

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

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**FORM 10-Q**

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(Mark One)

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended February 28, 2009

OR

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

Commission File No. 1-11288

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**ACTUANT CORPORATION**

(Exact name of registrant as specified in its charter)

**Wisconsin**  
(State of incorporation)

**39-0168610**  
(I.R.S. Employer Id. No.)

**13000 WEST SILVER SPRING DRIVE  
BUTLER, WISCONSIN 53007**  
Mailing address: P. O. Box 3241, Milwaukee, Wisconsin 53201  
(Address of principal executive offices)

**(414) 352-4160**  
(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definition of "accelerated filer", "large accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer  Accelerated filer   
Non-accelerated filer  Smaller reporting company  (Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act.): Yes  No

The number of shares outstanding of the registrant's Class A Common Stock as of March 31, 2009 was 56,752,165.

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**FORWARD LOOKING STATEMENTS AND CAUTIONARY FACTORS**

This quarterly report on Form 10-Q contains certain statements that constitute forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 that involve risks and uncertainties. Such forward-looking statements include statements regarding expected financial results and other planned events, including, but not limited to, anticipated liquidity, and capital expenditures. Words such as “may”, “should”, “could”, “anticipate”, “believe”, “estimate”, “expect”, “plan”, “project” and similar expressions are intended to identify such forward-looking statements. These statements are not guarantees of future performance and involve certain risks, uncertainties and assumptions that are difficult to predict. Therefore, actual future events or results may differ materially from these statements. We disclaim any obligation to publicly update or revise any forward-looking statements as a result of new information, future events or any other reason.

The following is a list of factors, among others, that could cause actual results to differ materially from the forward-looking statements:

- the duration or severity of the current worldwide economic downturn or the timing or strength of a subsequent recovery;
- the realization of anticipated cost savings from restructuring activities and cost reduction efforts;
- market conditions in the industrial, production automation , oil & gas, energy, power generation, marine, infrastructure, vehicle and retail Do-It Yourself (“DIY”) industries;
- increased competition in the markets we serve and market acceptance of existing and new products;
- successful integration of acquisitions and related restructurings;
- operating margin risk due to competitive product pricing, operating efficiencies and material and conversion cost increases;
- foreign currency, interest rate and commodity risk;
- supply chain and industry trends, including changes in purchasing and other business practices by customers;
- regulatory and legal developments;
- our substantial indebtedness, ability to comply with the financial and other covenants in our debt agreements and current credit market conditions;
- the levels of future sales, profit and cash flows that we achieve.

Our Form 10-K for the fiscal year ended August 31, 2008 contains an expanded description of these and other risks that may affect our business, assets and results of operations under the section entitled “Risk Factors”.

When used herein, the terms “Actuant,” “we,” “us,” “our” and the “Company” refer to Actuant Corporation and its subsidiaries.

Actuant Corporation provides free-of-charge access to its Annual Report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and all amendments thereto, through its website, [www.actuant.com](http://www.actuant.com), as soon as reasonably practical after such reports are electronically filed with the Securities and Exchange Commission.

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## PART I - FINANCIAL INFORMATION

Item 1 – Financial Statements

**ACTUANT CORPORATION**  
**CONDENSED CONSOLIDATED STATEMENTS OF EARNINGS**  
*(In thousands, except per share amounts)*  
*(Unaudited)*

	Three Months Ended		Six Months Ended	
	February 28, 2009	February 29, 2008	February 28, 2009	February 29, 2008
Net sales	\$ 299,674	\$ 399,629	\$ 679,654	\$ 814,772
Cost of products sold	204,594	265,789	452,682	540,099
Gross profit	95,080	133,840	226,972	274,673
Selling, administrative and engineering expenses	74,729	82,679	150,215	163,976
Restructuring charges	3,144	4,952	3,876	10,472
Impairment charge	—	—	26,553	—
Amortization of intangible assets	5,209	3,461	9,666	6,718
Operating profit	11,998	42,748	36,662	93,507
Financing costs, net	9,904	9,032	22,139	18,331
Other income, net	(35)	(670)	(569)	(1,780)
Earnings before income tax expense and minority interest	2,129	34,386	15,092	76,956
Income tax (benefit) expense	(1,105)	12,154	265	27,302
Minority interest, net of income taxes	(10)	(7)	(15)	(12)
Net earnings	<u>\$ 3,244</u>	<u>\$ 22,239</u>	<u>\$ 14,842</u>	<u>\$ 49,666</u>
Earnings per share:				
Basic	\$ 0.06	\$ 0.40	\$ 0.26	\$ 0.89
Diluted	\$ 0.06	\$ 0.35	\$ 0.25	\$ 0.79
Weighted average common shares outstanding:				
Basic	56,170	55,815	56,096	55,712
Diluted	64,256	64,716	64,325	64,691

See accompanying Notes to Condensed Consolidated Financial Statements

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**ACTUANT CORPORATION**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
*(In thousands, except share amounts)*  
*(unaudited)*

	February 28, 2009	August 31, 2008
<b>ASSETS</b>		
Current Assets		
Cash and cash equivalents	\$ 22,329	\$ 122,549
Accounts receivable, net	166,857	226,564
Inventories, net	205,513	215,391
Deferred income taxes	11,472	11,870
Prepaid expenses and other current assets	13,647	16,092
Total Current Assets	419,818	592,466
Property, Plant and Equipment		
Land, buildings, and improvements	58,589	48,496
Machinery and equipment	245,880	254,262
Gross property, plant and equipment	304,469	302,758
Less: Accumulated depreciation	(170,231)	(168,208)
Property, Plant and Equipment, net	134,238	134,550
Goodwill	702,254	639,862
Other Intangibles, net	364,476	292,359
Other Long-term Assets	12,620	9,145
Total Assets	<u>\$ 1,633,406</u>	<u>\$ 1,668,382</u>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
Current Liabilities		
Short-term borrowings	\$ 2,865	\$ 339
Trade accounts payable	109,727	166,863
Accrued compensation and benefits	34,078	59,023
Income taxes payable	14,053	24,867
Current maturities of long-term debt	5,766	—
Other current liabilities	51,792	60,033
Total Current Liabilities	218,281	311,125
Long-term Debt, less Current Maturities	671,993	573,818
Deferred Income Taxes	119,029	99,634
Pension and Postretirement Benefit Liabilities	25,778	27,641
Other Long-term Liabilities	27,685	26,658
Shareholders' Equity		
Class A common stock, \$0.20 par value per share, authorized 84,000,000 shares, issued and outstanding 56,696,537 and 56,002,228 shares, respectively	11,339	11,200
Additional paid-in capital	(316,401)	(324,898)
Retained earnings	950,884	936,055
Accumulated other comprehensive (loss) income	(75,182)	7,149
Stock held in trust	(2,291)	(2,081)
Deferred compensation liability	2,291	2,081
Total Shareholders' Equity	570,640	629,506
Total Liabilities and Shareholders' Equity	<u>\$ 1,633,406</u>	<u>\$ 1,668,382</u>

