporation; and EAGLE)
13 TECHNOLOGIES SERVICES, LTD., an Indiana)
corporation)
14 Counter-Claimants,)
15)
v.)
16)
17 EATON LEONARD ROBOLIX, INC., a)
California corporation; PHILIPPE JAUBERT,)
an individual; JAUB JAUB CONSULTING)
18 S.A.R.L., a French corporate entity of)
unknown organization, FINANCIERE)
19 ROBOLIX, S.A.R.L., a French corporate entity)
of unknown organization,)
20 Counter-Defendants.)
21)

22
23 Plaintiffs and Counter-Defendants Eagle Precision Technologies, Inc. ("Eagle
24 Precision") and Eagle Technologies Services, Ltd. ("Eagle Services") (together, the "Eagle
25 Parties") assert the following Counterclaims against Eaton Leonard Robolix, Inc. ("ERIX"),
26 Phillipe Jaubert, Jaub Jaub Consulting S.A.R.L. (together, the "Jaubert Parties"), and Robolix
27 S.A.R.L. ("Robolix") in response to the Second Amended Counterclaims of ERIX and the
28 Second Amended Complaint in Intervention of Robolix:

1 3. Plaintiff Eagle Services was, at all times relevant hereto, and is a corporation
2 organized and existing under the laws of the State of Indiana, with its principal place of
3 business in Indiana. Eagle Services is a citizen of the State of Indiana and is a wholly owned
4 subsidiary of Plaintiff Eagle Precision. Eagle Services is engaged in the business of servicing
5 tube bending and measuring instruments for bent tubes and surfaces including machines and
6 equipment manufactured and sold by Eagle Precision and by others, including ELI.

7 4. Defendant ERIX was, at all times mentioned herein, and is a corporation
8 organized and existing under the laws of the State of California, and is a citizen of the State
9 of California.

10 5. Eaton Leonard, Inc. ("ELI") was, at all times relevant hereto, and is, a California
11 corporation organized and existing under the laws of the State of California. ELI is a wholly
12 owned subsidiary of Plaintiff Eagle Precision. Eagle Precision acquired ELI in June 1997. In
13 December 1999, the service division of ELI was transferred to Plaintiff Eagle Services.

14 6. On information and belief, Financiere Robolix, S.A.R.L. is a business entity of
15 form unknown, formed under the laws of France, with its principal place of business in
16 Cologne, France. Plaintiffs are informed and believe and on that basis allege that Financiere
17 Robolix, S.A.R.L. is an alien entity.

18 7. On information and belief, Phillippe Jaubert is an individual residing in Cologne,
19 France and is believed to be a citizen of France. On information and belief, Phillippe Jaubert
20 owns some or all of the interests in Financiere Robolix S.A.R.L. and is the controlling
21 shareholder, officer, and manager thereof.

22 8. On information and belief, Jaub Jaub Consulting S.A.R.L. is a business entity of
23 form unknown, formed under the laws of France, with its principal place of business in
24 Cologne, France. On information and belief, Phillippe Jaubert owns some or all of the
25 interests in Jaub Jaub Consulting S.A.R.L. and is the controlling shareholder, officer, and
26 manager thereof. Plaintiffs are informed and believe and on that basis allege that Jaub Jaub
27 Consulting S.A.R.L. is an alien entity.

28 9. For many years, beginning in approximately 1973, ELI was engaged in the

1 business of manufacturing, servicing, and repairing automatic tube bending machines. ELI
2 also manufactured, repaired and serviced measuring instruments for bent tubes and surfaces.
3 As alleged in the February 2003 Complaint, in so doing, ELI adopted and used in commerce
4 the marks EATON, EATON LEONARD, and EL (a stylized logo) (collectively, the "ELI Marks")
5 to identify its goods and services. ELI used the ELI Marks to identify its goods and services by
6 extensively advertising its machines and services under said names through the United States
7 and worldwide. By virtue of its advertising and sales as well as its market penetration and
8 presence, the ELI Marks identified ELI's machines and services and distinguished them from
9 equipment sold by others or serviced by others. The ELI Marks thus became valuable assets
10 symbolizing ELI, its quality goods, services and goodwill.

11 10. As part of ELI's business of manufacturing and servicing tube bending machines
12 and measuring instruments, ELI over the years also developed, invented, created, owned, and
13 used intellectual property in addition to and beyond simply the ELI Marks. The intellectual
14 property of ELI included, but was not limited to, various patents, copyrights, trade secrets,
15 software source code, and plans, diagrams, drawings, designs, and blue prints.

16 11. In terms of patents, some of ELI's patents were identified in Schedule A of an
17 agreement dated as of May 29, 2000 between ELI and ERIX entitled License Agreement (the
18 "License Agreement"), a true and correct copy of which is attached hereto as Exhibit 1 and
19 incorporated herein by this reference; the patents identified in said Schedule hereinafter shall
20 be referred to as the "Licensed Patents." Another patent of ELI was identified in Schedule A
21 of an agreement dated as of May 29, 2000 entitled Asset Transfer and Subscription
22 Agreement (the "Asset Agreement"), a true and correct copy of which is attached hereto (and
23 to the February 2003 Complaint) as Exhibit 3 and incorporated herein by this reference; the
24 patent identified in said Schedule hereinafter shall be referred to as the "VMM Patent."

25 12. In addition to inventing and using patented technologies and designs, ELI over
26 the years also developed, drew, and authored plans, diagrams, drawings, designs, blue prints,
27 and written texts (collectively, the "Medium and Large Tube Bender Plans") which it used to
28 design, produce, manufacture and service medium and large tube benders, i.e., tube bending

1 machines made to bend tubes 45 mm or greater in diameter. (As alleged in the February
2 2003 Complaint, for many years, and until the formation of ERIX in the year 2000, ELI also
3 made small tube benders, i.e., machines made to bend tubes less than 45 mm in diameter.)

4 13. In addition to the foregoing, ELI also developed, wrote, and authored computer
5 software which it called "Premier," made to control tube bending machines. ELI developed,
6 wrote, and authored the source code for this software (the "Premier Source Code"). In its
7 benders, as a product it offered and sold, ELI incorporated certain object code from Premier.

8 14. The Medium and Large Tube Bender Plans are, and at all relevant times have
9 been, trade secrets and proprietary information under applicable law. At all relevant times,
10 the Medium and Large Tube Bender Plans have consisted of, or have included, information
11 that derives, and all relevant times has derived, independent economic value from not being
12 generally known to the public or to other persons who can or could obtain economic value
13 from their disclosure or use; and at all relevant times, they have been the subject of efforts by
14 ELI and by the Eagle Parties, reasonable under the circumstances, to maintain their secrecy.
15 On information and belief, these efforts were successful: at all times when ELI or the Eagle
16 Parties had possession of and control over the Medium and Large Tube Bender Plans, the
17 Medium and Large Tube Bender Plans were kept secret from all competitors.

18 15. The Premier Source Code is, and at all relevant times has been, a trade secret
19 and proprietary information under applicable law. At all relevant times, the Premier Source
20 Code has consisted of, or has included, information that derives, and all relevant times has
21 derived, independent economic value from not being generally known to the public or to
22 other persons who can or could obtain economic value from its disclosure or use; and at all
23 relevant times, it has been the subject of efforts by ELI and by the Eagle Parties, reasonable
24 under the circumstances, to maintain its secrecy. On information and belief, these efforts
25 were successful: at all times when ELI or the Eagle Parties had possession of and control over
26 the Premier Source Code, the Premier Source Code was kept secret from all competitors.

27 16. On or about March 1, 1998, for good and valuable consideration, ELI assigned
28 to Plaintiff Eagle Precision all of ELI's right, title, and interest in and to all of ELI's patents

1 and other intellectual property. Said assignment of ELI's patents and other intellectual
2 property included, among other assets, all of ELI's right, title, and interest in and to the
3 Licensed Patents, the Medium and Large Tube Bender Plans, the Premier Source Code, and
4 any and all other patents, trade secrets, copyrights, and trademarks. Said assignment by ELI
5 of all its intellectual property rights included the right to control the licensing, contractual,
6 and other economic exploitation of said rights. Additionally, on or about March 11, 1999,
7 ELI assigned all right, title and interest in and to the ELI Marks to Plaintiff Eagle Precision.

8 17. As alleged in the February 2003 Complaint, following the assignment of the ELI
9 Marks to Eagle Precision, the Eagle Parties used the mark EAGLE EATON LEONARD, both
10 with and without the stylized logo EL, to promote their goods and services, and used that
11 mark as well as the mark EATON LEONARD (collectively, herein, the "Eagle Marks") to
12 identify and promote the sale and servicing of tube bending machines; as a result, the Eagle
13 Marks have identified the Eagle Parties' goods and services, and have distinguished them
14 from equipment sold or serviced by others, making them valuable assets for the Eagle Parties.

15 18. As alleged in the February 2003 Complaint, on or about May 29, 2000, ELI
16 transferred or licensed certain assets to ERIX. The assets were limited to those "used by [ELI]
17 in carrying on" (i) ELI's "business of manufacturing small diameter (meaning less than 45
18 mm) metal tube benders (ii) its business of manufacturing the VB200HP, and (iii) [ELI's]
19 business of manufacturing certain metal tube measuring devices. . . ." (together, the "Small
20 Tube Business"). Two of the contract documents signed as part of the transaction that
21 occurred between the parties as of May 29, 2000 were the Asset Agreement (attached hereto
22 as Exhibit 3) and the License Agreement (attached hereto as Exhibit 1) referenced above.

23 19. As part of the Asset Agreement, ELI and ERIX agreed that ERIX would have a
24 royalty-free license to use the ELI Marks in connection only with the Small Tube Business.
25 (By way of example, pursuant to the Asset Agreement, ERIX could never use the ELI Marks,
26 or any of them, in connection with any business that would involve medium or large tube
27 benders.) Likewise, as part of the License Agreement, ELI and ERIX agreed that ERIX would
28 have a royalty-free license to use the Licensed Patents in connection only with the Small Tube

1 Business. (By way of example, pursuant to the License Agreement, ERIX could never use the
2 Licensed Patents, or any of them, in connection with any business that would involve
3 medium or large tube benders.) The scope of the intellectual property licenses that ELI
4 granted to ERIX which permitted ERIX to use ELI's intellectual property was limited: the
5 scope of the intellectual property licenses was limited to the manufacture and sale by ERIX of
6 small tube benders only, i.e., bending machines made to bend tubes less than 45 mm in
7 diameter. This same limitation applied to the Medium and Large Tube Bender Plans and to
8 the Premier Source Code which ELI disclosed to ERIX in confidence on or about, and after,
9 May 29, 2000. On or about, and after, May 29, 2000, in confidence and in trust, ELI
10 permitted ERIX to possess the Medium and Large Tube Bender Plans and the Premier Source
11 Code and to access and use them only to the extent necessary to make small tube benders as
12 part of the Small Tube Business that ERIX obtained from ELI. Specifically, on or about and as
13 of May 29, 2000, ELI and ERIX agreed that ERIX could never access or use in any way the
14 Premier Source Code except to the extent, if any, necessary to make a control for a small tube
15 bender. Likewise, on or about and as of May 29, 2000, ELI and ERIX agreed that ERIX could
16 never access or use in any way the Medium and Large Tube Bender Plans except to the
17 extent, if any, necessary to make a small tube bender (and then, could only do so for so long
18 as ERIX was in compliance with the Asset Agreement and the License Agreement and was not
19 in breach of either). As alleged in the February 2003 Complaint, Eagle as assignee of the
20 intellectual property of ELI is the real party in interest with respect to the intellectual
21 property interests of ELI under the May 29, 2000 agreements with ERIX.

22 20. On information and belief, despite the foregoing commitments and in breach
23 thereof, ERIX has used and is using (i) one or more the Licensed Patents, (ii) one or more of
24 the ELI Marks, (iii) one or more of the Medium and Large Tube Bender Plans, and (iv) the
25 Premier Source Code, all in connection with the manufacture, offer for sale, sale, advertising
26 and servicing of products other than those products that are within the Small Tube Business.

27 21. As already alleged in the February 2003 Complaint, ERIX is using and
28 displaying the ELI Marks in commerce in connection with product lines that are not within

1 the Small Tube Business, is doing so in connection with the sale of medium and large tube
2 benders, and is doing so in connection with the offering of service and maintenance thereon;

3 22. ERIX is going one step further by dropping the word "ROBOLIX" from the name
4 that ERIX was supposed to use with small tube benders, i.e., "EATON LEONARD.ROBOLIX,"
5 and by now referring to itself as "EATON LEONARD" "EATON LEONARD U.S." and "EATON
6 LEONARD EUROPE," none of which ERIX was licensed to do, and all of which goes beyond
7 the scope of the license to ERIX and violates the Eagle Parties' rights.

8 23. Likewise, on information and belief, ERIX has accessed and used the Medium
9 and Large Tube Bender Plans to design and manufacture for sale, and to provide service on,
10 medium and large tube benders, permission for which ERIX has not been given, and all of
11 which exceeds the scope of the license to ERIX and violates the Eagle Parties' rights.

12 24. Likewise, on information and belief, ERIX has accessed and used the Premier
13 Source Code, to design and manufacture for sale, and to provide service on, controls for
14 medium and large tube benders, permission for which ERIX has not been given, and all of
15 which exceeds the scope of the license to ERIX and violates the Eagle Parties' rights.

16 25. In or about March, 2003, ERIX secretly changed the registration and control of
17 the Internet domain name www.eatonleonard.com from Eagle Precision to ERIX. ERIX did
18 this by using the services of its employee Bob Wolbrink. Bob Wolbrink is a former employee
19 of the Eagle Parties who was then employed by ERIX. Wolbrink had been entrusted, by the
20 Eagle Parties, to be the registered Administrator of the domain name www.eatonleonard.com
21 for the Eagle Parties. On behalf of ERIX, and without prior notice to or permission from the
22 Eagle Parties, Bob Wolbrink secretly transferred the domain name registration away from the
23 Eagle Parties and to his new employer ERIX, keeping himself as the Administrator thereof.

24 26. On information and belief, since taking control of the registration of the
25 domain name www.eatonleonard.com ERIX has posted a web site at the domain name and
26 there has advertised ERIX's goods and services, including, but not limited to, offering
27 medium and large tube benders for sale under the name and trademark "EATON LEONARD."
28 The ERIX web site previously had been at www.eatonleonardrobolix.com, previously had

1 used the name "EATON LEONARD ROBOLIX," and previously had only advertised small tube
2 benders for sale.

3 27. The Eagle Parties have demanded from ERIX the return of the Internet domain
4 name www.eatonleonard.com. ERIX has refused to comply.

5 28. The Eagle Parties have demanded that ERIX not use the Medium and Large
6 Tube Bender Plans to make medium and large benders. ERIX has refused to comply.

7 29. The Eagle Parties (who do not have possession of any copy of the Premier
8 Source Code, having entrusted same to ERIX) have demanded from ERIX the return of one
9 copy of the Premier Source Code, or of the original thereof. ERIX has refused to comply.

10 30. On or about May 2, 2002, Phillippe Jaubert and Jaub Jaub Consulting S.A.R.L.
11 registered EATON LEONARD EUROPE as a trademark in France. The Jaubert Parties did this
12 to benefit ERIX, so ERIX could use that name in Europe; they also did this to make it difficult
13 for the Eagle Parties to do business in Europe under the name "EATON LEONARD" or any
14 name including those words, since the Jaubert Parties had the name registered there. On or
15 about the same date, the Jaubert Parties similarly registered "EATON LEONARD" and the EL
16 logo, beside it, as a second trademark in France.

17 31. The Jaubert Parties took the foregoing actions for the benefit of ERIX and, on
18 information and belief, also for their own benefit. They took these actions with actual
19 knowledge of the trademark rights of the Eagle Parties to the mark EATON LEONARD; they
20 took these actions with actual knowledge of ERIX's status as a licensee of those trademark
21 rights (as opposed to an owner thereof); they took these actions with actual knowledge that
22 ERIX as a licensee could not legally assert any interest in the marks, other than as a licensee;
23 they took these actions with actual knowledge of the limited scope of the trademark license
24 from ELI to ERIX, and that, under it, ERIX could only use the name "EATON LEONARD
25 ROBOLIX" (with "ROBOLIX" in it to distinguish it) and were licensed only for its use to
26 manufacture and sell small tube benders and VMM machines; they took these actions with
27 actual knowledge that ERIX would use these French registrations for "EATON LEONARD
28 EUROPE" and for "EATON LEONARD" and use the registered marks in commerce; and they

1 did this with actual knowledge of the fact that ERIX then would be in breach of its
2 obligations as a trademark licensee under the Asset Agreement, and also would be violating
3 the Eagle Parties' rights.

4 32. Prior to the formation of ERIX, and thereafter at all relevant times, ELI and the
5 Eagle Parties had a contractual relationship, and a prospective economic advantage, with a
6 defense contractor by the name of Lynch Machinery Company, Inc. ("Lynch") and, through it,
7 with the United States Department of Defense (the "Department of Defense"). ELI and the
8 Eagle Parties sold goods and services to, and at all relevant times reasonably expected to
9 continue to sell goods and services to, Lynch for the Department of Defense. One contract
10 calls for the Eagle Parties to supply VB 200 SE tube benders and related goods and services,
11 including maintenance and tooling, to the Department of Defense under a Lynch defense
12 contract (the "6011 Contract"). The contract was entered into under the trademark that ELI
13 and the Eagle Parties were using at the time: "EAGLE EATON LEONARD." On information
14 and belief, the 6011 Contract is still in full force and effect and the Department of Defense
15 continues to order VB 200 SE tube benders and other goods and services pursuant thereto.

16 33. As alleged in the February 2003 Complaint, the Eagle Parties are informed and
17 believe and based thereon allege that ERIX has passed itself off as EAGLE EATON LEONARD
18 in connection with the 6011 Contract, resulting in the wrongful appropriation, by ERIX, of
19 the benefits of the 6011 Contract and of the Eagle Parties' prospective economic advantage.

20 34. With regard to the 6011 Contract and the supplying of VB 200 SE benders to
21 Lynch and to the Department of Defense for the 6011 Contract, the Eagle Parties entered into
22 agreement with ERIX in or about July 2000 (the "VB 200 SE Agreement") whereby the Eagle
23 Parties asked and engaged ERIX to manufacture and deliver to Lynch or to the Department of
24 Defense the required VB 200 SE tube benders. ERIX and the Eagle Parties agreed that ERIX's
25 involvement with Lynch and the Department of Defense was strictly for the benefit of the
26 Eagle Parties and would only last as long as the Eagle Parties requested it of ERIX, and that it
27 would terminate upon notice from Eagle Precision to ERIX (except as to any machine being
28 built by ERIX, for supply under the 6011 Contract, at the time of any such termination).

1 ERIX and the Eagle Parties agreed that, unless ERIX was otherwise instructed, Eagle Services
2 would provide and bill for installation and maintenance. It was agreed the profit on each
3 ERIX-made machine would be divided 50% to Eagle Precision, 50% to ERIX. On information
4 and belief, the VB 200 SE Agreement was oral, written, or implied (or a combination of one
5 or more of same). Despite these commitments, beginning in or about 2001 and 2002, and at
6 all relevant times since then, ERIX manufactured and delivered to Lynch or the Department
7 of Defense VB 200 SE Machines without providing 50% of the profit to Eagle Precision;
8 provided or arranged for third parties to provide the other goods and services required under
9 the 6011 Contract including but not limited to installation, service, maintenance, and tooling,
10 rather than have the Eagle Parties provide same; and refused to terminate its involvement in
11 and to withdraw from the relationship with Lynch and with the Department of Defense,
12 despite receiving notice that Eagle Precision desired the termination of ERIX's involvement.

13
14 **FIRST CLAIM FOR RELIEF**

15 **(Breach of Contracts)**

16 **(Against ERIX)**

17 35. Plaintiffs incorporate the allegations of paragraphs 1 through 34 herein as if
18 fully set forth.

19 36. Eagle Precision is the real party in interest with respect to the intellectual
20 property interests of ELI under the Asset Agreement, under the License Agreement, and
21 under the other agreements reached by ELI and ERIX on or about May 29, 2000 referenced
22 above.

23 37. ELI has fully performed (and, to the extent the Eagle Parties had obligations as
24 well, the Eagle Parties too have fully performed) all acts, conditions, covenants, promises and
25 other obligations required to be performed by it or by them pursuant to the Asset Agreement.

26 38. ELI also has fully performed (and, to the extent the Eagle Parties had
27 obligations as well, the Eagle Parties too have fully performed) all acts, conditions,

1 covenants, promises and other obligations required to be performed by it or by them
2 pursuant to the License Agreement.

3 39. ELI also has fully performed (and, to the extent the Eagle Parties had
4 obligations as well, the Eagle Parties too have fully performed) all acts, conditions,
5 covenants, promises and other obligations required to be performed by it or by them
6 pursuant to the other agreements referenced above reached between ELI and ERIX on or
7 about May 29, 2000 which licensed certain intellectual property rights to ERIX for the Small
8 Tube Business including, but not limited to, the above described rights of ELI to the Medium
9 and Large Tube Bender Plans and to the Premier Source Code.

10 40. The Eagle Parties also have fully performed all acts, conditions, covenants,
11 promises and other obligations required to be performed by them pursuant to the VB 200 SE
12 Agreement.

13 41. As alleged in the February 2003 Complaint, ERIX has breached the Asset
14 Agreement by using the ELI Marks in connection with business of ERIX other than the Small
15 Tube Business, as delineated by the Asset Agreement, and by using the ELI Marks improperly
16 by using the name and mark "EATON LEONARD" rather than "EATON LEONARD ROBOLIX."

17 42. ERIX also has breached the Asset Agreement by taking control of the
18 registration of the domain name www.eatonleonard.com and by posting a web site at said
19 domain name advertising ERIX's goods and services, including, but not limited to, ERIX's
20 medium and large tube benders, under the name and mark "EATON LEONARD."

21 43. ERIX has further breached the Asset Agreement by passing itself off as the
22 successor to Eaton Leonard, Inc. and as the owner of the mark "EATON LEONARD," and by
23 taking actions inconsistent and irreconcilable with ERIX's status as a mere licensee of said
24 mark, such as advertising its goods and services under the names "EATON LEONARD U.S."
25 "EATON LEONARD EUROPE" and "EATON LEONARD" and using and benefiting from the
26 French trademark registrations for the latter two marks, which ERIX obtained as a result of
27 the efforts of the Jaubert Parties on its behalf.

28

1 44. On information and belief, ERIX has breached the License Agreement by using
2 one or more of the Licensed Patents in connection with business of ERIX other than the Small
3 Tube Business, as delineated by the License Agreement.

4 45. ERIX has breached the agreement referenced above with regard to the Medium
5 and Large Tube Bender Plans, reached on or about May 29, 2000, by accessing and using the
6 Medium and Large Tube Bender Plans to design and manufacture for sale, and to provide
7 service on, medium and large tube benders, and by refusing to return the Medium and Large
8 Tube Bender Plans to Eagle Precision when requested to do so. Said conduct exceeds the
9 scope of the license which was agreed upon in order to permit ERIX to possess the Medium
10 and Large Tube Bender Plans in the first place; said conduct also violates the Eagle Parties'
11 property and trade secret rights to the Medium and Large Tube Bender Plans.

12 46. Likewise, ERIX has breached the agreement referenced above, reached on or
13 about May 29, 2000, by accessing and then using the Premier Source Code to design and
14 manufacture for sale, and to provide service on, controls for medium and large tube benders,
15 and by refusing to return the original or a copy of the Premier Source Code to Eagle
16 Precision, when requested to do so. Said conduct exceeds the scope of the license which was
17 agreed upon in order to permit ERIX to possess the Premier Source Code in the first place;
18 said conduct also violates the Eagle Parties' property and trade secret rights to the Premier
19 Source Code.

20 47. ERIX has breached the VB 200 SE Agreement with the Eagle Parties regarding
21 Lynch and the Department of Defense by, among other things: manufacturing and delivering
22 to Lynch or to the Department of Defense VB 200 SE Machines without providing 50% of the
23 profit to Eagle Precision; providing or arranging for third parties to provide the other goods
24 and services that are required under the 6011 Contract including but not limited to
25 installation, service, maintenance, and tooling, rather than have the Eagle Parties provide
26 same; and refusing to terminate ERIX's involvement in and to withdraw from the relationship
27 with Lynch and with the Department of Defense, despite receiving notice that Eagle Precision
28 desired the termination of ERIX's involvement.

1 48. As a result of ERIX's breach of the foregoing agreements, and each of them, the
2 Eagle Parties have been damaged in an amount to be proven at trial.

3 49. ERIX's continued use of the subject ELI Marks in commerce in connection with
4 the sale, offering for sale, distribution, and advertising of goods and services beyond the
5 scope of the Small Tube Business, and ERIX's improper use of the ELI Marks and the Eagle
6 Marks as alleged herein above (and in the February 2003 Complaint), including by using the
7 name and mark "EATON LEONARD" rather than "EATON LEONARD ROBOLIX" and by
8 depriving the Eagle Parties of the domain name www.eatonleonard.com and posting an ERIX
9 web site at that domain name, with ERIX's product line, is likely to cause confusion, mistake,
10 or deception among the relevant customer base as to the source, quality, or nature of ERIX's
11 goods and services, or as to the affiliation between ERIX and the Eagle Parties, and will cause
12 irreparable harm to the Eagle Parties unless it is restrained and enjoined.

13 50. ERIX's continued use of the Licensed Patents, Medium and Large Tube Bender
14 Plans, and Premier Source Code, and each of them, in connection with the manufacturing,
15 sale, and servicing of medium and large tube benders, and of the controls for same, each of
16 which consists of a use that is beyond the scope of the Small Tube Business, will cause
17 irreparable harm to the Eagle Parties unless it is restrained and enjoined.

18 51. On information and belief, as a direct and proximate result of ERIX's wrongful
19 conduct and breaches of contracts, as herein above alleged, ERIX has made substantial sales
20 and received substantial profits and other benefits which have unjustly enriched ERIX in an
21 amount to be determined at trial, all of which the Eagle Parties are entitled to recover.

22 52. On information and belief, as a direct and proximate result of ERIX's wrongful
23 conduct and breaches of contracts, as herein above alleged, ERIX has deprived the Eagle
24 Parties of substantial sales of goods and services, has damaged the distinctiveness and value
25 of the ELI Marks and the Eagle Marks, and have caused the Eagle Parties significant damages
26 in an amount to be proven at trial, all of which the Eagle Parties are entitled to recover.

27

1 sales and received substantial profits and other benefits which have unjustly enriched ERIX in
2 an amount to be determined at trial, all of which the Eagle Parties are entitled to recover.

3 63. On information and belief, as a direct and proximate result of ERIX's wrongful
4 conduct and false designation of origin, as herein above alleged, ERIX has deprived the Eagle
5 Parties of substantial sales of goods and services, and has caused the Eagle Parties significant
6 damages in an amount to be proven at trial, all of which the Eagle Parties are entitled to
7 recover.

8
9 **FOURTH CLAIM FOR RELIEF**

10 **(15 U.S.C. 1125 Section 1125(d))**

11 **(Against ERIX)**

12 64. Plaintiffs incorporate the allegations of paragraphs 1 through 63 herein as if
13 fully set forth.

14 65. As alleged herein above, ERIX wrongfully obtained control over the registration
15 of the domain name www.eatonleonard.com and registered it for itself, without the
16 permission of the Eagle Parties, by using an ERIX employee who was a former employee of
17 Eagle Precision and who had been Eagle Precision's Administrator of that domain name. This
18 registration was in bad faith, with a bad faith intent on the part of ERIX to profit from the use
19 of the mark "EATON LEONARD" in the subject domain name. ERIX posted an ERIX web site
20 at that domain name, on the Internet, offering ERIX's goods and services under the mark
21 "EATON LEONARD," which ERIX knew to be owned by Eagle Precision, and not by ERIX, in
22 order to divert customers to ERIX and to appropriate the name "EATON LEONARD" for itself.

23 66. On information and belief, as a direct and proximate result of ERIX's wrongful
24 conduct and cyber-piracy, as herein above alleged, ERIX has made substantial sales and
25 received substantial profits and other benefits which have unjustly enriched ERIX in an
26 amount to be determined at trial, all of which the Eagle Parties are entitled to recover.

27 67. On information and belief, as a direct and proximate result of ERIX's wrongful
28 conduct and cyber-piracy, as herein above alleged, ERIX has deprived the Eagle Parties of

1 substantial sales of goods and services, and has caused the Eagle Parties significant damages
2 in an amount to be proven at trial, all of which the Eagle Parties are entitled to recover.

3 68. As and to the extent permitted by statute, including 15 U.S.C. Section 1117, the
4 Eagle Parties, and each of them, are entitled to receive statutory damages, if they so elect.

5 69. Eagle Precision also is entitled to an order transferring the domain name
6 registration www.eatonleonard.com to it.

7
8 **FIFTH CLAIM FOR RELIEF**

9 (California Business and Professions Code Section 17200)

10 (Against ERIX)

11 70. Plaintiffs incorporate the allegations of paragraphs 1 through 69 herein as if
12 fully set forth.

13 71. The acts of ERIX as alleged hereinabove constitute unfair competition, as they
14 constitute unlawful, unfair, or fraudulent practices within the meaning of California Business
15 and Professions Code Sections 17200 et seq.

16 72. The Eagle Parties will suffer irreparable harm and damage by these acts of
17 unfair competition by ERIX to the detriment of their business relationships and potential
18 customers, of which the exact extent, nature and amount of such damage is impossible to
19 ascertain, if ERIX's wrongful acts are not restrained and enjoined. The Eagle Parties have no
20 adequate remedy at law for the injuries threatened by ERIX's unlawful business practices and
21 any legal remedy, including monetary damages, will be inadequate. The Eagle Parties are
22 entitled to injunctive relieve and restitution under Bus. & Prof. Code Sections 17200 et seq.

23
24 **SIXTH CLAIM FOR RELIEF**

25 (Unfair Competition and Misappropriation at Common Law)

26 (Against ERIX)

27 73. Plaintiffs incorporate the allegations of paragraphs 1 through 72 herein as if
28 fully set forth.

1 "EATON LEONARD ROBOLIX" and not "EATON LEONARD," this would cause ERIX to breach
2 its obligations under the Asset Agreement.

3 86. As a consequence of the Jaubert Parties' interference with the Eagle Parties'
4 rights and benefits under the Asset Agreement, and their causing and aiding and abetting
5 ERIX to breach same, the Eagle Parties have suffered significant damages in an amount to be
6 proven at trial.

7 87. Plaintiffs are informed and believe and based thereon allege that the Jaubert
8 Parties engaged in this conduct in bad faith, with malice, oppression and fault, and in
9 conscious disregard of Plaintiffs' rights, and that punitive damages are necessary and
10 appropriate to serve as a deterrent and punishment for the Jaubert Parties' acts.

11 88. Plaintiffs are also entitled to an order commanding the Jaubert Parties to
12 transfer the registrations of the two French trademarks noted above to Eagle Precision.

13
14 ELEVENTH CLAIM FOR RELIEF

15 (Declaratory Relief)

16 (Against ERIX)

17
18 89. Plaintiffs incorporate the allegations of paragraphs 1 through 88 herein as if
19 fully set forth.

20 90. The Eagle Parties seek the following Declarations from the Court: that ERIX
21 materially breached the May 29, 2000 agreements referenced herein above, by going beyond
22 the agreed upon scope of the licenses granted to it (including, but not limited to, the license
23 to the Licensed Patents, the license to the ELI Marks, the license to the Premier Source Code,
24 and the license to the Medium and Large Tube Plans); that ERIX was only licensed to access
25 and use those assets in connection with the Small Tube Business, and, then, only under the
26 name "EATON LEONARD ROBOLIX"; and that a consequence of ERIX's breach is that ERIX
27 has forfeited and lost all right to use any of the ELI Marks in any manner (even to use
"EATON LEONARD ROBOLIX" with small tube benders and VMM), and has forfeited and lost

1 all right to use any of the Licensed Patents, Premier Source Code, and Medium and Large
2 Tube Bender Plans in any manner (even as to small tube benders and the controls for same).

3
4 **TWELFTH CLAIM FOR RELIEF**

5 **(Declaratory Relief)**

6 **(Against Financiere Robolix S.A.R.L.)**

7
8 91. Plaintiffs incorporate the allegations of paragraphs 1 through 90 herein as if
9 fully set forth.