See accompanying Notes to Condensed Consolidated Financial Statements

**ACTUANT CORPORATION**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
*(In thousands)*  
*(Unaudited)*

	Six Months Ended	
	February 28, 2009	February 29, 2008
<b>Operating Activities</b>		
Net earnings	\$ 14,842	\$ 49,666
Adjustments to reconcile net earnings to cash provided by operating activities:		
Depreciation and amortization	25,744	21,492
Stock-based compensation expense	3,448	3,140
Deferred income tax (benefit) provision	(10,360)	6,679
Impairment charge	26,553	—
Other	1,054	(215)
Changes in components of working capital and other:		
Accounts receivable	58,801	(25,055)
Accounts receivable securitization	(10,569)	331
Inventories	10,296	(6,180)
Prepaid expenses and other assets	2,115	1,975
Trade accounts payable	(56,585)	4,762
Income taxes payable	(7,603)	1,656
Accrued compensation and benefits	(20,007)	(1,843)
Other accrued liabilities	(4,110)	4,436
Net cash provided by operating activities	33,619	60,844
<b>Investing Activities</b>		
Proceeds from sale of property, plant and equipment	290	11,579
Capital expenditures	(12,507)	(19,234)
Cash paid for business acquisitions, net of cash acquired	(235,872)	(51,066)
Net cash used in investing activities	(248,089)	(58,721)
<b>Financing Activities</b>		
Net borrowings on revolver and other debt	168,209	2,140
Principal repayments on term loans	(155,000)	(1,001)
Proceeds from issuance of term loans	115,000	—
Debt issuance costs	(5,333)	—
Cash dividend	(2,251)	(2,221)
Stock option exercises, related tax benefits and other	2,876	3,338
Net cash provided by financing activities	123,501	2,256
<b>Effect of exchange rate changes on cash</b>	(9,251)	3,853
<b>Net increase (decrease) in cash and cash equivalents</b>	(100,220)	8,232
<b>Cash and cash equivalents – beginning of period</b>	122,549	86,680
<b>Cash and cash equivalents – end of period</b>	<u>\$ 22,329</u>	<u>\$ 94,912</u>

See accompanying Notes to Condensed Consolidated Financial Statements

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

*(In thousands, except share and per share amounts)*

**Note 1. Basis of Presentation**

The accompanying unaudited Condensed Consolidated Financial Statements of Actuant Corporation (“Actuant,” or the “Company”) have been prepared in accordance with generally accepted accounting principles for interim financial reporting, and with the instructions of Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. The condensed consolidated balance sheet data as of August 31, 2008 was derived from the Company’s audited financial statements, but does not include all disclosures required by generally accepted accounting principles. For additional information, including the Company’s significant accounting policies, refer to the consolidated financial statements and related footnotes in the Company’s fiscal 2008 Annual Report on Form 10-K.

In the opinion of management, all adjustments considered necessary for a fair presentation of financial results have been made. Such adjustments consist of only those of a normal recurring nature. In addition, certain reclassifications have been made to prior period financial statements to conform to the February 28, 2009 presentation. Operating results for the three and six months ended February 28, 2009 are not necessarily indicative of the results that may be expected for the entire fiscal year ending August 31, 2009.

**New Accounting Pronouncements**

In September 2006, the Financial Accounting Standards Board (FASB) issued Statement of Financial Accounting Standards (SFAS) No. 157, *“Fair Value Measurements.”* SFAS No. 157 provides a common definition of fair value and establishes a framework to make the measurement of fair value in generally accepted accounting principles more consistent and comparable. SFAS No. 157 also requires expanded disclosures to provide information about the extent to which fair value is used to measure assets and liabilities, the methods and assumptions used to measure fair value, and the effect of fair value measures on earnings. The Company adopted SFAS No. 157 on September 1, 2008; see Note 9, “Fair Value Measurement” for disclosures required under SFAS No. 157. The Company has not adopted SFAS No. 157 for non-financial assets and liabilities as permitted by FASB Staff Position FAS 157-2, which provides a deferral of such provisions until the Company’s 2010 fiscal year.

In February 2007, the FASB issued SFAS No. 159, *“The Fair Value Option for Financial Assets and Financial Liabilities – Including an Amendment of FASB Statement No. 115.”* This standard permits an entity to choose to measure many financial instruments and certain other items at fair value. The fair value option permits a company to choose to measure eligible items at fair value at specified election dates. A company will report unrealized gains and losses on items for which the fair value option has been elected in earnings after adoption. The adoption of SFAS No. 159 on September 1, 2008 did not have any impact on the Company’s consolidated results of operations, financial position or cash flows.

In March 2008, the FASB issued SFAS No. 161, *“Disclosures about Derivative Instruments and Hedging Activities—an amendment of FASB Statement No. 133.”* SFAS No. 161 is intended to improve financial reporting by requiring transparency about the nature, purpose, location and amounts of derivative instruments in an entity’s financial statements; how derivative instruments and related hedged items are accounted for under SFAS No 133; and how derivative instruments and related hedged items affect its financial position, financial performance and cash flows. The adoption of SFAS No. 161 on December 1, 2008 did not have any impact on the Company’s consolidated results of operations, financial position or cash flows.

In December 2007, the FASB issued SFAS No. 141 (Revised 2007), *“Business Combinations.”* The objective of SFAS No. 141(R) is to improve the information provided in financial reports about a business combination and its effects. SFAS No. 141(R) requires an acquirer to recognize the assets acquired, the liabilities assumed, and any non-controlling interest in the acquiree at the acquisition date, measured at their fair values as of that date. SFAS No. 141(R) also requires the acquirer to recognize and measure the goodwill acquired in a business combination or a gain from a bargain purchase and how to evaluate the nature and financial effects of the business combination. SFAS No. 141(R) is effective for the Company’s 2010 fiscal year. This standard will change the Company’s accounting treatment for business combinations on a prospective basis, when adopted.

**Note 2. Acquisitions**

The Company completed two business acquisitions during the first half of fiscal 2009 and two during the fiscal year ended August 31, 2008, which resulted in the recognition of goodwill in the Company’s Condensed Consolidated Financial Statements. The Company is continuing to evaluate the initial purchase price allocations for acquisitions completed within the past 12 months, and will adjust the allocations as additional information relative to the fair values of the assets and liabilities of the acquired businesses become known.

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On September 26, 2008, the Company completed the acquisition of the stock of The Cortland Companies (“Cortland”) for approximately \$231.2 million in cash, net of cash acquired. Headquartered in Cortland, New York, Cortland is a global designer, manufacturer and distributor of custom-engineered electro-mechanical cables and umbilicals, high performance synthetic ropes and value-added steel cable assemblies. The majority of the Cortland businesses are included within the Energy segment, while the steel cable assembly business (Sanlo) is included in the Other product line within the Engineered Solutions segment. The preliminary purchase price allocation resulted in \$127.7 million assigned to goodwill (a portion of which is deductible for tax purposes), \$17.8 million to tradenames, \$1.3 million to non-compete agreements, \$4.3 million to patents and \$81.4 million to customer relationships. The amounts assigned to non-compete agreements, patents and customer relationships are being amortized over 3, 8 and 15 years, respectively.

On March 3, 2008, the Company acquired Superior Plant Services, LLC, (“SPS”) for approximately \$57.7 million of cash. Headquartered in Terrytown, Louisiana, SPS is a specialized maintenance services company serving the North American oil & gas and nuclear power industries. Its services include field machining, flange weld testing, line isolation, bolting, heat treating and metal disintegration. SPS is included in the Energy segment. The purchase price allocation resulted in \$22.9 million assigned to goodwill (which is deductible for tax purposes), \$0.2 million to trademarks, \$1.5 million to non-compete agreements and \$25.3 million to customer relationships. The amounts assigned to trademarks, non-compete agreements and customer relationships are being amortized over 1, 5 and 15 years, respectively.

On September 13, 2007, the Company acquired Templeton, Kenly & Co, Inc. (“TK”) for approximately \$47.3 million of cash. Headquartered in Broadview, Illinois, TK manufactures hydraulic pumps and tools, mechanical jacks, wrenches and actuators. TK is included in the Industrial segment. The purchase price allocation resulted in \$14.4 million assigned to goodwill (which is deductible for tax purposes), \$1.7 million to tradenames, \$0.3 million to non-compete agreements, \$0.3 to patents and \$19.2 million to customer relationships. The amounts assigned to non-compete agreements, patents and customer relationships are being amortized over 3, 5 and 15 years, respectively.

The following unaudited pro forma results of operations of the Company for the three and six months ended February 28, 2009 and 2008, respectively, give effect to these three acquisitions as though the transactions and related financing activities had occurred on September 1, 2007 (in thousands, except per share amounts):

	Three Months Ended		Six Months Ended	
	February 28, 2009	February 29, 2008	February 28, 2009	February 29, 2008
Net sales				
As reported	\$ 299,674	\$ 399,629	\$ 679,654	\$ 814,772
Pro forma	299,674	427,808	683,753	864,989
Net earnings				
As reported	\$ 3,244	\$ 22,239	\$ 14,842	\$ 49,666
Pro forma	3,495	21,930	14,678	47,391
Basic earnings per share				
As reported	\$ 0.06	\$ 0.40	\$ 0.26	\$ 0.89
Pro forma	0.06	0.39	0.26	0.85
Diluted earnings per share				
As reported	\$ 0.06	\$ 0.35	\$ 0.25	\$ 0.79
Pro forma	0.06	0.35	0.25	0.75

### Note 3. Restructuring

In fiscal 2009, the Company committed to various restructuring initiatives including workforce reductions, plant consolidations to decrease excess manufacturing capacity, the continued movement of production and product sourcing to low cost countries and the centralization of certain selling and administrative functions. The total restructuring charges for these activities were \$3.1 million and \$3.9 million, for the three and six months ended February 28, 2009, respectively. These restructuring charges, which impact all reportable segments, include \$3.5 million of severance, which will be paid during the next twelve months and \$0.4 million of facility consolidation and other restructuring costs. A rollforward of this restructuring reserve (included in Other Current Liabilities in the Condensed Consolidated Balance Sheet) is as follows (in thousands):

Accrued restructuring costs as of August 31, 2008	\$ —
Severance provisions	3,507
Cash payments	(969)
Impact of changes in foreign currency rates	(24)
Accrued restructuring costs as of February 28, 2009	<u>\$2,514</u>

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During the second quarter of fiscal 2008, the Company completed a specific restructuring plan in its European Electrical business (Electrical segment) at a cumulative pre-tax cost of \$20.8 million. The balance of the related restructuring reserve was \$3.6 million and \$5.1 million at February 28, 2009 and August 31, 2008, respectively. The decrease in the restructuring reserve is due to cash payments of \$0.9 million and the impact of changes in foreign currency rates. The remaining accrued restructuring costs primarily relate to a reserve for future minimum lease payments for vacated facilities, which will be paid over the term of the lease.