10 92. On or about May 29, 2000, the Eagle Parties, ELI, ERIX, and Robolix entered
11 into an agreement entitled "Shareholders Agreement" (the "Shareholders Agreement"), a true
12 and correct copy of which is attached hereto as Exhibit 2.

13 93. The Eagle Parties have fully performed all acts, conditions, covenants, promises
14 and other obligations required to be performed by them under the Shareholders Agreement.

15 94. The Eagle Parties seek the following Declarations from the Court: that Robolix
16 has failed to comply with its obligations under Section 6.3(c), Section 6.3(d), and Section
17 7.1(a) of the Shareholders Agreement, as and when required thereby, and has breached the
18 covenant of good faith and fair dealing that is implied into the Shareholders Agreement by
19 California law; that by failing to comply with the foregoing provisions, Robolix has lost any
20 right that it previously may have had to purchase the ownership interest of ELI (in ERIX)
21 pursuant to Sections 6.3 and 7.1 of the Shareholders Agreement; and that by failing to
22 comply with the foregoing provisions, Robolix now is a Defaulting Party under Section 6.1(e)
23 entitling the other ERIX shareholder(s) to exercise their right(s) under Sections 6.3 and 7.1.

24 WHEREFORE, Plaintiffs pray for judgment as follows:

25 A. For an injunction enjoining ERIX and its agents, servants, employees, and all
26 persons acting under, in concert with, or for it from:

- 1 1. Using the ELI Marks and/or the Eagle marks and/or the trade names
- 2 EATON LEONARD, EAGLE EATON LEONARD, EATON LEONARD U.S., EATON LEONARD
- 3 EUROPE, and any other name or trademark including the words "EATON" and "LEONARD";
- 4 2. Otherwise infringing the ELI Marks and/or the Eagle Marks and/or
- 5 passing itself off as "EATON LEONARD," as the successor to ELI, or as either of the Plaintiffs;
- 6 3. Causing likelihood of confusion, deception, or mistake;
- 7 4. Posting any web site at www.eatonleonard.com, and registering same;
- 8 5. Using the Licensed Patents;
- 9 6. Using the Premier Source Code;
- 10 7. Using the Medium and Large Tube Bender Plans;
- 11 8. Fulfilling, directly or indirectly, any order from Lynch Machinery or the
- 12 Department of Defense under or relating to the 6011 Contract, for any product or service.

13 B. For an order directing ERIX to file with this Court and serve on Plaintiffs within

14 30 days after service of an injunction, a report in writing under oath, setting forth in detail

15 the manner and form in which ERIX has complied with the injunction;

16 C. For an order requiring ERIX to deliver up and destroy all infringing materials;

17 D. For all of ERIX's profits and other benefits derived from its use and infringement

18 of the ELI Marks and Eagle Marks, for its passing itself off as "EATON LEONARD" and as

19 "EAGLE EATON LEONARD, for its cyber-piracy of and use of a web site at the domain name

20 at www.eatonleonard.com, for its use of the Premier Source Code, for its use of the Medium

21 and Large Tube Bender Plans, for its conduct with respect to the contract with Lynch and the

22 Department of Defense relating to the 6011 Contract, for its use of the Licensed Patents, the

23 ELI Marks, the Premier Source Code, and the Medium and Large Tube Bender Plans beyond

24 the scope of the licenses, and for its conversion of property and other wrongs alleged herein;

25 E. For an order requiring ERIX to deliver up and to transfer to Eagle Precision the

26 registration to the domain name www.eatonleonard.com, and to deliver up and transfer to

27 Eagle Precision full possession, physical custody, and control of the Premier Source Code and

28 all copies thereof, and of the Medium and Large Tube Bender Plans, and all copies thereof;

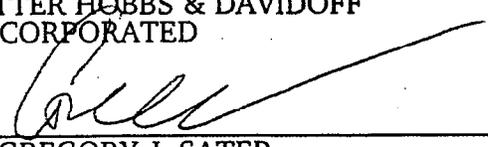
- 1 F. For an order requiring the Jaubert Parties to deliver up and to transfer to Eagle
2 Precision the registration to the trademarks which the Jaubert Parties registered in France;
3 G. For compensatory damages against ERIX;
4 H. For compensatory damages against the Jaubert Parties, and each of them;
5 I. For declaratory relief, as to Robolix, and as to ERIX, as requested above;
6 J. For constructive trust, as to ERIX and the domain name www.eatonleonard.com
7 and as to the Jaubert Parties and the trademarks which they registered in France;
8 K. For three times the amount of Plaintiffs' actual damage caused by infringement;
9 L. For Plaintiffs' reasonable attorneys' fees expended in this action;
10 M. For statutory damages, as applicable and if elected;
11 N. For punitive damages in an amount sufficient to set an example and to deter;
12 O. For restitution;
13 P. For costs of suit incurred herein; and
14 Q. For such further relief as the Court may deem proper.

15
16 **DEMAND FOR JURY TRIAL**

17 The Eagle Parties, and each of them, hereby demand a trial by jury, pursuant to Rule
18 38(b) of the Federal Rules of Court Procedure of any issue triable by right of jury.

19
20 DATED: July 12, 2004

RUTTER HOBBS & DAVIDOFF
INCORPORATED

21
22 By: 
23 GREGORY J. SATER
24 Attorneys For
25 EAGLE PRECISION TECHNOLOGIES, INC. and
26 EAGLE TECHNOLOGIES SERVICES, LTD.
27

INDEX OF EXHIBITS

Exhibit 1 – License Agreement (pages 26 – 37)

Exhibit 2 – Shareholders Agreement (pages 38 – 62)

Exhibit 3 – Asset Transfer and Subscription Agreement (pages 63 – 84)

LICENSE AGREEMENT

THIS AGREEMENT made as of the 29th day of May, 2000.

BETWEEN:

EATON LEONARD, INC., a corporation incorporated
under the laws of California

(the "Licensor")

- and -

EATON LEONARD ROBOLIX, INC., a corporation
incorporated under the laws of California

(the "Licensee")

RECITALS

- A. The Licensor is the owner of the Patent Rights, as defined herein, and has the right to grant rights thereunder.
- B. The Licensor has agreed to grant the Licensee a license to use the Patent Rights upon the terms and conditions hereinafter set forth.

NOW THEREFORE in consideration of the premises and the following mutual covenants and for other good and sufficient consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I - DEFINITIONS

1.1 Definitions.

Wherever used in this Agreement, unless there is something in the subject matter or context inconsistent therewith, the following words and terms shall have the respective meanings ascribed to them as follows:

- (a) "Agreement" means this agreement entitled "License Agreement," the Schedules hereto, and all instruments supplemental hereto or in amendment or confirmation hereof;
- (b) "Confidential Information" shall mean and include any and all know-how, trade secrets, engineering and technical information and data, commercial and marketing information and data related in any way to the Patent Rights, Products or Improvements disclosed by either party to the other pursuant to the terms or

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related to the objects of this Agreement whether disclosed orally or in drawings or other documents and which have not been made public anywhere by anyone;

- (c) "Improvements" means any technical improvement, development, invention, modification, betterment and the like to the Patent Rights or Products made or acquired by the Licensor or the Licensee;
- (d) "Know-how" means information of a scientific or technical nature now or hereafter possessed by the Licensor within the scope of this Agreement (including reports, drawings, specifications, test data, and any other information disclosed by the Licensor to the Licensee) relating to the Patent Rights, Products and Improvements;
- (e) "Products" means small-diameter (meaning less than 45mm) metal tube benders;
- (f) "Patents" means the patent applications set out on Schedule A;
- (g) "Patent Rights" means the Licensor's right, title and interest in and to the Patents, the Know-how, and Improvements, subject to any security interests, title or other issues described in correspondence dated April 18, 2000 from Brown, Martin, Haller & McGlain LLP attached hereto as Schedule "B";
- (h) "Term" has the meaning given to such term in Section 3.1 hereof.

1.2 Schedules.

The following schedule is annexed hereto and forms part of the Agreement:

Schedule "A" - Patents

Schedule "B" - Patent Rights

ARTICLE II - GRANT

2.1 Grant and Term.

Subject to the provisions of this Agreement, the Licensor hereby grants to the Licensee for the Term of this Agreement a royalty-free license to use the Patent Rights for the manufacture and sale of Products worldwide, subject to the amendment of the exclusive license granted by the Licensor or Fabbrica Macchine Curvatubi Crippa Agastino S.p.A. ("Crippa") in respect of U.S. patent application no. 4,495,788 (Multiple Curvature Bender - "Head Shift") to permit a license of such patent in favour of each of the Licensee and Eagle Precision Technologies Inc.

2.2 Acknowledgement of the Licensor's Rights.

The Licensee acknowledges the Licensor as the owner of the Patent Rights and recognizes that the Licensor shall be free to use the Patent Rights other than in connection with

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the manufacture and sale of the Products in North America and that Burger GmbH is free to use the Patent Rights in connection with the manufacture and sale of the Products worldwide.

ARTICLE III - TERM

3.1 Term.

The term of the license for each Patent is the period commencing on the date of this Agreement and ending on the date on which such Patent expires.

ARTICLE IV - REPRESENTATIONS AND COVENANTS OF THE LICENSOR

4.1 Representations and Warranties.

The Licensor represents and warrants to the Licensee that:

- (a) except for the license in favour of Crippa, it is the owner of the entire right, title and interest in and to the Patent Rights and that it has the right to grant to the Licensee the license hereby granted;
- (b) the Patent Rights, to the best of the Licensor's knowledge, do not infringe the rights of any other person, firm or corporation;
- (c) except for the license in favour of Crippa, no other person, firm or corporation has any right, title, or claim to the Confidential Information or Patent Rights and there are no outstanding assignments, grants, licenses, encumbrances, obligations, or agreements, either written or oral, express or implied, inconsistent with this Agreement; and
- (d) the Licensor has applied for or obtained the Patent Rights listed in Schedule "A" to this Agreement.

4.2 Confidential Information.

The Licensor shall furnish to the Licensee all Confidential Information presently in its possession and subsequently acquired during the term hereof as may reasonably required by the Licensee. The Licensee shall not disclose the Confidential Information provided to it by the Licensor without the prior consent of the Licensor except such matters as may first be made public by the Licensor or others who have obtained such information from the Licensor. The Licensor shall not disclose any Confidential Information provided to it by the Licensee without the prior consent of the Licensee except such matters as may first be made public by the Licensee or others who have obtained such information from the Licensee.

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ARTICLE V - PATENT FILING AND ENFORCEMENT

5.1 Patent Filing and Prosecution.

The Licensor hereby consents to the filing and prosecution by the Licensee in the name at the expense of the Licensee of all patent applications that the Licensee is desirous of instituting in connection with the Products or any Improvements devised or acquired by the Licensor or Licensee at any time during the term of this Agreement, including, without limitation, any divisions, continuations, continuations-in-part, reissues and renewals of such patent(s) and shall co-operate with and assist the Licensor or Licensee with respect thereto. The Licensor shall maintain all Patent Rights in good standing by paying any required maintenance, renewal or annuity fees required. The Licensor shall, without charge to the Licensee, execute such documents as shall be required in order to give effect to the provisions of this paragraph and shall, without charge to the Licensee, provide direction, technical assistance and advice for attorneys in the filing and prosecution thereof.

5.2 Enforcement of Patents.

Each party shall keep diligent watch during the term of this Agreement for any devices which may, in the opinion of such party, infringe any or all claims of any or all of the Patent Rights, and the parties agree as follows:

- (a) Upon discovery of any such infringement, suspected, threatened or actual, a party shall promptly deliver to the other party notice of the facts known to it and upon which it bases its opinion of suspected, threatened, or actual infringement and outlining any proceedings considered necessary to enforce any or all of the Patents.
- (b) Upon discovery of such infringement or upon receipt of the notice referred to in paragraph 5.2(a), the Licensor shall have 90 days to commence appropriate proceedings against the alleged infringer. The benefits of any proceedings commenced by the Licensor shall accrue to, and the costs of any such proceedings shall be borne by, the Licensor. Nothing in this paragraph makes it mandatory for the Licensor to commence such proceedings.
- (c) If within said 90 day period the Licensor does not commence appropriate proceedings against the alleged infringer, the Licensor must notify the Licensee. Upon receipt of such notice, if the alleged infringement has not ceased, the Licensee shall have the right to commence appropriate proceedings against the alleged infringer. If the Licensee institutes such proceedings, the Licensor shall execute any papers necessary for such proceedings and shall provide any evidence and available technical information to the Licensee. The benefits of any proceedings commenced by the Licensee shall accrue to, and the costs of any such proceedings shall be borne by, the Licensee. Nothing in this paragraph makes it mandatory for the Licensee to commence such proceedings.

- (d) If within six months of the discovery of the infringement or receipt of notice referred to in paragraph 5.2(a) the infringement shall not have ceased, the royalty obligations of the Licensee hereunder shall be suspended unless and until appropriate proceedings have been commenced and are being diligently prosecuted.

In the event that proceedings are instituted pursuant to paragraphs 5.2(b) or 5.2(c), if the party commencing the action does not prosecute the action diligently, the other party hereto may, at its option, take over prosecution of the action and assume the benefits and costs related thereto.

ARTICLE VI - TECHNICAL ASSISTANCE

6.1 Technical Assistance.

The Licensor shall, at its own expense, provide or cause to be made available such technical assistance and instruction in the use and application of the Patent Rights as the Licensee may from time to time reasonably require.

ARTICLE VII - IMPROVEMENTS

7.1 Ownership and License of the Licensee Improvements.

If the Licensee devises or acquires any substantial or patentable Improvement, but not including development of the manufacturing methods, processes and equipment, the Licensee shall disclose such Improvement. The Licensee agrees that such Improvement shall be the sole property of the Licensor and that the Licensor shall (at the Licensor's expense) have the right to apply for whatever patents it wishes in respect of such Improvements. The Licensor acknowledges that any Improvements made or acquired by the Licensee shall be deemed to be included in the licence granted to the Licensee hereunder and subject to the terms and conditions hereof. The parties agree to execute such assignments and other documents as may be necessary to give effect to this section 7.1.

7.2 Ownership and License of the Licensor Improvements.

The Licensor acknowledges that any Improvements made or acquired by it shall be deemed to be included in the license granted to the Licensee hereunder and subject to the terms and conditions hereof. The Licensee acknowledges and agrees that any Improvements made or acquired by it shall without payment of any additional consideration become the property of the Licensor. Such Improvements shall be deemed to be included in the license granted to the Licensee hereunder and subject to the terms and conditions hereof. The parties agree to execute such assignments and other documents as may be necessary to give effect to this section 7.2.

ARTICLE VIII - QUALITY OF PRODUCTS

8.1 Quality Control.

The Licensee shall take such precautions and institute procedures as to assure that all Products comply with applicable laws and regulations, and that all Products manufactured and sold under this Agreement shall be in all material respects safe, non-injurious and fit for use by the persons for whom such Products are intended.

ARTICLE IX - PATENT MAINTENANCE

9.1 Maintenance, Registration, and Approvals.

The Licensor agrees that it will, during the currency of this Agreement, maintain the Patent Rights in good standing at its expense. The parties agree to execute further forms of this Agreement for registration purposes if required and cause them to be registered in the appropriate patent registries in respect of patents now or hereafter granted related to the Patent Rights.

ARTICLE X - INFRINGEMENT

10.1 Infringement by Unauthorized Persons.

The Licensee shall defend or settle at its sole cost and expense any suit or proceeding brought against the Licensee based on a claim that the Products or the use thereof constitutes an infringement of an existing patent or other industrial property right existing at the date of this Agreement and shall pay all damages and costs awarded therein against the Licensee. The benefits of any such suit or proceeding shall accrue to the Licensee. If the Products, in the reasonable opinion of the Licensee, are likely to or do become the subject of a claim for patent or other industrial property right infringement, the Licensor shall, at the option of the Licensee and at the Licensee's sole cost and expense, procure for the Licensee the right to continue using same, or modify same to become non-infringing if such is reasonably possible.

10.2 Prosecution of Action.

In the event that proceedings are instituted pursuant to paragraph 12.1 hereof, if the Licensee does not prosecute the action diligently, the Licensor may, at its option, take over prosecution of the action. The benefits of any action so assumed by the Licensor shall accrue to the Licensor and costs related thereto shall be borne by the Licensor.

ARTICLE XI - TERM AND TERMINATION

11.1 Term and Termination.

This Agreement shall continue until the expiration of the Term provided that the Licensee shall be deemed to be in default under this Agreement and the Licensor may at its

option terminate this Agreement and all rights granted herein effective immediately without notice or prior opportunity to cure the default if the Licensee:

- (a) makes a general assignment for the benefit of creditors, if a petition in bankruptcy is filed against the Licensee, if the Licensee shall be declared or adjudicated bankrupt, if a liquidator, trustee in bankruptcy, custodian, receiver, receiver and manager or any other officer with similar powers shall be appointed of or for the Licensee or if the Licensee shall commit any act of bankruptcy or institute proceedings to be adjudged bankrupt or insolvent or consents to the institution of such appointment or proceedings or admits in writing inability to pay debts generally as they become due; or
- (b) is in default of any obligations under this Agreement and fails to cure such default or satisfy the Licensor that such default has been cured within 30 days after receiving notice from the Licensor to cure the same.

11.2 Termination by Agreement.

The parties may terminate this Agreement at any time by mutual agreement.

11.3 Rights on Termination.

In the event of the expiration or termination of this Agreement for any reason, all future and continuing rights and obligations under this Agreement shall terminate, subject to:

- (a) the obligations of confidentiality;
- (b) the rights of either party to enforce any right accrued, and seek remedies for breach of this Agreement committed during the Term of this Agreement; and
- (c) the right of the Licensee to

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- (i) complete the manufacture of Products in the process of manufacture at the date of termination;
- (ii) manufacture Products with respect to which manufacture has been firmly committed at the date of termination by reason of either any contract for the sale Products or any contract for the purchase of materials or components to be used in the manufacture of Products; and
- (iii) dispose of Products on hand at the date of expiration or termination or made under the authority of clauses (i) or (ii) hereof.

ARTICLE XII - ASSIGNMENT AND SUCCESSION

12.1 Non-Assignability.

This Agreement or any interest herein is not assignable by either party without the prior written consent of the other party, which consent shall not be unreasonably withheld provided, however, that the Licensee shall be able to assign its interest hereunder to an affiliate without the consent of the Licensor.

12.2 Written Agreement.

Any assignment authorized hereunder shall require the delivery to the other party hereto of the assignee's written agreement by an instrument of equal formality to this Agreement to be bound hereby.

12.3 Successors and Assigns

This Agreement shall be binding upon and, except as otherwise expressly provided therein, shall enure to the benefit of the parties hereto and their respective heirs, administrators, executors, successors and permitted assigns.

ARTICLE XIII - MISCELLANEOUS

13.1 Article and Section Headings.

The insertion of headings and the division of this Agreement into articles and sections are for convenience of reference only and shall not affect the interpretation hereof.

13.2 Entire Agreement.

This Agreement and the schedules hereto constitute the entire agreement between the parties pertaining to the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions with respect to the subject matter hereof whether oral or written. Except as provided in such materials, there are no conditions, representations, warranties, undertakings, promises, inducements or agreements whether direct, indirect, collateral, express or implied made by the Licensor to the Licensee. No supplement,

modification or waiver of this Agreement shall be binding unless executed in writing by authorized officers of the Licensor and the Licensee.

13.3 Applicable Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of California and the laws of the United States applicable therein and shall be treated, in all respects, as a California contract. The parties to this Agreement hereby irrevocably attorn to the non-exclusive jurisdiction of the courts of the State of California with venue in San Diego County and hereby waive any objection to such choice of venue and inconvenient forum.

13.4 Force Majeure.

If the performance of this Agreement or of any obligations hereunder by either party, other than the payment of royalties or other sums payable under this Agreement, is prevented, restricted or interfered with by reason of any circumstance whatsoever beyond the reasonable control of the party so affected, such party, upon giving prompt notice to the other party, shall be excused from such performance to the extent of such prevention, restriction or interference; provided that the party so affected shall use its best efforts to avoid or remove such causes of non-performance and shall continue performance hereunder with the utmost dispatch whenever such causes are avoided or removed.

13.5 Severability.

The invalidity or unenforceability of any provision of this Agreement or any covenant herein contained shall not affect the validity or enforceability of any other provision or covenant hereof or herein contained and any other invalid provision or covenant shall be deemed to be severable.

13.6 Non-Waiver.

The failure of either party to exercise any right, power or option given hereunder or to insist upon the strict compliance with the terms and conditions hereof by the other party shall not constitute a waiver of the terms and conditions of this Agreement with respect to that or any other or subsequent breach thereof nor a waiver by such party of its rights at any time thereafter to require strict compliance with all terms and conditions hereof.

13.7 Survival.

All obligations of the Licensor and the Licensee which expressly or by their nature survive termination or transfer of this Agreement shall continue in full force and effect subsequent to and notwithstanding such termination or transfer and until they are satisfied or by their nature expire.

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13.8 Notices and Language.

All notices, requests, demands or other communications required or permitted to be given by one party to another under this Agreement shall be given in writing by personal delivery, facsimile or by registered mail, postage prepaid, addressed to such other party or delivered to such other party as follows:

(a) if to the Licensor: 6030 Avenida Encinas
Carlsbad, California 92009
U.S.A.

Attention: Alex Kepecs

(b) if to the Licensee: Route de Sarrant
32430 Cologne - France

Attention: Philippe Jaubert

with a copy to: 6030 Avenida Encinas
Carlsbad, California 92009
U.S.A.

Attention: Alex Kepecs

or at such other address of which written notice is given and such notices, requests, demands or other communications shall be deemed to have been received when personally delivered, on the next Business Day after sending if sent by facsimile, or, if mailed, on the fourth Business Day after the mailing thereof; provided that if any such notice, request, demand or other communication shall have been mailed and if regular mail service shall be interrupted by strikes or other irregularities on or before the fourth Business Day after the mailing thereof, such notice, request, demand or other communication shall be deemed to have been received only upon personal or facsimile delivery.

13.9 Cumulative Rights.

The rights of each party hereunder are cumulative and no exercise or enforcement by a party of any right or remedy hereunder shall preclude the exercise or enforcement by such party of any other right or remedy hereunder or which such party is otherwise entitled by law to enforce.

13.10 Further Assurances.

The parties agree to do or cause to be done all acts or things necessary to implement and carry into effect this Agreement to its full extent.

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13.11 Time of Essence.

Time shall be of the essence of this Agreement and of each and every part thereof.

13.12 Counterparts.

This agreement may be executed in counterparts all of which shall be construed together and shall constitute one agreement.

13.13 Facsimile Signatures.

The parties agree that this Agreement may be executed by the parties transmitted by facsimile transmission to the respective parties at the facsimile numbers set out in Section 13.8 above and, if so executed and transmitted, this Agreement will be for all purposes as effective as if the parties had delivered an executed original Agreement.

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

EATON LEONARD, INC.

Per:

 _____

EATON LEONARD ROBOLIX, INC.

Per:

 _____

SCHEDULE A

PATENTS

Title	Country	Application No.	Application Date
Multiple Curvature Bender - "Head Shift"	United States	4,495,788	01/29/85
Link Drive for Bending Arm of Tube Bending Machines	United States	4,750,346	06/14/88
Bend Arm Apparatus for Tube Bending Machine with Cammed Clamp	United States	4,760,726	02/8/88
Method for Tube Bending with Controlled Clamp Die Arrangement.	United States	4,870,849	03/10/89
Quick Release Collet	United States	4,867,463	09/19/89
Carriage Boost Drive	United States	5,426,965	06/27/95
Real Time Process Controller with Serial I/O Bus	United States	4,910,658	

(124)GARVIES0272050.5
994398 EAGA

SHAREHOLDERS AGREEMENT

This Agreement made as of the 29th day of May, 2000.

AMONG:

EATON LEONARD, INC., a corporation incorporated under the laws of California ("Eaton")

- and -

FINANCIERE ROBOLIX S.A.R.L., a corporation incorporated under the laws of France ("Robolix")

- and -

EAGLE PRECISION TECHNOLOGIES INC., a corporation incorporated under the laws of Ontario ("Eagle")

- and -

EATON LEONARD ROBOLIX, INC., a corporation incorporated under the laws of California (the "Corporation")

- and -

Such other persons as may become bound by this Agreement pursuant to section 5.2 of this Agreement

WHEREAS the authorized capital of the Corporation consists of 1,000,000 shares of common stock;

AND WHEREAS the issued and outstanding shares in the capital of the Corporation consist of 1,000 common shares;

AND WHEREAS Eaton and Robolix are the holders of record and the beneficial owners of the following number of issued and outstanding shares in the capital of the Corporation:

May 24, 2000

articles or by-laws of the Corporation, as the case may be, to resolve such conflict so that the provisions of this Agreement shall prevail to the maximum extent permitted by law. To the extent that this Agreement specifies that any matter is to be approved by the Shareholders, the Shareholders shall have all of the rights, powers, duties and liabilities of the directors of the Corporation and the discretion and power of the directors of the Corporation to manage and supervise the management of the Corporation is restricted, and the directors of the Corporation are relieved of their duties and liabilities in respect thereof.

1.5 Endorsement of Share Certificates.

The share certificates representing the Shares shall bear the following legend:

"This Corporation is a close corporation. The number of holders of record cannot exceed thirty-five (35). Any attempted voluntary *intervivos* transfer which would violate this requirement is void. Refer to the articles, bylaws and shareholder agreements on file with the Secretary of the Corporation for further restrictions."

ARTICLE II
DEFINITIONS AND INTERPRETATION

2.1 Definitions.

As used in this Agreement or any amendment to this Agreement, the following terms shall have the following meanings:

- (a) "Act" means the California Corporations Code, as the same may be amended, restated or replaced from time to time;
- (b) "Affiliate" means an affiliated body corporate within the meaning of subsection 2.2(g) of this Agreement;
- (c) "Agreement" means this Agreement and all schedules attached hereto and all amendments and supplements hereto and thereto and all restatements and replacements hereof and thereof;
- (d) "Associate" where used to indicate a relationship with any Person means,
 - (i) any body corporate of which the Person beneficially owns, directly or indirectly, voting securities carrying more than 10 per cent of the voting rights attached to all voting securities of the body corporate for the time being outstanding,
 - (ii) any partner of that Person,

- (iii) any trust or estate in which the Person has a substantial beneficial interest or as to which the Person serves as trustee or in a similar capacity,
 - (iv) any relative of the Person, including the Person's spouse, where the relative has the same home as the Person, or
 - (v) any relative of the spouse of the Person where the relative has the same home as the Person;
- (e) "Assumption Agreement" means an agreement executed by a transferee of Shares that a Shareholder proposes to Transfer, pursuant to which the transferee of those Shares agrees to be bound by this Agreement in the same manner as if it had been an original party hereto and to the same extent as the transferor Shareholder;
- (f) "Budget" means the then current annual budget (including projections of cash flow, capital expenditure and income) and a business and marketing plan for the Corporation approved pursuant to section 3.10;
- (g) "Business" means the business of (i) manufacturing, marketing and selling small-diameter (meaning a diameter of less than 45mm) metal tube benders or metal wire benders, (ii) manufacturing, marketing and selling the VB200HP bender or such replacements or upgrades of such machine as may be developed in the future, and (iii) manufacturing, marketing and selling metal tube measuring machines;
- (h) "Business Day" means every day except Saturdays, Sundays and statutory holidays in the State of California;
- (i) "Cash Flow" means an amount arrived at by (i) determining the net income after tax of the Corporation, and (ii) adding back non-cash charges to income such as depreciation and amortization, all as determined from the audited financial statements of the Corporation in accordance with generally accepted accounting principles;
- (j) "Common Share" means a common share in the capital of the Corporation;
- (k) "Control" means control in fact, whether direct or indirect; shares are controlled if the voting rights which attach to those shares are controlled;
- (l) "Event of Default" has the meaning attributed thereto in section 6.1;
- (m) "Fair Market Value" has the meaning attributed thereto in section 6.4;
- (n) "Fiscal Year" means the period commencing on March 1st and ending on February 28th or 29th in the following calendar year;
- (o) "Management Committee" has the meaning attributed thereto in section 3.7;

(p) "Material Decision" means any decision involving:

- (i) the declaration or payment of any dividends or any other distribution in respect of any securities of the Corporation except as contemplated by this Agreement or any other distribution of any nature (including repayment of loans) to any Person not acting at arm's length with the Corporation or any of its Shareholders;
- (ii) the issuance of additional shares in the capital of the Corporation;
- (iii) the sale or disposition of any assets or property by the Corporation during any Fiscal Year (whether in one or more transactions) with an aggregate book value in excess of \$20,000 which have not been expressly provided for in the Budget for that Fiscal Year;
- (iv) the Corporation making or committing to make during any Fiscal Year capital expenditures which, in the aggregate, exceed \$20,000 and which have not been expressly provided for in the Budget for that Fiscal Year;
- (v) the Corporation establishing, acquiring or otherwise becoming involved in any corporate entity or any partnership, joint venture or similar arrangements;
- (vi) the Corporation hiring any employee whose annual remuneration exceeds \$75,000 per annum (inclusive of all benefits), or amending, terminating or otherwise altering or waiving the terms of any employment, consulting or management contract with respect to an individual whose annual remuneration exceeds that amount;
- (vii) the Corporation entering into any transactions with officers, directors or employees or other Persons with whom they do not act at arm's length;
- (viii) the Corporation borrowing any funds from a Shareholder or entering into, modifying or cancelling any credit facility (other than in the ordinary course to fund working capital needs expressly contemplated by the Budget for the applicable Fiscal Year,);
- (ix) the creation of any mortgage, lien, charge or other form of encumbrance with respect to any of the assets of the Corporation or its subsidiaries other than in the ordinary course of the Corporation's business;
- (x) the alteration of the nature of the Corporation's business or otherwise engaging in other businesses or activities that are not incidental to the businesses or activities presently undertaken by the Corporation;
- (xi) the entering into of any agreement with a term in excess of one year which contemplates the payment by or to the Corporation of more than \$20,000

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- (v) the Person making the offer certifies that it is not required to give notice of the proposed acquisition to any governmental regulatory body or has given notice as required and received all required approvals;
- (w) "Transfer" means to sell, assign, surrender, gift, transfer, pledge, mortgage, charge, create a security interest in, hypothecate or otherwise encumber any of the Shares or any interest, whether legal or beneficial, in the Shares, whether voluntary, involuntary, by operation of law or otherwise.

2.2

Construction.

In this Agreement, except as otherwise expressly provided:

- (a) all words and personal pronouns relating thereto shall be read and construed as the number and gender of the party or parties require and the verb shall be read and construed as agreeing with the required word and pronoun;
- (b) the division of this Agreement into Articles and sections and the use of headings is for convenience of reference only and shall not modify or affect the interpretation or construction of this Agreement or any of its provisions;
- (c) references in this Agreement to Articles and sections are references to Articles and sections of this Agreement.
- (d) when calculating the period of time within which or following which any act is to be done or step taken pursuant to this Agreement, the date which is the reference day in calculating such period shall be excluded. If the last day of such period is not a Business Day, the period in question shall end on the next Business Day;
- (e) all dollar amounts are expressed in U.S. funds;
- (f) all accounting terms which are not specifically defined shall be construed in accordance with accounting principles which are generally accepted in the United States; and
- (g) one body corporate shall be deemed to be affiliated with another body corporate if, but only if, one of them is the subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same Person.

ARTICLE III
OPERATION OF THE CORPORATION

3.1

Business of the Corporation.

The Shareholders agree that the business of the Corporation shall be the Business.

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3.2 Directors.

Until such time as either Eaton or Robolix own less than 40% of the Common Shares, each of Eaton and Robolix shall be entitled to nominate and elect one-half of the members of the board of directors of the Corporation, which shall consist of four directors. The initial directors nominated and elected by the Shareholders are as follows:

<u>Director</u>	<u>Nominator</u>
David Azoulay	Eaton
Alex Kepecs	Eaton
Philippe Jaubert	Robolix
Francois Patanchon	Robolix

Notwithstanding any provision of the Act to the contrary, all Material Decisions shall require the unanimous consent of the directors of the Corporation.

3.3 Altered Structure.

If, at any time, Eaton or Robolix own less than 40% of the outstanding Common Shares:

- (a) it shall cause one of its nominees to the board of directors of the Corporation to resign and the other Shareholder shall be entitled to nominate and elect a director of the Corporation in his or her place; and
- (b) all decisions to be made by the directors of the Corporation shall be made by a majority of the directors voting thereon.