### Note 4. Accounts Receivable Securitization

The Company maintains an accounts receivable securitization program whereby it sells certain of its trade accounts receivable to a wholly owned, bankruptcy-remote special purpose subsidiary which, in turn, sells participating interests in its pool of receivables to a third-party financial institution (the "Purchaser"). The Purchaser receives an ownership and security interest in the pool of receivables. New receivables are purchased by the special purpose subsidiary and participation interests are resold to the Purchaser as collections reduce previously sold participation interests. The Company has retained collection and administrative responsibilities on the participation interests sold. The Purchaser has no recourse against the Company for uncollectible receivables; however, the Company's retained interest in the receivable pool is subordinate to the Purchaser and is recorded at fair value. Due to a short average collection cycle of approximately 60 days for such accounts receivable and the Company's collection history, the fair value of the Company's retained interest approximates book value. Book value of accounts receivable in the accompanying Condensed Consolidated Balance Sheet includes the gross accounts receivable retained interest less a reserve for doubtful accounts, which is calculated based on a review of the specific receivable issues and supplemented by a general reserve based on past collection history. The retained interest recorded at February 28, 2009 and August 31, 2008 was \$37.8 million and \$47.7 million, respectively, and is included in accounts receivable, net in the accompanying Condensed Consolidated Balance Sheets. The securitization program, which has a final maturity date in September 2009, was amended in December 2008, to decrease available capacity from \$65.0 million to \$60.0 million. Trade accounts receivables sold and being serviced by the Company totaled \$42.4 million and \$52.9 million at February 28, 2009 and August 31, 2008, respectively.

Sales of trade receivables from the special purpose subsidiary totaled \$91.2 and \$202.4 million for the three and six months ended February 28, 2009, respectively, and \$111.2 million and \$225.2 million for the three and six months ended February 29, 2008, respectively. Cash collections of trade accounts receivable balances in the total receivable pool (including both sold and retained portions) totaled \$160.6 million and \$347.7 million for the three and six months ended February 28, 2009, respectively, and \$201.3 million and \$397.5 million for the three and six months ended February 29, 2008, respectively.

The accounts receivables securitization program is accounted for as a sale in accordance with FASB Statement No. 140 "Accounting for Transfers and Servicing of Financial Assets and Extinguishment of Liabilities – A Replacement of FASB Statement No. 125." Sales of trade receivables are reflected as a reduction of accounts receivable in the accompanying Condensed Consolidated Balance Sheets and the proceeds received are included in cash flows from operating activities in the accompanying Condensed Consolidated Statements of Cash Flows.

The following table provides additional information about delinquencies and net credit losses for trade accounts receivable subject to the accounts receivable securitization program (in thousands).

	Balance Outstanding		Balance Outstanding 60 Days or More Past Due		Net Credit Losses Three Months Ended	
	February 28, 2009	August 31, 2008	February 28, 2009	August 31, 2008	February 28, 2009	February 29, 2008
Trade accounts receivable subject to securitization program	\$ 80,161	\$100,603	\$ 6,465	\$ 8,251	\$ 162	\$ 551
Trade accounts receivable balances sold	42,374	52,943				
Retained interest	\$ 37,787	\$ 47,660				

Accounts receivable financing costs of \$0.3 million and \$0.8 million for the three and six months ended February 28, 2009, respectively, and \$0.8 million and \$1.7 million for the three and six months ended February 29, 2008, respectively, are included in Financing Costs in the accompanying Condensed Consolidated Statements of Earnings.



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**Note 5. Goodwill and Other Intangible Assets**

The Company's goodwill is tested for impairment annually, or more frequently if events or changes in circumstances indicate that goodwill might be impaired. The Company performs impairment reviews for its reporting units using the discounted cash flow method based on management's judgments and assumptions. The estimated fair value of the reporting unit is compared to the carrying amount of the reporting unit, including goodwill. If the carrying value of the reporting unit exceeds its fair value, the goodwill of the reporting unit is potentially impaired and the Company then determines the implied fair value of goodwill, which is compared to the carrying value of goodwill to determine if impairment exists.

Indefinite lived intangible assets are also subject to an annual impairment test. On an annual basis, or more frequently if events or changes in circumstances indicate that the asset might be impaired, the fair value of the indefinite lived intangible assets are evaluated by the Company to determine if an impairment charge is required.

The Company also reviews long-lived assets for impairment when events or changes in business circumstances indicate that the carrying amount of the assets may not be fully recoverable. If such indicators are present, the Company performs an undiscounted operating cash flow analyses to determine if an impairment exists. If an impairment is determined to exist, any related impairment loss is calculated based on the estimated fair value of the long-lived assets.

Significant adverse developments in the recreational vehicle (RV) market in the first quarter of fiscal 2009 had a dramatic effect on the operations of the RV reporting unit (included in the Engineered Solutions segment). The financial results for the RV reporting unit were negatively impacted by lower wholesale motorhome shipments by OEM's, decreased consumer confidence and the lack of financing as a result of the continued global credit crisis. These factors caused the Company to significantly reduce projected sales, operating profits and cash flows of the RV reporting unit, and resulted in a \$26.6 million non-cash asset impairment charge during the three months ended November 30, 2008. The asset impairment charge included a goodwill impairment charge of \$22.2 million and, as a result, there is no remaining goodwill in the RV reporting unit. In addition, a \$0.8 million impairment was recognized related to indefinite lived intangibles (tradenames) of the RV reporting unit. Due to the existing impairment indicators, management assessed the recoverability of the RV reporting unit's fixed assets and amortizable intangible assets (customer relationships, patents and trademarks). An impairment charge of \$3.6 million was recognized for the difference between the fair value and carrying value of such assets during the three months ended November 30, 2008.

A considerable amount of management judgment and assumptions are required in performing the impairment tests and in measuring the fair value of goodwill, indefinite lived intangibles and long-lived assets. While the Company believes its judgments and assumptions are reasonable, different assumptions could change the estimated fair values or the amount of the recognized impairment losses.