3.4 Meetings of Directors.

Meetings of the board of directors shall be held on the first day of May, August, November and February in each calendar year at a time and place to be determined by the Chairman of the Corporation. At least 15 Business Days before each meeting of the directors, each director shall receive a written notice from the Secretary of the Corporation indicating the time and place of the meeting and providing a summary of the matters to be considered. Additional meetings of the board of directors may be called by any director by the delivery of a written notice to every other director containing the information required and the notice to be delivered in connection with the regularly scheduled meeting. A director may waive notice of a meeting by an instrument in writing delivered to the Chairman of the Corporation at or prior to the meeting.

3.5 Material Decisions.

No Material Decisions shall be implemented without the unanimous prior approval of the directors of the Corporation. All decisions relating to the Corporation which are not Material Decisions shall be implemented by majority decision of the Management Committee.

3.6 Appointment of Directors.

The Shareholders shall take all actions that may be required to ensure the election or appointment of the directors as contemplated by this Article. On the appointment or election of each director, the Secretary of the Corporation shall make note of the nominator, and the nominator shall be entitled by direction in writing from time to time to remove its nominee and nominate a successor who shall, promptly upon the resignation of the existing director, be elected a director to replace the individual previously nominated.

3.7 Management Committee.

The directors of the Corporation will appoint a management committee (the "Management Committee") to oversee and to make all decisions (other than Material Decisions) relating to the management and operations of the Corporation (including, without limitation, the appointment, instruction and direction of the officers of the Corporation). Members of the Management Committee need not be directors of the Corporation. The Management Committee shall consist of one nominee of Eaton and two nominees of Robolix unless and until the Corporation has recorded a negative cumulative Cash Flow of at least \$500,000. In the event that the Corporation has recorded such a negative cumulative Cash Flow, Robolix shall cause one of its nominees to the Management Committee to resign and Eaton shall be entitled to nominate a manager in his or her place.

3.8 Indemnification of the Directors and Officers.

The Shareholders shall, on a several and pro-rata basis (based on their shareholdings in the Corporation), indemnify and save the directors and officers harmless from and against any and all liability, damages, costs (including reasonable counsel fees and disbursements), charges and expenses arising out of or related to any act or omission done or permitted by them to be done in connection with the execution of the duties of their office as directors of the Corporation or by reason of their being or having been directors of the Corporation, including (without limitation):

- (a) any amounts paid to settle an action or satisfy a judgment, that the directors may sustain or incur in respect of any civil, criminal, or administrative action, suit, proceeding, claim, or demand, that is proposed, asserted, commenced or made against them and/or against the Corporation;
- (b) all liability for wages to employees and for income, corporation or other taxes, and fines or penalties arising out of any prosecution in connection therewith; and

2 44

- (a) gross profit for each department on a cumulative, monthly basis and compared to the Budget;
- (b) net profit on a cumulative, monthly basis and compared to the Budget;
- (c) bank collateral calculations compared to operating line borrowings as of the last day of the relevant month;
- (d) cash position as of the last day of the relevant month and compared to the Budget;
- (e) capital expenditures during the month in excess of \$10,000; and
- (f) a brief statement prepared by the chief operating officer analyzing the material results for the month, reasons for any material deviations from the Budget and any material changes in the operations or affairs of the Corporation or its subsidiaries.

3.12

Distributions.

All funds received by the Corporation and available for distribution in accordance with the Act shall be paid and distributed in the following order:

- (a) the payment of all debts and liabilities of the Corporation which are due and payable from time to time to Persons dealing at arm's length with all of the parties to this Agreement;
- (b) the establishment of such reserves as:
 - (i) may be required by the auditors of the Corporation in accordance with generally accepted accounting principles, and
 - (ii) may be approved by the directors of the Corporation;
- (c) the repayment of interest owing on loans advanced by Shareholders to the Corporation *pro rata* in accordance with accrued interest;
- (d) repayment of principal owing on loans advanced by Shareholders to the Corporation *pro rata* in accordance with the principal amount owing; and
- (e) the payment of dividends. No such dividends shall be declared or paid except to the extent that the directors determine that they can be satisfied by the Corporation without incurring any additional liabilities. Additionally, no dividend shall be paid if precluded by any loan agreement to which the Corporation is a party; provided the amount that would have been paid as dividends but for the loan agreement shall be paid when the Corporation may legally do so.

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3.13 Insurance.

The Corporation shall obtain and maintain a liability insurance policy in such amount or amounts as the directors of the Corporation may determine.

3.14 Voting of Shares.

Each Shareholder shall vote or cause to be voted the respective Shares held of record or beneficially by such Shareholder in such a manner as shall carry out the intent and purpose of, and cause the implementation of, all covenants and agreements contained herein.

**ARTICLE IV
ADDITIONAL FUNDING**

4.1 Shareholder Loans.

- (a) If the directors of the Corporation determine that additional funds are required to manage and operate the Business (the "Required Funds") then, as and when requested by the directors of the Corporation, each Shareholder shall have the opportunity (but not the obligation) to lend such additional amount to the Corporation (a "Shareholder Loan") in accordance with its Proportionate Share entitlement at the time the Required Funds are requested and the Corporation shall pay such Shareholder a rate of interest on such loan equal to the lesser of the Prime Rate plus two percent or ten percent per year (simple interest, not compounded).
- (b) As security for the repayment of any Shareholder Loan, the Corporation hereby grants to each lending Shareholder a mortgage, charge and security interest in all the Corporation's present and future property and assets and the proceeds thereof. The parties acknowledge that the foregoing security interest shall be subordinate to all security interests granted by the Corporation in connection with bank financings.
- (c) Notwithstanding anything contained in 4.1(a) no financing shall be implemented which would require any of the Shareholders to guarantee any obligations of the Corporation or its subsidiaries unless all of the Shareholders agree in writing to the implementation of such financing.

4.2 Participation.

- (a) If one Shareholder lends its Proportionate Share of the Required Funds to the Corporation (the "Participating Shareholder") and the other Shareholder the "Non-Contributing Shareholder") does not elect to participate by lending its Proportionate Share of the Required Funds to the Corporation then the Participating Shareholder may (but shall not be obliged to) contribute the amount

of the Non-Contributing Shareholder's Proportionate Share of the amount of the Required Funds and such contribution shall constitute a loan by the Participating Shareholder to the Non-Contributing Shareholder (a "Deficit Loan").

- (b) At any time that a Deficit Loan is outstanding, the Non-Contributing Shareholder hereby agrees, authorizes and directs that all dividends or other distributions from the Corporation on an after-tax basis to which it is entitled shall be paid to the Participating Shareholder and applied against such Deficit Loan. The Corporation is hereby directed to pay on account of such Deficit Loan any amount which would otherwise be payable by the Corporation to the Non-Contributing Shareholder on account of dividend payments or other distributions. Notwithstanding the foregoing, the dividend or other distribution shall be chargeable to and be deemed paid to and on account of the Non-Contributing Shareholder.
- (c) A Participating Shareholder may at any time demand immediate reimbursement in cash from a Non-Contributing Shareholder of the amount of a Deficit Loan together with interest (calculated and payable monthly) thereon at a rate equal to the lesser of the Prime Rate plus two percent or 10 percent per year (simple interest, not compounded) from the date the Deficit Loan was advanced (collectively, the "Dilution Amount"). If the Participating Shareholder is not fully reimbursed by the Non-Contributing Shareholder within 15 days of its demand then the Participating Shareholder may elect by written notice to the Non-Contributing Shareholder (the "Dilution Notice") to acquire Shares of the Non-Contributing Shareholder in satisfaction of the amount of the Deficit Loan plus the amount of all accrued and unpaid interest thereon. Within 15 days of receipt by the Non-Contributing Shareholder of the Dilution Notice the Non-Contributing Shareholder shall, in consideration of the advance by the Participating Shareholder of the Deficit Loan, transfer to the Participating Shareholder in full satisfaction of the Dilution Amount, that number of Shares which is equal to the result obtained by dividing the Dilution Amount by 100% of the Fair Market Value.

4.3

Pre-Emptive Rights Respecting the Issuance of Shares.

The directors may determine to raise additional funds through the issuance of Shares. No Shares shall be issued unless they shall have first been offered to the Shareholders at such price and on such terms as such Shares are to be offered to others. If Shares are to be issued, they shall be offered to Eaton and Robolix *pro rata*, in the proportion of that Shareholder's holdings of Common Shares to the aggregate number of Common Shares then outstanding. A notice of any offer to issue Shares shall be sent to each Shareholder and shall contain the information required by section 4.4. Each Shareholder shall send a notice to the Secretary of the Corporation of its acceptance of any or all of the Shares offered to it. If a Shareholder does not accept any or all of the Shares offered to it within the period prescribed in the notice, the other Shareholder (if it has accepted all of the Shares offered to it) shall be offered the Shares which have not been accepted. After both Shareholders have declined or been deemed

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to have declined to accept any or all of the Shares offered to them or all of the offered Shares have been accepted, the Corporation shall issue any Shares which have been accepted to the appropriate Shareholder as may be directed in writing by the Shareholder in consideration for their issue price. The Corporation shall then have the next four full calendar months within which it may issue those Shares not accepted as aforesaid to Persons other than Shareholders on terms no less favourable to the Corporation than those upon which such Shares were offered to the Shareholders. If the Corporation does not issue such Shares within those four calendar months, the foregoing pre-emptive rights shall again apply in respect of unissued Shares. Except as provided in this section, no Shareholder shall be entitled as of right to subscribe for, purchase or receive any part of any issue of Shares or securities of the Corporation now or hereafter authorized. The provisions of this section shall apply, *mutatis mutandis*, to securities that by their terms or by agreement are convertible into, exchangeable for or carry the right to purchase Shares.

4.4 Notice.

A notice required by section 4.3 shall specify the total number of Shares then being offered for allotment and issue, the issue price for each Share and the number of Shares being offered to the Shareholder to whom the notice is addressed, and shall limit the time (to be not less than 15 Business Days from the date in which such notice is deemed to have been given) within which such offer, if not accepted, will be deemed to be declined.

4.5 Exception to Pre-emptive Rights.

Notwithstanding section 4.3, no Shareholder shall have a pre-emptive right in respect of Shares to be issued as a Share dividend or pursuant to the exercise of conversion privileges, options or rights previously granted by the Corporation.

ARTICLE V
TRANSFER OF SHARES

5.1 Warranty as to Ownership.

Each Shareholder represents and warrants that it is the registered and beneficial owner of that number of Shares set forth beside its name in the recitals to this Agreement, free and clear of all liens, claims, charges, security interests, encumbrances or rights in favour of other Persons, other than pursuant to this Agreement.

5.2 Prohibition on Unauthorized Transfers.

Except as otherwise expressly permitted in this Agreement or unless the unanimous written consent of the other Shareholders is first obtained, no Shareholder shall Transfer any Shares. A change in the Control of a Shareholder shall be deemed to be a Transfer by such Shareholder of its Shares and shall be prohibited unless otherwise expressly permitted in

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this Agreement or unless the written consent of the other Shareholder is first obtained. Notwithstanding anything in this section 5.2 to the contrary, a Shareholder may pledge, charge, mortgage or otherwise specifically encumber its Shares to a bank or other financial institution for the purpose of securing any borrowings by such Shareholder, provided that such bank or financial institution acknowledges to the parties to this Agreement in writing that the pledge, charge, mortgage or encumbrance of such Shares shall at all times be subject to all the terms and conditions of this Agreement.

5.3 New Shareholders.

Without limiting the effect of section 5.2, a Person who is not a Shareholder may acquire Shares only if that Person first executes and delivers an Assumption Agreement.

5.4 Transfer to Permitted Transferees.

Notwithstanding any other provision of this Agreement, each Shareholder shall be entitled after giving three Business Days' written notice to the other Shareholders and to the Secretary of the Corporation to Transfer any of the Shares beneficially owned by it to a wholly-owned subsidiary (a "Permitted Transferee") provided that:

- (a) the transferor Shareholder and the other shareholders of the Permitted Transferee agree not to transfer or issue any shares of the Permitted Transferee, either directly or indirectly, for so long as such Permitted Transferee shall own any Shares;
- (b) the transferor Shareholder guarantees the obligations of such Permitted Transferee under this Agreement; and
- (c) the Permitted Transferee executes and delivers an Assumption Agreement.

5.5 Third Party Offer - Right to Purchase or Sell.

If a Shareholder (the "Offeree") receives a Third Party Offer which it wishes to accept, then before it accepts the Third Party Offer:

- (a) the Offeree shall promptly give notice to the other Shareholder (the "Notified Shareholder") stating its desire to sell all but not less than all of the Shares owned by the Offeree in accordance with the Third Party Offer, a true copy of which shall accompany the notice;
- (b) the Notified Shareholder may elect to either:
 - (i) purchase all the Shares owned by the Offeree for cash at a price per share equal to the price provided in the Third Party Offer on terms no more favourable to the Notified Shareholder than those set out in the Third Party Offer; or

- (ii) sell all of the Shares owned by it on the terms set out in the Third Party Offer.

Such election may be made by the Notified Shareholder by giving notice to the Secretary of the Corporation on or before the 20th Business Day (the "Acceptance Date") following receipt of the Offeree's notice. If no such election is received by the Secretary of the Corporation from the Notified Shareholder, the Notified Shareholder shall be deemed to have elected to sell the Shares owned by the Notified Shareholder pursuant to the Third Party Offer;

- (c) if the Notified Shareholder elects to purchase the Shares owned by the Offeree, then such purchase shall be subject to the provisions of Article VII, and shall be closed on the 30th Business Day following the Acceptance Date; and
- (d) if, prior to the Acceptance Date, the Notified Shareholder elects or is deemed to have elected not to purchase the Shares owned by the Offeree, the Secretary of the Corporation shall so inform the Offeree and the Offeree may arrange for the sale of all, but not less than all the Shares on terms no more favourable to the Person making the Third Party Offer than those provided in the Third Party Offer, provided that the sale is consummated on or before the 30th Business Day after the Acceptance Date.

5.6

Buy-Sell Notice.

Either Shareholder (the "Offeror") shall have the right at any time to give notice (the "Buy-Sell Notice") to the other Shareholder (the "Offeree") and to the Corporation, which Buy-Sell Notice shall contain the following:

- (a) an offer (an "Offer to Purchase") by the Offeror to purchase all of the Shares owned by the Offeree;
- (b) an offer (an "Offer to Sell") by the Offeror to sell all of the Shares owned by the Offeror to the Offeree; and
- (c) the price (the "Purchase Price") to be paid for each Share pursuant to the Offer to Purchase and the Offer to Sell, which price shall be payable in cash on closing and shall be the same for both Offers and shall be accompanied by a certified cheque or bank draft payable to the Offeree in the amount of 15% of the Purchase Price (the "Deposit"). Neither the Offer to Sell nor the Offer to Purchase shall subject the Offeree to any term or condition not otherwise contemplated by this Agreement. If the transaction contemplated by the Offer to Purchase is not completed by reason of a default of the Offeror, the Deposit shall thereupon be forfeited to, become the property of and be retained by the Offeree as liquidated damages for the Offeror's default. The parties agree that the amount of damages sustained by the Offeree as a result of a default by the Offeror hereunder would be impracticable and extremely difficult to quantify.

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5.7

Implementation of Buy-Sell Notice.

The Offeree shall accept either the Offer to Purchase or the Offer to Sell on or before the 45th Business Day (the "Notice Date") after receipt of the Buy-Sell Notice by giving notice of such acceptance to the Offeror and to the Secretary of the Corporation. If the Offeree does not accept either the Offer to Purchase or the Offer to Sell by the Notice Date, it shall be deemed to have accepted the Offer to Purchase. If:

- (a) the Offeree accepts or is deemed to accept the Offer to Purchase, the Offeree shall sell and the Offeror shall purchase all of the Shares beneficially owned by the Offeree at the Purchase Price; and
- (b) the Offeree accepts the Offer to Sell, the Offeree shall purchase and the Offeror shall sell all of the Shares beneficially owned by the Offeror at the Purchase Price as contemplated by this Agreement.

In each case, the transaction of purchase and sale shall be subject to the provisions of Article VII and shall be closed on the 20th Business Day following the Notice Date.

If the Offeree accepts or is deemed to accept the Offer to Purchase and the Offeror makes available, at the Corporation's bank or other financial institution, in a separate account and in the form and manner provided in this Agreement, the consideration for the Shares to be purchased in accordance with the provisions of sections 5.6 and 5.7, then from and after such time, the Offeree shall no longer have any rights as a holder of such Shares (other than the rights to receive payment of such consideration in accordance with this Agreement), and such Shares shall be deemed purchased in accordance with the applicable provisions hereof and the Offeror shall be deemed the owner and holder of such Shares with power of attorney to execute such documents and take such actions as may be necessary to effect the transfer of such Shares to the Offeror, whether or not the certificates therefor have been delivered as required by this Agreement.

ARTICLE VI
DEFAULT PROVISIONS

6.1

Events of Default.

An Event of Default shall be deemed to occur with respect to a Shareholder (the "Defaulting Shareholder") if:

- (a) such Shareholder makes an assignment for the benefit of creditors or is declared bankrupt or becomes insolvent;
- (b) any trustee in bankruptcy, receiver, receiver and manager, liquidator or other officer with similar powers is appointed for such Shareholder or for all or any material part of its property;

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- (c) a Person acquires Control of such Shareholder except as expressly permitted by this Agreement;
- (d) a Person a beneficial interest in any of the Shares held by such Shareholder except as expressly permitted by this Agreement; or
- (e) such Shareholder fails to perform or observe any other term or condition of this Agreement and such failure continues for a period of 60 days following written notice thereof from any Shareholder or the Corporation.

6.2 Rights Upon Default.

In addition to any rights or remedies that may be available to them, if an Event of Default shall occur with respect to a Shareholder, then while the Event of Default is continuing the other Shareholder shall be entitled to purchase the Shares of the Defaulting Shareholder for Fair Market Value upon an Event of Default described in section 6.1(a), section 6.1(b) or section 6.1(c) or for 75% of their Fair Market Value upon an Event of Default described in section 6.1(d) or section 6.1(e).

6.3 Notice of Default.

The following provisions shall be applicable to any transaction arising under this Article:

- (a) any Shareholder knowing that another Shareholder is a Defaulting Shareholder shall promptly confirm that fact with the Defaulting Shareholder and shall thereupon deliver notice in writing to the Secretary of the Corporation who shall provide the other Shareholders (collectively, the "Non-Defaulting Shareholders") with written notice of that fact and the number and price of the Shares of the Defaulting Shareholder which may be acquired;
- (b) each of the Non-Defaulting Shareholders may elect to purchase all of the Shares of the Defaulting Shareholder for cash in accordance with this Article by giving notice to the Secretary of the Corporation on or before the 30th Business Day (the "Election Date") following receipt of the notice contemplated by subsection 6.3(a);
- (c) if one or more of the Non-Defaulting Shareholders elects to purchase the Shares of the Defaulting Shareholder, each such Non-Defaulting Shareholder who so elects shall be deemed to have agreed to purchase those Shares in the proportion that its holding of Common Shares is to the aggregate number of Common Shares held by all of the Non-Defaulting Shareholders who so elected and shall, within two Business Days of the Election Date, be given notice by the Secretary of the Corporation of the number of Shares of the Defaulting Shareholder to which it is entitled;

- (d) if any Non-Defaulting Shareholder elects to purchase the Shares of the Defaulting Shareholder, then such purchase shall be subject to the provisions of Article VII and shall be closed on the later of the 30th Business Day following the Election Date and the fifth Business Day following the determination of Fair Market Value.

6.4 Fair Market Value.

"Fair Market Value" means the aggregate fair market value of the applicable Shares as agreed to in writing by all the Shareholders or, failing agreement, as determined by a business valuator (the "Valuator") appointed under this section.

6.5 Determination of Fair Market Value.

If the Shareholders fail to reach unanimous written agreement as to the Fair Market Value of a Shareholder's Shares within 30 days following written request given by any of them, then the Shareholders shall jointly appoint the Valuator and shall instruct the Valuator to determine the Fair Market Value of such Shares within 60 days following his appointment. In making its determination as to the Fair Market Value of any Shares, the Valuator shall not take into account the fact that such Shares do not form part of a "control block". The determination of the Valuator as to the Fair Market Value of the Shares shall be final and binding upon the Shareholders. If the Shareholders fail to jointly appoint the Valuator on or before the 40th day following written request by any Shareholder for a determination of the Fair Market Value of the Shares, then the owner of the Shares being valued, and the remaining Shareholders collectively, shall each appoint one arbitrator. The two arbitrators shall then meet and decide upon the appointment of a Valuator and the decision of the arbitrators shall be final and binding upon the parties. The Valuator shall have access to the books, accounts, records, vouchers, cheques, papers and documents of, or which may relate to, the Corporation. The Shareholders shall cooperate with the Valuator and shall provide all information and documents reasonably requested by the Valuator. All reasonable fees and disbursements charged by the Valuator shall be paid by the Corporation.

ARTICLE VII
CLOSING

7.1 Closing.

The closing of any purchase of Shares by the Corporation or one Shareholder from another Shareholder pursuant to this Agreement shall be held at the head office of the Corporation at 10:00 a.m. (local time) on the prescribed date and shall be subject to the following terms and conditions:

- (a) the Corporation or the Shareholder (the "Buyer") who is to acquire Shares shall pay the applicable purchase price to the Shareholder (the "Vendor") who is to sell

its Shares and the Vendor shall deliver to or to the order of the Buyer certificates for the Shares to be acquired, duly endorsed for transfer, free and clear of all liens, mortgages, charges, security interests and other encumbrances;

- (b) the Vendor and its nominees, if any, shall resign in writing the positions which they then hold with the Corporation and the Vendor and any Person having a legal or beneficial interest in the Vendor (whether direct or indirect) and nominees of the Vendor shall release the remaining Shareholder and the Corporation from all manner of actions, causes of action, suits, claims or demands against any of them which they ever had, then have or may thereafter have, for or by reason of or arising out of any cause, matter or thing but excluding claims arising from the transaction and claims for other moneys then owing pursuant to *bona fide* debts of the Corporation;
- (c) if the Shares to be purchased are subject to any lien, pledge, security interest or encumbrance or the Vendor owes any money to the Corporation or the Buyer, as determined by the auditor of the Corporation, the Buyer shall have the right to deduct from the amount otherwise required to be paid by it to the Vendor the amount required to discharge all such liens, pledges, security interests or encumbrances and repay any moneys so owing by the Vendor and such amount shall be used accordingly;
- (d) the Vendor shall be repaid any amounts owing to it pursuant to loans advanced to the Corporation and shall be released from any guarantees provided for the benefit of the Corporation or, if such releases are not forthcoming, shall be provided security (in form acceptable to the Vendor, acting reasonably) for amounts which may be payable by them pursuant to such guarantees; and
- (e) if, on the date of closing of the transaction, the Vendor fails or refuses to complete the transaction, then the Buyer shall have the right, on payment of the purchase price for the Shares into any chartered bank or trust company which is the principal banker of the Corporation (provided notice is given to the Defaulting Shareholder of such payment) within 15 Business Days after the date of closing, to execute and deliver all such transfers, resignations and other documents and instruments which may be necessary or advisable in order to complete the transaction and for such purpose, the Shareholders who may become Vendors hereby nominate, constitute and irrevocably appoint the Secretary of the Corporation and the Shareholders who may become Buyers as their lawful attorney and agent, which appointment is coupled with an interest, with full power and authority to execute for and in the name of and on behalf of the Vendor any deeds, transfers, conveyances, assignments, assurances, certificates and other documents and to do all things which the Vendor is required to do under the terms hereof.

ARTICLE VIII
NON-COMPETITION

8.1 Eagle and Eaton Non-Competition Covenant.

Subject to section 8.4, commencing on the date of this Agreement, Eaton and Eagle will not (and will not permit any Affiliate or Associate, except for Burger GmbH) to, without the prior written consent of Robolix (which may be unreasonably withheld):

- (a) compete with the Business anywhere in the world, except that Eagle and Eaton shall not be restricted in any way from conducting their automobile exhaust and structural system business, their servicing and repair business or their tooling manufacture business; or
- (b) acquire any interest in any business activity in direct or indirect competition with the Business other than through an investment in securities listed on a stock exchange in North America or in Europe, and then only so long as those securities do not represent more than two per cent of the issued securities of any class of any one such company.

8.2 Robolix Non-Competition Covenant.

Subject to section 8.4, commencing on the date of this Agreement, Robolix will not (and will not permit any Affiliate or Associate to), without the prior written consent of Eagle and Eaton (which may be unreasonably withheld):

- (a) engage or compete in the automobile exhaust and structural system business anywhere in the world; or
- (b) compete with the business of creating, manufacturing, marketing and selling machinery relating to the large-diameter tube bending industry (large diameter tubes being tubes with a diameter of 45mm or more) anywhere in the world; or
- (c) compete with the Business in North America, China, Japan, Korea, Thailand, Vietnam, Malaysia, Singapore and Indonesia; or
- (d) compete with the Business in the aerospace industry anywhere in the world; or
- (e) acquire any interest in any business activity in direct or indirect competition with the Business other than through an investment in securities listed on a stock exchange in North America or in Europe, and then only so long as those securities do not represent more than two per cent of the issued securities of any class of any one such company.

8.3 Non-Competition Covenant of Corporation.

Subject to section 8.4, commencing on the date of this Agreement, the Corporation will not (and will not permit any Affiliate or Associate to), without the prior written consent of Eaton and Robolix (which may be unreasonably withheld):

- (a) engage or compete in the automobile exhaust and structural system business anywhere in the world; or
- (b) except for the VB200HP bender or such replacements or upgrades of such machine as may be developed in the future, compete with the business of creating, manufacturing, marketing and selling machinery relating to the large diameter tube bending industry (large diameter tubes being tubes with a diameter of 45mm or more) anywhere in the world.

8.4 Termination of Non-Competition Covenants

Notwithstanding the provisions of sections 8.1, 8.2 and 8.3, the parties agree that the non-competition covenants of the parties set out in sections 8.1, 8.2 and 8.3 of this Agreement shall terminate in the event that:

- (a) either Eaton or Robolix is no longer a shareholder of the Corporation; or
- (b) there is a change in Control of Eagle, Eaton or Robolix.

8.5 Non-Solicitation.

So long as it is a Shareholder and for a period of three years commencing immediately after it ceases to be a Shareholder, a Shareholder will not (and will not permit any Affiliate or Associate to), without the prior written consent of the directors of the Corporation (which may be unreasonably withheld) entice, solicit or endeavour to entice or solicit any officer, employee, contractor, agent or consultant of the Corporation or any Affiliate away from employment with or engagement by the Corporation or any Affiliate, whether or not such Person would commit a breach of contract by reason of leaving such service.

8.6 Scope of Application.

The foregoing restrictions shall apply to any action taken by a Shareholder, directly or indirectly, alone or in concert or in partnership with others, whether as agent, representative, principal, employee, consultant, director or in any other capacity.

8.7 Limitation of Time Periods and Geographic Area.

While these restrictions are considered by the parties to be reasonable, they may fail for unforeseen technical reasons. Accordingly the parties have agreed that if any of these restrictions are determined to be unenforceable as going beyond what is reasonable in the circumstances for the protection of the interests of the Corporation and its Shareholders but

would be valid if, for example, the scope of their time periods or geographic areas were limited, the restrictions shall apply with such modifications as may be necessary to make them valid and effective.

ARTICLE IX
GENERAL CONTRACT PROVISIONS

9.1
Implementation of this Agreement.

The parties hereto shall sign such further and other documents, cause such meetings to be held, cause such resolutions to be passed and such by-laws to be enacted, exercise their vote and influence and do and perform (and cause to be done and performed) such further and other acts or things as may be necessary or desirable in order to give full effect to this Agreement and every part of it. If any conflict shall appear between the articles, by-laws or resolutions of the Corporation and the provisions of this Agreement, the provisions of this Agreement shall govern and supersede the provisions of the articles, by-laws and resolutions. If there shall be any such conflict, the Shareholders shall amend the articles, by-laws and resolutions so as to ensure conformity with the terms of this Agreement.

9.2
Notices.

All notices, requests, demands or other communications required or permitted to be given by one party to another under this Agreement shall be given in writing by personal delivery, facsimile or by registered mail, postage prepaid, addressed to such other party or delivered to such other party as follows:

(a) if to Eagle:

Eagle Precision Technologies Inc.
565 West Street
P.O. Box 786
Brantford, Ontario N3T 5R7

Attention: Alex Kepecs

Fax: (519) 756-9301

(b) if to Eaton:

Eaton Leonard, Inc.
6030 Avenida Encinas
Carlsbad, California
U.S.A. 92009

Attention: Alex Kepecs

Fax: (760) 929-5066

(c) if to Robolix:

Financière Robolix S.A.R.L.
Route de Saint Germier
32430 Cologne
France

Attention: Philippe Jaubert

Fax: 33 (0) 5 62 58 30 39

(d) if to the Corporation:

Eaton Leonard Robolix, Inc.
6030 Avenida Encinas
Carlsbad, California
U.S.A. 92009

Attention: Philippe Jaubert

with copy to:

Eagle Precision Technologies Inc.
565 West Street
P.O. Box 786
Brantford, Ontario N3T 5R7

Attention: Alex Kepecs

Fax: (519) 756-9301

or at such other address of which written notice is given and such notices, requests, demands or other communications shall be deemed to have been received when personally delivered, on the next Business Day after sending if sent by facsimile, or, if mailed, on the fourth Business Day after the mailing thereof; provided that if any such notice, request, demand or other communication shall have been mailed and if regular mail service shall be interrupted by strikes or other irregularities on or before the fourth Business Day after the mailing thereof, such notice, request, demand or other communication shall be deemed to have been received only upon personal or facsimile delivery.

9.3 Further Assurances.

The parties shall sign such further and other documents, cause such meetings to be held, resolutions passed and by-laws enacted, exercise their vote and influence, do and perform and cause to be done and performed such further and other acts and things as may be necessary or desirable in order to give full effect to this Agreement and every part hereof.

9.4 Counterparts.

This Agreement may be executed in counterparts and each of which so executed shall be deemed to be an original and such counterparts together shall be one and the same instrument.

9.5 Time of the Essence.

Time shall be of the essence of this Agreement and of every part hereof.

9.6 Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of California and the laws of the United States applicable therein and shall be treated, in all respects, as a California contract. All of the parties to this Agreement hereby irrevocably attorn to the non-exclusive jurisdiction of the courts of the State of California, with venue in San Diego County, and waive any objections to choice of venue and inconvenient forum.

9.7 Entire Agreement.

This Agreement constitutes the entire agreement between the parties with respect to the matter herein. The execution of this Agreement has not been induced by, nor do any of the parties rely upon or regard as material, any representations, promises, agreements or statements whatsoever not incorporated herein and made a part hereof. This Agreement shall not be amended, altered or qualified except by a memorandum in writing signed by all the parties.

9.8 Waiver.

No party to this Agreement shall be deemed or taken to have waived any provision of this Agreement unless such waiver is in writing, and then such waiver shall be limited to the circumstances set forth in such written waiver.

9.9 Severability.

If any Article, section or any portion of any section of this Agreement is determined to be unenforceable or invalid, that unenforceability or invalidity shall not affect the remaining portions of this Agreement and such unenforceable or invalid Article, section or portion thereof shall be deemed curtailed and limited only to the extent necessary to bring it within the requirements of the law.

9.10 Equitable Remedies.

Each party agrees that a monetary remedy for any breach or threatened breach of any provision of this Agreement would be inadequate and impracticable and extremely difficult to prove, and that such breach or threatened breach would cause the other parties irrevocable harm. Accordingly, each party agrees that the other parties shall be entitled to temporary and permanent injunctive relief, specific performance and other equitable relief for any breach or

threatened breach of any provision of this Agreement, including, without limitation, the provisions of Article V above, without the necessity of proving actual damages. Nothing contained in this section, however, shall be construed as prohibiting or precluding any party from pursuing any other rights and remedies that may be available to such party for such breach or threatened breach, including, without limitation, recovery of damages from the defaulting party.

9.11 Arbitration.

Any dispute arising under this Agreement, or any resulting transaction, shall be decided by neutral, binding arbitration. The arbitrator shall be a retired judge or attorney with at least five (5) years business law experience, unless the parties mutually agree to a different arbitrator, who shall render an award in accordance with substantive California law. In all other respects, the arbitration shall be conducted in accordance with Part III, Title 9 of the *California Code of Civil Procedure*. Judgment upon the award of the arbitrator may be entered in any court having jurisdiction. The parties shall have the right to discovery in accordance with *Code of Civil Procedure* Section 1283.5. The arbitration shall take place in San Diego County, California.