The changes in the carrying value of goodwill for the six months ended February 28, 2009 are as follows (in thousands):

	<u>Industrial</u>	<u>Energy</u>	<u>Electrical</u>	<u>Engineered Solutions</u>	<u>Total</u>
Balance as of August 31, 2008	\$ 65,337	\$ 133,157	\$ 214,406	\$ 226,962	\$ 639,862
Business acquired	—	110,894	—	17,049	127,943
Purchase accounting adjustments	—	385	—	750	1,135
Impairment charge	—	—	—	(22,205)	(22,205)
Impact of changes in foreign currency rates	(2,543)	(32,739)	(5,213)	(3,986)	(44,481)
Balance as of February 28, 2009	<u>\$ 62,794</u>	<u>\$ 211,697</u>	<u>\$ 209,193</u>	<u>\$ 218,570</u>	<u>\$ 702,254</u>

The gross carrying value and accumulated amortization of the Company's intangible assets that have defined useful lives and are subject to amortization are as follows (in thousands):

	<u>February 28, 2009</u>			<u>August 31, 2008</u>		
	<u>Gross Carrying Value</u>	<u>Accumulated Amortization</u>	<u>Net Book Value</u>	<u>Gross Carrying Value</u>	<u>Accumulated Amortization</u>	<u>Net Book Value</u>
Customer relationships	\$ 231,750	\$ 29,641	\$ 202,109	\$ 163,956	\$ 24,529	\$ 139,427
Patents	45,844	22,887	22,957	44,200	21,289	22,911
Trademarks	6,300	4,847	1,453	6,556	3,640	2,916
Non-compete agreements	4,797	2,163	2,634	3,914	1,784	2,130
Other	574	321	253	656	318	338
	<u>\$ 289,265</u>	<u>\$ 59,859</u>	<u>\$ 229,406</u>	<u>\$ 219,282</u>	<u>\$ 51,560</u>	<u>\$ 167,722</u>

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The gross carrying value of the Company's intangible assets that have indefinite lives and are not subject to amortization as of February 28, 2009 and August 31, 2008 are \$135.1 million and \$124.7 million, respectively. These assets are comprised of acquired tradenames.

Amortization expense recorded on the intangible assets listed above was \$5.2 million and \$9.7 million for the three and six months ended February 28, 2009, respectively, and \$3.5 million and \$6.7 million for the three and six months ended February 29, 2008, respectively. The Company estimates that amortization expense will approximate \$10.6 million for the remainder of the fiscal year ending August 31, 2009. Amortization expense for future years is estimated to be as follows: \$21.0 million in fiscal 2010, \$19.7 million in fiscal 2011, \$18.5 million in 2012, \$17.3 million in fiscal 2013 and \$142.3 million thereafter. These future amortization expense amounts represent estimates, which may change based on future acquisitions or changes in foreign currency exchange rates.

### Note 6. Product Warranty Costs

The Company recognizes the cost associated with its product warranties at the time of sale. The amount recognized is based on historical claims rates and current claim cost experience. The following is a reconciliation of the changes in accrued product warranty (in thousands):

	Six Months Ended	
	February 28, 2009	February 29, 2008
Beginning balances	\$ 9,309	\$ 10,070
Warranty reserves of acquired business	278	50
Provision for warranties	4,095	5,776
Warranty payments and costs incurred	(4,360)	(4,621)
Impact of changes in foreign currency rates	(592)	482
Ending balances	<u>\$ 8,730</u>	<u>\$ 11,757</u>

### Note 7. Debt

The following is a summary of the Company's long-term indebtedness (in thousands):

	February 28, 2009	August 31, 2008
Senior Credit Facility:		
Commercial paper borrowings	\$ 29,555	\$ —
Revolver	134,018	—
Term loan	115,000	155,000
6.875% Senior notes	249,186	249,137
Fair value of cross currency interest rate swap	—	19,681
Sub-total—Senior indebtedness	527,759	423,818
Convertible subordinated debentures (“2% Convertible Notes”)	150,000	150,000
Total debt, excluding short-term borrowings	677,759	573,818
Less: current maturities of long-term debt	(5,766)	—
Total long-term debt, less current maturities	<u>\$ 671,993</u>	<u>\$573,818</u>

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On November 10, 2008, the Company amended its existing Senior Credit Facility, extending the maturity to November 10, 2011 and increasing total capacity by \$110 million. The amended Senior Credit Facility provides for a \$400 million revolving credit facility, a \$115 million term loan and an optional \$300 million expansion feature. The term loan initially bears interest at LIBOR plus 2.5% (aggregating 3.0% at February 28, 2009), while borrowings under the revolver bear interest at either LIBOR plus a borrowing spread of 2.5% (aggregating 3.0% at February 28, 2009) or a base borrowing rate of prime plus 1.25% (aggregating 4.5% at February 28, 2009). The term loan will be repaid in eight quarterly installments of \$1.4 million beginning March 31, 2009 through December 31, 2010, and four quarterly payments of \$25.9 million beginning March 31, 2011. All amended Senior Credit Facility borrowings are subject to a pricing grid, which can result in increases or decreases to the borrowing spread on a quarterly basis, depending on the Company's debt to EBITDA leverage ratio. In addition, a non-use fee is payable quarterly on the average unused credit line under the revolver. At February 28, 2009, the non-use fee was 0.40%. The amended Senior Credit Facility contains customary limits and restrictions concerning investments, sales of assets, liens on assets, minimum fixed charge coverage ratio, maximum leverage, dividends and other restricted payments. As of February 28, 2009, the Company was in compliance with all debt covenants. Based on the Company's forecast we project continued compliance with the financial covenants throughout fiscal 2009. The Company's ability to comply with the covenants in the future depends on global economic and credit market conditions and other factors. In addition to reducing costs in response to changes in end market demands, there are a number of additional measures the Company could take to maintain continued compliance with debt covenants in the future.