9.12 Attorney Fees.

In the event of litigation between the parties, including arbitration, arising out of this Agreement, or any resulting transaction, the prevailing party shall be awarded attorney fees in addition to other litigation costs.

9.13 Binding Effect.

This Agreement shall enure to the benefit of the parties hereto and their respective successors, permitted assigns, heirs, executors and administrators.

9.14 Drafting Presumption

It is acknowledged that the parties and their respective agents have participated in an arms' length negotiation in the preparation of this Agreement. As a consequence, the parties agree that no presumption shall be applied in any interpretation of this Agreement that the terms hereof shall be more strictly construed against one party by reason of any rule of construction, including, without limitation, Section 1654 of the Act, that a document is to be construed more strictly against the party who prepared the same, whether through such party's agents or otherwise.

9.15 Counterparts

This Agreement may be executed in counterparts all of which shall be construed together and shall constitute one agreement.

9.16 Facsimile Signatures

The parties agree that this Agreement may be executed by the parties and transmitted by facsimile transmission to the respective parties at the facsimile numbers set out in

section 9.2 above and, if so executed and transmitted, this Agreement will be for all purposes as effective as if the parties had delivered an executed original Agreement.

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

EATON LEONARD, INC.

Per: *A. J. Kerp*

FINANCIERE ROBOLIX S.A.R.L.

Per: _____

EATON LEONARD ROBOLIX, INC.

Per: *A. J. Kerp*

EAGLE PRECISION TECHNOLOGIES
INC.

Per: *A. J. Kerp*

section 9.2 above and, if so executed and transmitted, this Agreement will be for all purposes as effective as if the parties had delivered an executed original Agreement.

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

EATON LEONARD, INC.

Per: *F. J. Kelp*

FINANCIERE ROBOLIX S.A.R.L.

Per: *JJM*

EATON LEONARD ROBOLIX, INC.

Per: *F. J. Kelp*

EAGLE PRECISION TECHNOLOGIES
INC.

Per: *F. J. Kelp*

ASSET TRANSFER AND SUBSCRIPTION AGREEMENT

THIS AGREEMENT made the 29th day of May, 2000.

BETWEEN:

EATON LEONARD, INC., a corporation
incorporated under the laws of California

("Eaton")

- and -

EATON LEONARD ROBOLIX, INC., a
corporation incorporated under the laws of
California,

("ERIX")

RECITALS:

- A. Eaton has agreed to subscribe for 501 shares in the common stock of ERIX (the "Purchased Stock").
- B. As consideration for Eaton's subscription, Eaton and ERIX have agreed that Eaton will transfer to ERIX assets used by Eaton in carrying on (i) its business of manufacturing small diameter (meaning less than 45 mm) metal tube benders (ii) its business of manufacturing the VB200HP, and (iii) its business of manufacturing metal tube measuring devices, all as more specifically described on Schedule "A" (the "Transferred Assets").

NOW THEREFORE in consideration of the mutual covenants hereinafter set forth, the parties hereby covenant and agree as follows:

ARTICLE I - DEFINITIONS

1.1 Definitions.

Whenever used in this agreement, unless there is something inconsistent in the subject matter or context, the following words and terms shall have the meanings set out below:

- (a) "Agreement" means this Agreement and all schedules attached hereto and all amendments and supplements hereto and thereto and all restatements and replacements hereof and thereof;
- (b) "Assumed Liabilities" has the meaning ascribed thereto in section 2.03;

- (c) "Business" means the business to be carried on by ERIX in place of Eaton, namely, (i) the business of manufacturing, marketing and selling small-diameter (meaning less than 45 mm) metal tube benders or metal wire benders; (ii) manufacturing, marketing and selling the VB200HP and such replacements or upgrades to the VB200HP as may be developed in the future; and (iii) the manufacturing, marketing and sales of metal tube measuring devices;
- (d) "Claim" means any and all losses, damages, taxes, expenses, liabilities (whether accrued, actual, contingent or otherwise), claims, demands and actions of whatever nature or kind, including legal fees and expenses on a solicitor/attorney and client basis and other professional fees and disbursements;
- (e) "Closing Date" means 10:00 a.m. Toronto time on May 24, 2000 or such other time or date as may be agreed upon by the parties;
- (f) "Person" means an individual, partnership, unincorporated association, organization, syndicate, corporation, trustee, executor, administrator or other legal or personal representative;
- (g) "Purchased Stock" has the meaning ascribed thereto in Recital A of this Agreement;
- (h) "Transferred Assets" has the meaning ascribed thereto in Recital B of this Agreement;
- (i) "Transferred Employees" has the meaning ascribed thereto in Section 4.1 of this Agreement.

ARTICLE II - SUBSCRIPTION

2.1 Subscription.

Eaton hereby subscribes for and agrees to purchase from ERIX, pursuant to the terms and conditions of this Agreement, the Purchased Stock for \$300,000 (the "Subscription Price").

2.2 Subscription Price.

Eaton shall satisfy the Subscription Price by transferring the Transferred Assets to ERIX on the Closing Date. Eaton and ERIX agree that the Subscription Price equals to fair market value of the Transferred Assets less the Assumed Liabilities.

2.3 Assumption of Liabilities.

On the Closing Date, ERIX shall assume the outstanding customer deposit liabilities on work-in-progress of Eaton listed on Schedule "A" related to the Transferred Assets, together with all outstanding vacation pay liabilities in connection with the Transferred

Employees as set out on Schedule "A" (collectively, the "Assumed Liabilities"). ERIX will not assume any other liabilities associated with the Transferred Assets.

2.4 Allocation of Subscription Price.

The parties agree that the Subscription Price shall be allocated among the Transferred Assets and the Assumed Liabilities in the manner determined by the parties and attached hereto as Schedule "A" and such determinations will be binding on both parties. ?

2.5 Taxes.

ERIX shall pay to Eaton or to the appropriate taxing authority within the time limits required by the applicable legislation all goods and services, sales, use, consumption, or transfer or other similar taxes to the extent required by any federal, provincial or local legislation in connection with the transfer of the Transferred Assets.

2.6 California Securities Legislation

The sale of the securities which are the subject of this Agreement has not been qualified with the Commissioner of Corporations of the State of California and the issuance of such securities or the payment or receipt of any part of the consideration therefore prior to such qualifications is unlawful, unless the sale of securities is exempt from qualification by Section 25100, Section 25102, or Section 25105 of the *California Corporations Code*. The rights of all parties to this Agreement are expressly conditioned upon such qualification being obtained, unless the sale is so exempt. The parties to this Agreement hereby irrevocably attorn to the non-exclusive jurisdiction of the courts of the State of California with venue in San Diego County and hereby waive any objection to such choice of venue and inconvenient forum.

2.7 Bulk Sales

ERIX agrees to waive compliance with the provisions of any applicable bulk sales legislation in respect of the purchase and sale of the Transferred Assets on the condition that Eaton shall indemnify and save harmless ERIX as provided in Article III hereof.

ARTICLE III - INDEMNITIES

3.1 ERIX Indemnity

ERIX hereby agrees to indemnify and save harmless Eaton from and against any Claims made against Eaton related to:

- (a) the Assumed Liabilities;
- (b) the Transferred Assets, provided that such Claims relate to facts arising entirely on or after the Closing Date; and

- (c) any inaccuracy in or breach of the representations and warranties set out in Section 5.2 of this Agreement.

3.2 Eaton Indemnity.

Eaton hereby agrees to indemnify and save harmless ERIX from and against any Claims made against ERIX related to:

- (a) all liabilities associated with the Transferred Assets, other than the Assumed Liabilities;
- (b) all liabilities relating to bulk sales or similar legislation concerning creditors' rights; and
- (c) any inaccuracy in or breach of the representations and warranties set out in Section 5.1 of this Agreement.

3.3 Minimum Threshold for Claim.

Notwithstanding any of the provisions of Article III, neither party will be liable for any Claim incurred by the other directly or indirectly resulting from any inaccuracy or misrepresentation in any representation or warranty contained in this Agreement unless and until the aggregate of all such Claims exceed \$10,000 in which event the amount of all such Claims, including such \$10,000, may be recovered by the party making such Claim.

3.4 Maximum Liability of Each Party.

The maximum aggregate liability of each party for all Claims made by the other party under Article III shall be limited to the amount of the Subscription Price. The maximum liability of Eaton for any single Claim made by ERIX under subsection 3.2(c) in respect of any single Transferred Asset shall be limited to the book value of such Transferred Asset. Notwithstanding the foregoing, the parties agree that there shall be no maximum liability for any claims made against ERIX by creditors of Eaton relating to bulk sales or similar legislation concerning creditors' rights.

3.5 Amounts Recovered.

The amount of any Claim shall be determined after giving effect to any amount recovered from any insurer or any other third party, provided that nothing herein obliges either party to make a claim against its insurer or any third party or to accept a settlement.

3.6 Set-Off.

Each party shall be entitled to set-off the amount of any Claim submitted under Article III as damages or by way of indemnification against any other amounts payable by the other parties whether under this Agreement or otherwise, provided that if any amount set-off by such party is finally determined to be less than the actual amount of the Claim, such party shall,

promptly after receipt of such notice of final determination, pay the amount of such difference to the other party.

ARTICLE IV - EMPLOYMENT MATTERS

4.1 Employees.

- (a) On the Closing Date, ERIX shall extend offers of employment to all employees of Eaton who are listed on Schedule "B" on substantially the same or comparable terms and conditions as to salary, benefits, duties and working conditions as those in force immediately prior to the Closing Date. For greater certainty, ERIX will recognize the length of service with Eaton of each such employee. The employees who accept the offer from ERIX shall be referred to as the "Transferred Employees".
- (b) Nothing contained herein shall confer any former, current or future employee of Eaton or ERIX or legal representative or beneficiary thereof, any rights or remedies, including without limitation, any right to employment or continued employment of any nature, for any specified period.
- (c) Except for those liabilities set out on Schedule "B", which shall be for the account of ERIX, all liabilities and costs in respect of the Transferred Employees including premiums for applicable pension and benefit plans and statutory payroll deductions, accrued wages, salaries and commissions, vacation pay, employee benefit plan payments and employee bonus and incentive payments shall be for the account of Eaton to the extent that they relate to the period preceding the Closing Date and for the account of ERIX, to the extent that they relate to the period following the Closing Date. For greater certainty, ERIX shall, following the Closing Date, honour all obligations arising after the Closing Date, including normal compensation and severance arrangements, due to Transferred Employees.
- (d) ERIX agrees to indemnify and save harmless Eaton with respect to any Claims (including claims for severance, notice of termination, breach of contract, constructive dismissal or damages in connection therewith) relating to the employment of any of the Transferred Employees or the termination of employment of any of the Transferred Employees after the Closing Date, including continuation, discontinuation or provision of the employment policies, benefit plans or other benefits previously provided by Eaton.

ARTICLE V - REPRESENTATIONS AND WARRANTIES

5.1 Representations and Warranties of Eaton.

Eaton hereby represents and warrants to the Purchaser that:

- (a) **Organization:** Eaton is a corporation duly incorporated, validly existing and in good standing under the laws of California. Eaton has all necessary corporate power, authority and capacity to own its property and assets and to carry on its business as presently owned and carried on by it and is duly licensed, registered and qualified as a corporation to do business and is in good standing in each jurisdiction in which the nature of its business and assets make such qualification necessary;
- (b) **Authorization:** Eaton has all necessary corporate power, authority, capacity and right to enter into and deliver this Agreement and to perform its obligations hereunder. The execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate action on the part of Eaton;
- (c) **Binding Obligation:** This Agreement constitutes a valid and legally binding obligation of Eaton, enforceable in accordance with its terms subject to applicable bankruptcy, insolvency, reorganization and other laws of general application limiting the enforcement of creditors' right generally and to the fact that specific performance is an equitable remedy available only in the discretion of the court;
- (d) **No Contracts:** Other than in connection with security granted to Canadian Imperial Bank of Commerce ("CIBC"), Eaton is not a party to, bound or affected by or subject to any indenture, mortgage, lease, agreement, instrument, statute, regulation, arbitration award, charter or by-law provision, order or judgment which would be violated, contravened or breached by or under which any default would occur as a result of the execution and delivery of this Agreement or the consummation of any of the transactions contemplated in this Agreement. Other than in connection with security granted to CIBC, there is no contract, option or any other right of another binding upon or which at any time in the future may become binding upon Eaton to sell, transfer, assign, pledge, charge, mortgage or in any other way dispose of or encumber any of the Transferred Assets other than pursuant to the provisions of this Agreement. At Closing, the security granted to CIBC in connection with the Transferred Assets will be released and discharged;
- (e) **Title to Transferred Assets:** On closing, Eaton will be, and ERIX shall become, the absolute beneficial and legal owner of the Transferred Assets with a good title, free and clear of any liens, charges, mortgages, security interests, encumbrances or rights or claims of others and Eaton is exclusively entitled to possess and dispose of the same, and in particular, without limiting the generality of the foregoing, there has been no assignment, subletting or granting of any licence (of occupation or otherwise) of or in respect of any of the Transferred Assets;
- (f) **Location of Transferred Assets:** Other than finished goods, all the Transferred Assets are situate at 6030 Avenida Encinas, Carlsbad, California;

- (g) **Intellectual Property:** To the best knowledge of Eaton, the use by ERIX of the Optical Probe with Overlapping Detection Fields (U.S. Patent application no. 4,849,643) and the Eaton Leonard name (the "Intellectual Property") will not infringe upon the intellectual property rights of any other Person. Eaton has received no claim or threatened claim of infringement from any Person relating to the Intellectual Property and knows of no basis for any such claim. No employee of Eaton owns, directly or indirectly in whole or in part, the Intellectual Property;
- (h) **Liabilities:** To the best knowledge of Eaton, there are no liabilities of Eaton of any kind whatsoever, whether or not accrued and whether or not determined or determinable, in respect of which ERIX may become liable on or after the Closing Date other than the Assumed Liabilities;
- (i) **Employees:** Schedule "B" sets out the names, current annual salaries or hourly rates, job descriptions, length of employment or date of hire, dates and amounts of the most recent increases in salary, the amounts of any bonus payments, commissions, accrued vacation pay and other amounts owing to all employees listed thereon. Other than an internal severance policy implemented by Eaton in 1995 pursuant to which Eaton determined to provide a maximum of 12 weeks severance pay per employee, Eaton is not a party to any written contracts of employment with any of the employees listed on Schedule "B" or any oral contracts of employment which are not terminable on the giving of reasonable notice and/or severance pay in accordance with applicable law and no inducements to accept employment with Eaton were offered to any such employees which have the effect of increasing the period of notice of termination to which any such employee is entitled. Eaton has deducted and remitted to the relevant governmental authorities all income taxes, remittances, deductions or other amounts which it is required by law to collect and remit to any governmental authority or other entity relating to the employment of such employees;
- (j) **Employment Payments:** Eaton has paid to the date of this Agreement all amounts payable on account of salary, bonus payments and commission to or on behalf of any and all employees listed in Schedule "B";
- (k) **Labour Matters:** To the best knowledge of Eaton, there is no unfair labour practice complaint by any of the employees listed on Schedule "B" against Eaton under any agency or body having jurisdiction therefor. To the best knowledge of Eaton, there is no labour strike threatened against or involving Eaton and there is no grievance or arbitration proceeding or governmental proceeding relating to any of the employees listed on Schedule "B" pending, nor is there any such proceeding threatened against Eaton which might have a material adverse effect on ERIX or on the conduct of the Business. To the best knowledge of Eaton, no collective bargaining agreement is currently being negotiated by Eaton with respect to the employees listed on Schedule "B". To the best knowledge of Eaton,

there are no employees listed on Schedule "B" in receipt of or who have claimed benefits under any weekly indemnity, long term disability or workers' compensation plan or arrangement or any other form of disability benefit program;

- (l) **Litigation:** There are no actions, suits or proceedings (whether or not purportedly on behalf of or against Eaton) pending or threatened against or materially adversely affecting, or which would materially adversely affect the Transferred Assets, or before or by any federal, state, municipal or other government, court, department, commission, board, bureau, agency or instrumentality, and which would involve the possibility of any lien, charge, encumbrance or any other right of another against the Transferred Assets;
- (m) **Consents:** Other than the consent of CIBC to be obtained by Closing, there are no consents, authorizations, licences, permits, approvals or orders of any Person or governmental authority required to permit Eaton to complete this transaction with ERIX other than consents, authorizations, licenses, permits, approvals or orders which, if not obtained, would not have a material adverse affect on the Transferred Assets.