There were \$29.6 million of commercial paper borrowings outstanding at February 28, 2009. Total commercial paper outstanding cannot exceed \$100.0 million under the terms of the amended Senior Credit Facility. Since the revolver provides the liquidity backstop for outstanding commercial paper, the combined outstanding balance of the revolver and any outstanding commercial paper cannot exceed \$400.0 million. At February 28, 2009, the unused credit line under the revolver was approximately \$236.4 million, of which approximately \$175.0 million was available for borrowings.

On June 12, 2007, the Company issued \$250.0 million of 6.875% Senior Notes (the "Senior Notes") at an approximate \$1.0 million discount, generating net proceeds of \$249.0 million. The Senior Notes were issued at a price of 99.607% to yield 6.93%, and require no principal installments prior to their June 15, 2017 maturity. The approximate \$1.0 million initial issuance discount is being amortized through interest expense over the 10 year life of the Senior Notes. Semiannual interest payments on the Senior Notes are due in December and June of each year.

In November 2003, the Company issued \$150.0 million of Senior Subordinated Convertible Debentures due November 15, 2023 (the "2% Convertible Notes"). The 2% Convertible Notes bear interest at a rate of 2.0% annually which is payable on November 15 and May 15 of each year. Beginning with the six-month interest period commencing November 15, 2010, holders will receive contingent interest if the trading price of the 2% Convertible Notes equals or exceeds 120% of their underlying principal amount over a specified trading period. If payable, the contingent interest shall equal 0.25% of the average trading price of the 2% Convertible Notes during the five days immediately preceding the applicable six-month interest periods. The Company has the right to force conversion of all or part of the 2% Convertible Notes, for common stock, on or after November 20, 2010. The 2% Convertible Notes are convertible into shares of the Company's Class A common stock at a conversion rate of 50.1126 shares per \$1,000 of principal amount, which equals a conversion price of approximately \$19.96 per share (subject to adjustment). Holders of the 2% Convertible Notes also have the option to put the 2% Convertible Notes back to the Company for cash on November 15, 2010.

In November 2008, the Company terminated its then existing cross-currency interest rate swap agreement (the "swap agreement"). At August 31, 2008 the fair value of the swap agreement was a \$19.7 million liability, which was included in long-term debt in the accompanying Consolidated Balance Sheets. As a result of the strengthening of the U.S. dollar during the three months ended November 30, 2008, the Company received \$2.1 million of cash from the counterparties upon termination of the swap agreement.

### Note 8. Employee Benefit Plans

The Company provides pension benefits to certain employees of acquired domestic businesses, that were entitled to those benefits prior to acquisition, or existing and former employees of foreign businesses. Most of the U.S. defined benefit pension plans are frozen, and as a result, the majority of the plan participants no longer earn additional benefits, while most non-U.S. defined benefit plans continue to earn benefits. The following tables provide detail on the Company's net periodic benefit costs for the three and six months ended (in thousands):

	Three Months Ended		Six Months Ended	
	February 28, 2009	February 29, 2008	February 28, 2009	February 29, 2008
U.S. Pension Plans:				
Service cost	\$ —	\$ 21	\$ —	\$ 41
Interest cost	612	563	1,213	1,127
Expected return on assets	(726)	(702)	(1,442)	(1,403)
Amortization of actuarial loss	20	2	39	4
Net periodic benefit credit	<u>\$ (94)</u>	<u>\$ (116)</u>	<u>\$ (190)</u>	<u>\$ (231)</u>

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	Three Months Ended		Six Months Ended	
	February 28, 2009	February 29, 2008	February 28, 2009	February 29, 2008
<b>Non-U.S. Pension Plans:</b>				
Service cost	\$ 129	\$ 122	\$ 257	\$ 244
Interest cost	389	355	778	710
Expected return on assets	(143)	(80)	(286)	(160)
Amortization of actuarial loss	1	1	2	2
Net periodic benefit cost	<u>\$ 376</u>	<u>\$ 398</u>	<u>\$ 751</u>	<u>\$ 796</u>

The Company anticipates contributing \$0.2 million to U.S. pension plans and \$1.3 million to non-U.S. pension plans in fiscal 2009.

### Note 9. Fair Value Measurement

The Company adopted SFAS No. 157 on September 1, 2008, which requires expanded disclosure for financial assets and liabilities measured at fair value. The Company assesses the inputs used to measure fair value using a three-tier hierarchy. Level 1 inputs include quoted prices for identical instruments and are the most observable. Level 2 inputs include quoted prices for similar assets and observable inputs such as interest rates, foreign currency exchange rates, commodity rates and yield curves. Level 3 inputs are not observable in the market and include management's own judgments about the assumptions market participants would use in pricing the asset or liability. At February 28, 2009, the financial assets and liabilities included in the Condensed Consolidated Balance Sheet that are measured at fair value, on a recurring basis, include cash equivalents of \$0.4 million (Level 1), investments of \$1.1 million (Level 1) and a liability for the fair value of derivative instruments of \$1.7 million (Level 2). The Company has no financial assets or liabilities that are recorded at fair value using significant unobservable inputs (Level 3).

### Note 10. Earnings Per Share

The reconciliations between basic and diluted earnings per share are as follows (in thousands, except per share amounts):

	Three Months Ended		Six Months Ended	
	February 28, 2009	February 29, 2008	February 28, 2009	February 29, 2008
<b>Numerator:</b>				
Net Earnings	\$ 3,244	\$ 22,239	\$ 14,842	\$ 49,666
Plus: 2% Convertible Notes financings costs, net of taxes	611	611	1,222	1,222
Net earnings for diluted earnings per share	<u>\$ 3,855</u>	<u>\$ 22,850</u>	<u>\$ 16,064</u>	<u>\$ 50,888</u>
<b>Denominator:</b>				
Weighted average common shares outstanding for basic earnings per share	56,170	55,815	56,096	55,712
Net effect of dilutive securities - equity based compensation plans	569	1,384	712	1,462
Net effect of 2% Convertible Notes based on the if-converted method	7,517	7,517	7,517	7,517
Weighted average common and equivalent shares outstanding for diluted earnings per share	<u>64,256</u>	<u>64,716</u>	<u>64,325</u>	<u>64,691</u>
<b>Basic Earnings Per Share:</b>	\$ 0.06	\$ 0.40	\$ 0.26	\$ 0.89
<b>Diluted Earnings Per Share:</b>	\$ 0.06	\$ 0.35	\$ 0.25	\$ 0.79

Outstanding share-based awards to acquire 4.0 million and 3.3 million shares of common stock for the three months and six months ended February 28, 2009 were not included in the Company's computation of dilutive securities because the effect would have been anti-dilutive.

### Note 11. Income Taxes

The Company's income tax expense is impacted by a number of factors, including the amount of taxable earnings derived in foreign jurisdictions with tax rates that are higher or lower than the U.S. federal statutory rate, permanent items, state tax rates and our ability to utilize various tax credits and net operating loss carryforwards. The Company adjusts the quarterly provision for income taxes based on the estimated annual effective income tax rate and facts and circumstances known at each interim reporting period.

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The effective income tax rate for the three and six months ended February 28, 2009 was (51.9)% and 1.8%. The decrease in the effective tax rate for the six months ended February 28, 2009, relative to the prior year, reflects a decrease in the estimated fiscal 2009 taxable income and the tax benefit on the impairment charge (Note 5, "Goodwill and Other Intangible Assets") being recognized at a 38% rate, consistent with the underlying combined U.S. federal and state income tax rate. This tax rate is much higher than the Company's consolidated global effective tax rate. Excluding the impairment charge, the effective income tax rate for the six months ended February 28, 2009 would have been 24.9%. The effective income tax rate of 35.3% and 35.5% for the three and six months ended February 29, 2008 was relatively higher, primarily as a result of restructuring charges for which no tax benefits were recorded.

As a result of a review of current tax positions, the liability for unrecognized tax benefits increased from \$29.9 million at August 31, 2008 to \$31.7 million at February 28, 2009. Substantially all of these unrecognized tax benefits, if recognized, would reduce the effective income tax rate. Within the next twelve months, the Company expects the settlement of a foreign tax item, which will reduce the liability for unrecognized tax benefits by approximately \$1.0 million. In addition, as of February 28, 2009 and August 31, 2008, the Company has accrued \$4.1 million and \$3.2 million, respectively, for the payment of interest and penalties related to its unrecognized tax benefits.

### Note 12. Other Comprehensive Income (Loss)

The Company's comprehensive income (loss) during the three and six months ended February 28, 2009 was significantly impacted by the strengthening of the US dollar versus other global currencies, most notably the Euro and British Pound. The following table sets forth the reconciliation of net income to comprehensive income (loss) (in thousands):

	Three Months Ended		Six Months Ended	
	February 28, 2009	February 29, 2008	February 28, 2009	February 29, 2008
Net income	\$ 3,244	\$ 22,239	\$ 14,842	\$ 49,666
Foreign currency translation adjustment	(15,629)	(455)	(80,569)	7,150
Changes in net unrealized gains/(losses), net of tax	37	56	(1,762)	(657)
Comprehensive (loss) income	<u>\$ (12,348)</u>	<u>\$ 21,840</u>	<u>\$ (67,489)</u>	<u>\$ 56,159</u>

### Note 13. Segment Information

During the second quarter of fiscal 2009, the Company's financial reporting segments were modified to reflect changes in the portfolio of businesses, due to acquisitions, as well as changes in business reporting lines. The Company considered these changes as part of its ongoing assessment of segment reporting, and changed its operating and reportable segments to reflect four reportable segments: Industrial, Energy, Electrical and Engineered Solutions. All prior period amounts and disclosures have been adjusted to reflect the current reportable segments. The Industrial segment is primarily involved in the design, manufacture and distribution of branded hydraulic and mechanical tools to the maintenance, industrial, infrastructure and production automation markets. The Energy segment provides joint integrity products and services, as well as umbilical, rope and cable solutions to the global oil & gas, power generation and energy markets. The Electrical segment is primarily involved in the design, manufacture and distribution of a broad range of electrical products to the retail DIY, wholesale, OEM, utility and marine markets. The Engineered Solutions segment provides highly engineered position and motion control systems to OEMs in various vehicle and other industrial markets, as well as other engineered industrial products. The Company has not aggregated individual operating segments within these reportable segments. The Company evaluates segment performance based primarily on net sales and operating profit.

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The following tables summarize financial information by reportable segment and product line (in thousands):

	Three Months Ended		Six Months Ended	
	February 28, 2009	February 29, 2008	February 28, 2009	February 29, 2008
<b>Net Sales by Segment:</b>				
Industrial	\$ 71,682	\$ 87,344	\$ 162,206	\$ 174,756
Energy	59,526	43,458	133,508	93,135
Electrical	91,788	135,785	199,845	276,078
Engineered Solutions	76,678	133,042	184,095	270,803
	<u>\$ 299,674</u>	<u>\$ 399,629</u>	<u>\$ 679,654</u>	<u>\$ 814,772</u>
<b>Net Sales by Reportable Product Line:</b>				
Industrial	\$ 71,682	\$ 87,344	\$ 162,206	\$ 174,756
Energy	59,526	43,458	133,508	93,135
Electrical Tools & Supplies	54,735	76,658	117,930	155,984
Harsh Environment Electrical	14,166	28,894	32,502	58,498
Power Transformation	22,887	30,233	49,413	61,596
Vehicle Systems	45,810	100,159	118,559	203,578
Other	30,868	32,883	65,536	67,225
	<u>\$ 299,674</u>	<u>\$ 399,629</u>	<u>\$ 679,654</u>	<u>\$ 814,772</u>
<b>Operating Profit:</b>				
Industrial	\$ 15,545	\$ 25,990	\$ 41,552	\$ 51,652
Energy	5,978	6,767	21,514	19,081
Electrical	(894)	6,890	3,753	12,982
Engineered Solutions	(3,354)	10,844	(21,683)	23,950
General Corporate	(5,277)	(7,743)	(8,474)	(14,158)
	<u>\$ 11,998</u>	<u>\$ 42,748</u>	<u>\$ 36,662</u>	<u>\$ 93,507</u>
			<b>February 28, 2009</b>	<b>August 31, 2008</b>
<b>Assets:</b>				
Industrial			\$ 209,068	\$ 251,384
Energy			455,758	306,833
Electrical			430,119	464,104
Engineered Solutions			453,216	520,580
General Corporate			85,245	125,481
			<u>\$1,633,406</u>	<u>\$1,668,382</u>

In addition to the impact of changes in foreign currency exchange rates, the comparability of the segment and product line data is impacted by the acquisitions discussed in Note 2, "Acquisitions" and the asset impairment charge of \$26.6 million included in the Engineered Solutions segment for the six months ended February 28, 2009, as discussed in Note 5, "Goodwill and Other Intangibles."