5.2

Representations and Warrantics of ERIX.

ERIX hereby represents and warrants to Eaton that:

- (a) ERIX is a corporation duly organized, validly existing and in good standing under the laws of California with full corporate power to own or lease its properties and to conduct its business in the manner and in the places where such properties are owned or leased or such business is conducted by it.
- (b) it has full corporate power and authority to enter into this Agreement and to consummate the transactions contemplated hereby; and
- (c) its authorized capital consists of one million shares in its common stock;
- (d) its issued and outstanding capital consists of no shares of its common stock; and
- (e) the Purchased Stock, upon its issuance in accordance with this Agreement, will be validly issued as fully paid and non-assessable.

5.3

Survival.

The representations and warranties contained in this shall survive Closing of the within transactions for a period of two (2) years.

3 70

ARTICLE VI - THE CLOSING

6.1

On the Closing Date:

- (a) Eaton shall execute a general conveyance which conveys to ERIX all of the Transferred Assets, and shall deliver the Transferred Assets to ERIX;
- (b) Eaton and ERIX shall execute an assumption of liabilities agreement pursuant to which ERIX will assume the Assumed Liabilities; and
- (c) ERIX shall deliver to Eaton a share certificate representing the Purchased Stock.

ARTICLE VII - USE OF NAME

7.1

Eaton acknowledges that the Transferred Assets includes a royalty-free license to use the names "EATON" and "EATON LEONARD".

ARTICLE VIII- MISCELLANEOUS

8.1

Enurement.

This agreement shall be binding upon and enure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

8.2

Jurisdiction.

This agreement shall be governed by and construed in accordance with the laws of the State of California and shall be treated, in all respects, as a California contract. Each of the parties to this agreement hereby irrevocably attorn to the non-exclusive jurisdiction of the courts of the State of California with venue in San Diego County and hereby waive any objection to such choice of venue and inconvenient forum.

8.3

Further Assurances.

The parties shall from time to time execute and deliver all such further documents and instruments and do all acts and things as the other party may, either before or after the Closing Date, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this agreement.

8.4

Notice.

All notices, requests, demands or other communications required or permitted to be given by one party to another under this Agreement shall be given in writing by personal

delivery, facsimile or by registered mail, postage prepaid, addressed to such other party or delivered to such other party as follows:

(a) if to Eaton: 6030 Avenida Encinas
Carlsbad, California 92009
U.S.A.

Attention: Alex Kepecs

(b) if to ERIX: Route de Sarrant
32430 Cologne - France

Attention: Philippe Jaubert

with a copy to: 6030 Avenida Encinas
Carlsbad, California 92009
U.S.A.

Attention: Alex Kepecs

or at such other address of which written notice is given and such notices, requests, demands or other communications shall be deemed to have been received when personally delivered, on the next Business Day after sending if sent by facsimile, or, if mailed, on the fourth Business Day after the mailing thereof; provided that if any such notice, request, demand or other communication shall have been mailed and if regular mail service shall be interrupted by strikes or other irregularities on or before the fourth Business Day after the mailing thereof, such notice, request, demand or other communication shall be deemed to have been received only upon personal or facsimile delivery.

8.5 Facsimile Signatures.

The parties agree that this Agreement may be executed by the parties transmitted by facsimile transmission to the respective parties at the facsimile numbers set out in Section 8.4 above and, if so executed and transmitted, this Agreement will be for all purposes as effective as if the parties had delivered an executed original Agreement.

8.6 Counterparts.

This agreement may be executed in counterparts all of which shall be construed together and shall constitute one agreement.

IN WITNESS WHEREOF the parties have executed this agreement.

EATON LEONARD INC.

Per: *[Signature]*

Per: *[Signature]*

EATON LEONARD ROBOLIX, INC.

Per: *[Signature]*

Per: _____

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EAGA 994398

SCHEDULE "A"
TRANSFERRED ASSETS AND ASSUMED LIABILITIES

Transferred Assets includes all of the following:

- (a) a royalty-free license to use the names "EATON" and "EATON LEONARD";
- (b) the Eaton Leonard logo as shown in Exhibit 1 attached hereto;
- (c) all right, title and interest of Eaton to all patents (including patent applications), inventions, processes, technology, designs, drawings, plans, engineering reports, production specifications, raw material specifications, copyrights, know-how, trade secrets and similar materials relating to the design and manufacture of the VMM, including the following patent:

<u>Title</u>	<u>Country</u>	<u>Application No.</u>	<u>Date</u>
Optical Probe with overlapping detection fields	United States	4,849,643	

- (d) raw material inventory as listed in the Net Asset Schedule attached hereto;
- (e) work-in-process inventory as listed in the Net Asset Schedule (Sub-schedule A) attached hereto;
- (f) finished goods inventory as listed in the Net Asset Schedule (Sub-schedule B) attached hereto; and
- (g) fixed assets as listed in the Net Asset Schedule (Sub-schedule C) attached hereto.

The Assumed Liabilities are as follows:

- (a) Customer deposits as listed in the Net Asset Schedule (Sub-schedule D) attached hereto; and
- (b) Vacation liability as listed in the Net Asset Schedule (Sub-schedule E) attached hereto.

MAY. -25' 00 (THU) 16:00 LETTE-WHITTAKER

:416 971 4849

P. 003

EXHIBIT 1



MAY. -25' 00 (THU) 16:00 LETTE-WHITTAKER

TEL: 416 971 4849

P. 005

Eagle-Eaton Leonard
Schedule A
Work In Process
Newco

No work in process as of 05/24/00

3 77

Eagle-Eaton Leonard
Schedule B
Finished Goods
Newco

<u>Location</u>	<u>Description</u>	<u>Material</u>	<u>MOH</u>	<u>Labor</u>	<u>LOH</u>
France	Configurable Vector 1 Optima	23,707.61	3,153.11	3,716.88	11,221.26
France	Configurable Vector 1 Optima	30,801.98	4,096.66	3,716.88	11,221.26
France	Configurable Vector 1 Optima	31,216.89	4,151.85	3,716.88	11,221.26

MAY. -25' 00 (THU) 16:01 LETTE-WHITTAKER

TEL:416 971 4849

P. 00

Total
Cost
41,798.86
49,836.78
50,306.88
141,942.52

Tag Number	Description	Dist	Type	Code	Inv J	Date	Status	Unit	Perfctd	Dist Method	Cost	Accum Debit	Book Value
Eagle-Eaton Leonard													
Schedule C													
Fixed Asset List													
Newco													
311	VECTOR 1 SERIES 3	50	R	TESTQ	11459	1/7/81	A	5	60	60 SL	17,370.00	17,370.00	0.00
312	FIXTURE ENCODER LASERVISI	51	R	MAE	11452	1/7/81	A	5	60	60 SL	379.05	379.05	0.00
103	PROBE ASSY, AMICPE4800	61	R	MAE	11253	8/1/80	A	5	60	60 SL	808.75	808.75	0.00
874	LASER PROBE INSPECT FIXT	61	R	FAF	11880	3/1/84	A	6	60	60 SL	1,187.13	1,187.13	0.00
127	8800 PROBE	61	R	TESTQ	11276	12/1/80	A	6	60	60 SL	1,652.75	1,652.75	0.00
366	LASER PROBE FIXTURE	61	R	MAE	11484	4/1/81	A	6	60	60 SL	2,366.94	2,366.94	0.00
236	CLEANFLOW WORK BENCH	51	R	MAE	11302AB	4/1/80	A	5	60	60 SL	3,341.29	3,341.29	0.00
137	MICRO-SYSTEM TROUBLESHOOT	51	R	TESTQ	11288	12/1/80	A	5	60	60 SL	3,952.52	3,952.52	0.00
218	GLUE UP FIXTURE FOR VISS	51	R	MAE	11368	12/1/80	A	5	60	60 SL	5,762.83	5,762.83	0.00
28	MOLDS FOR VECTOR 1 CASTIN	61	R	MAE	11189	4/30/87	A	6	60	60 SL	18,432.27	18,432.27	0.00
573	OPTICAL LIGHT SOURCE	62	R	TESTQ	118WALB	2/1/83	A	6	60	60 SL	426.61	426.61	0.00
322	CIRCUIT BOARD DESIGN	62	R	MAE	11462	3/1/81	A	6	60	60 SL	428.00	428.00	0.00
8-2	LASER ROOM MODIFICATIONS	62	R	LH	11822	8/1/84	A	6	60	60 SL	650.00	650.00	0.00
310	ARTWORK/PREPARER VTI	62	R	FAF	11448	1/1/81	A	5	60	60 SL	2,584.00	2,584.00	0.00
826	INTRA-RED VU-SCOPE	62	R	TESTQ	11744	6/1/83	A	6	60	60 SL	4,171.24	4,171.24	0.00
											137,420.43	97,001.13	60,423.30

Net Asset Schedule Rev 9. 052100

Eagle-Eaton Leonard
 Schedule E
 Vacation Liability
 Newco

Name	Hire Date	Vacation Liability
Bishop, Melvin	04/26/1993	780.72
Cole, Jeffrey	05/09/1994	1,866.76
Cooper, Corina	01/03/2000	288.37
Cooper, Glen	09/16/1985	1,938.39
Dempster, Hayden	06/28/1993	1,205.58
Dolleton, Michael M	04/10/1995	1,039.03
Granillo, Harvey		0.00
Hopf, Werner G	08/23/1982	657.42
Hopkins, Charles M	10/26/1998	0.00
Howard, Roxanne	12/14/1987	6,417.79
Keays, Maureen	03/08/1999	485.45
Magistro, Nancy L	09/28/1994	684.81
McDonnell, Jeffrey	12/17/1984	8,358.66
Nowicki, Richard	05/22/1995	1,239.12
Nunenbern, Wayne T	01/16/1978	1,674.43
Palacios, Jorge	10/21/1994	642.21
Pawloski, Stacy	09/26/1995	26.25
Rocha, Frank	Temp	0.00
Salanga, Cris D.	03/22/1993	1,837.74
Statzer, Terry B	06/17/1974	7,727.11
Stotts, Kenneth	07/26/1999	941.83
Tarmey, Richard T	08/21/1995	0.5 1,446.57
Taylor, Rayetta	Temp	0.00
Traub, Zeno	03/24/1980	6,277.98
Vu, Ngoc	02/17/1987	728.74
Wallace, Christopher B	10/05/1998	1,474.97
Wasser, Dax	04/20/1992	716.93
Total		48,354.85

**SCHEDULE "B"
EMPLOYEES**

EMPLOYEE NAME	JOB TITLE	NEWCO JOB TITLE	DATE OF HIRE	ANNUAL SALARY	Accrued VAC DAY
Engle-Eaton Leonard					
Newco Personnel Analysis					
Schedule D					
Richard Tammy	General Manager 1/2	General Manager 1/2	0.5 8/21/86	71,500	2,750
Bishop, Melvin	GL/Vector Assembler	GL/Vector Assembler	1 4/28/83	33,010	754
Christopher Wallace	Application Engineer	Small Bender Product Manager	1 10/5/88	54,800	1,284
Cole, Jeffrey	Mechanical Designer	VMM Designer	1 5/8/84	45,700	1,887
Cooper, Corina	Mechanical Assembler	Assembler	1 1/3/80	18,824	.223
Cooper, Stan	Sr Test Technician	Test Technician	1 9/16/85	35,540	1,764
Dampster Hayden	Vector Assembler	Vector Assembler	1 8/28/83	22,750	1,191
Ganilo, Harry	Test Technician	Test Technician	1 7/15/91	28,760	1,375
Hopl, Werner G	Sr Meent Design Engg	Mechanical Engineer	1 8/23/82	68,494	312
Hopkins-Charles M	Maintenance Mgr	Robotix Product Manager	1 10/26/98	91,000	0
Howard, Roxanne	Inside Sales Mgr	Sales Administrator	1 12/14/87	58,200	6,129
Jorge Palacios	Sr Quality Insp	Assembler	1 10/21/84	23,180	530
Keye, Maureen	Executive Assistant	Administration Assistant	1 3/8/89	38,800	350
Magistro, Nancy L	Sales Contract Admin	General Administration	1 9/28/84	36,000	665
McDonnell, Jeffrey	Application Engineer	Application Engineer	1 12/17/84	53,700	8,091
Michael Delleon	Acct Payable Supervisor	Buyer	1 4/10/85	35,743	883
Nowicki, Richard	Engineering Supsprv	Designer	1 5/22/85	38,300	1,077
Nurenbern, Wayne T	GL Manual/2nd	Assembler	1 1/16/78	34,424	1,504
Pawloski, Stacy	Data Entry/Inventory	Print Room Clerk	1 8/28/85	20,040	0
Rocha, Frank	Mechanical Assembler	Assembler	1 temp	24,000	0
Salanga, Chris D.	Electrical Engineer	Electrical Engineer	1 3/22/93	55,203	2,854
Slater, Terry B	Production Cu Super	Buyer	1 6/17/74	58,300	7,438
Slotts, Kenneth	Supervisor Gen Acct	General Accountant	1 7/28/89	53,170	757
Taylor, Rayella	Mechanical Assembler	Assembler	1 temp	24,000	0
Traub, Zeno	Product Dev Mgr	Technical Director	1 3/24/80	69,800	6,177
Vu, Ngoc	Vector Technician	Vector Technician	1 2/17/87	27,270	593
Wasser, Dax	Prod Planner B	Stockroom Clerk	1 4/20/92	25,880	681
			26.5	1,168,389.54	49,064

MPT

5/2/00

New CO monthly P&L and cash with Robotix employee

3 84

AFFIDAVIT OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I, the undersigned, declare:

I am a citizen of the United States of America, am over the age of eighteen (18) years, and not a party to the within action. I am an employee of Rutter Hobbs & Davidoff Incorporated, and my business address is 1901 Avenue of the Stars, Suite 1700, Los Angeles, California 90067.

On July 12, 2004, I caused to be served the following document(s):
COUNTERCLAIMS OF EAGLE PRECISION TECHNOLOGIES, INC. AND EAGLE TECHNOLOGIES SERVICES, LTD. on the parties involved addressed as follows:

Frederick S. Berretta, Esq.
Knobbe, Martens, Olson & Bear LLP
550 West C Street, Suite 1200
San Diego, California 92101

M. Richardson Lynn, Jr., Esq.
Wagner Anastopulos & Lynn
701 B Street, Suite 1601
San Diego, California 92101

Kenneth M. Fitzgerald, Esq.
Latham & Watkins
600 West Broadway, Suite 1800
San Diego, California 92101-3375

 BY OVERNIGHT DELIVERY: I caused each envelope, with delivery fees provided for, to be deposited in a box regularly maintained by an overnight delivery courier. I am familiar with Rutter Hobbs & Davidoff Incorporated's practice for collection and processing of correspondence for overnight delivery and know that in the ordinary course of Rutter Hobbs & Davidoff Incorporated's business practice the document described above will be deposited in a box or other facility regularly maintained by an overnight courier on the same date that it is placed at Rutter Hobbs & Davidoff Incorporated for collection.

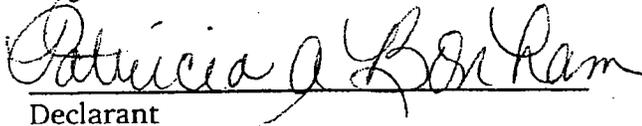
 BY PERSONAL DELIVERY: I caused such envelope to be delivered by hand to the offices of each address listed.

 X **BY MAIL:** I caused each envelope, with postage thereon fully prepaid, to be placed in the United States mail at Los Angeles, California. I am readily familiar with the business practice for collection and processing of mail in this office; that in the ordinary course of business said document would be deposited with the US Postal Service in Los Angeles on that same day. I understand that service shall be presumed invalid upon motion of a party served if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit for mailing contained on this declaration.

BY FACSIMILE: By use of facsimile machine telephone number (619) 235-0176 for Frederick S. Berretta, (619) 702-0349 for M. Richardson Lynn, and (619) 696-7419 for Kenneth M. Fitzgerald, I served a copy of the within document on the above interested parties at the facsimile numbers listed.

 X (*Federal*) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on July 12, 2004, at Los Angeles, California.


Declarant