Corporate assets, which are not allocated, principally represent cash and cash equivalents, capitalized debt issuance costs, deferred income taxes, the fair value of derivative instruments and the retained interest in trade accounts receivable (subject to the accounts receivable program discussed in Note 4, "Accounts Receivable Securitization.")

### Note 14. Contingencies and Litigation

The Company had outstanding letters of credit of \$7.2 million and \$6.4 million at February 28, 2009 and August 31, 2008, respectively which secure self-insured workers compensation liabilities.

The Company is a party to various legal proceedings that have arisen in the normal course of its business. These legal proceedings typically include product liability, environmental, labor, patent claims and other disputes. The Company has recorded reserves for loss contingencies based on the specific circumstances of each case. Such reserves are recorded when it is probable that a loss has been incurred as of the balance sheet date and such loss can be reasonably estimated. In the opinion of management, the resolution of these contingencies will not have a material adverse effect on the Company's financial condition, results of operations or cash flows.

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The Company, in the normal course of business, enters into certain real estate and equipment leases or guarantees such leases on behalf of its subsidiaries. In conjunction with the spin-off of a former subsidiary in fiscal 2000, the Company assigned its rights in the leases used by the former subsidiary, but was not released as a responsible party from all such leases by the lessors. All of these businesses were subsequently sold. The Company remains contingently liable for those leases if any of these businesses are unable to fulfill their obligations thereunder. The discounted present value of future minimum lease payments for such leases totals, assuming no offset for sub-leasing, is approximately \$4.8 million at February 28, 2009. The future undiscounted minimum lease payments for these leases are as follows: \$0.9 million in the balance of calendar 2009; \$1.1 million in calendar 2010; \$1.2 million annually in calendar 2011 through 2013 and \$2.6 million thereafter.

The Company has facilities in numerous geographic locations that are subject to a range of environmental laws and regulations. Environmental costs that have no future economic value are expensed. Liabilities are recorded when environmental remediation is probable and the costs are reasonably estimable. Environmental expenditures over the last two years have not been material. Management believes that such costs will not have a material adverse effect on the Company's financial position, results of operations or cash flows.

### **Note 15. Guarantor Subsidiaries**

On June 12, 2007, Actuant Corporation (the "Parent") issued \$250.0 million of 6.875% Senior Notes. All of our material domestic 100% owned subsidiaries (the "Guarantors") fully and unconditionally guarantee the 6.875% Senior Notes on a joint and several basis. There are no significant restrictions on the ability of the Guarantors to make distributions to the Parent. The following tables present the condensed results of operations, financial position and cash flows of Actuant Corporation and its subsidiaries, the Guarantor and non-Guarantor entities, and the eliminations necessary to arrive at the information for the Company on a consolidated basis.

General corporate expenses have not been allocated to subsidiaries, and are all included under the Parent heading. As a matter of course, the Company retains certain assets and liabilities at the corporate level (Parent column in the following tables) which are not allocated to subsidiaries including, but not limited to, certain employee benefits, insurance, financing, and tax liabilities. Income tax provisions for domestic subsidiaries are typically recorded using an estimate and finalized in total with an adjustment recorded at the Parent level. Net sales reported for each of the headings only includes sales to third parties; sales between entities are not significant. Additionally, substantially all of the indebtedness of the Company is carried at the corporate level and is therefore included in the Parent column in the following tables. Substantially all accounts receivable of the Parent and Guarantors are sold into the accounts receivable program described in Note 4, "Accounts Receivable Securitization." Allowances for doubtful accounts remains recorded at the Parent and Guarantors. Intercompany balances include receivables/payables incurred in the normal course of business in addition to investments and loans transacted between subsidiaries of the Company or with Actuant.

**CONDENSED CONSOLIDATING STATEMENTS OF EARNINGS**  
(In thousands)

	Three Months Ended February 28, 2009				
	Parent	Guarantors	Non-Guarantors	Eliminations	Consolidated
Net sales	\$35,010	\$ 123,195	\$ 141,469	\$ —	\$ 299,674
Cost of products sold	13,450	88,896	102,248	—	204,594
Gross profit	21,560	34,299	39,221	—	95,080
Selling, administrative and engineering expenses	16,269	24,457	34,003	—	74,729
Restructuring charge	293	1,604	1,247	—	3,144
Amortization of intangible assets	—	3,550	1,659	—	5,209
Operating profit	4,998	4,688	2,312	—	11,998
Financing costs, net	9,565	145	194	—	9,904
Intercompany expense (income), net	(1,385)	(2,579)	3,964	—	—
Other expense (income), net	(613)	115	463	—	(35)
Earnings (loss) before income tax expense and minority interest	(2,569)	7,007	(2,309)	—	2,129
Income tax benefit	(42)	(695)	(368)	—	(1,105)
Minority interest, net of income taxes	—	—	(10)	—	(10)
Net earnings (loss) before equity in earnings of subsidiaries	(2,527)	7,702	(1,931)	—	3,244
Equity in earnings (loss) of subsidiaries	5,771	(3,131)	56	(2,696)	—
Net earnings (loss)	<u>\$ 3,244</u>	<u>\$ 4,571</u>	<u>\$ (1,875)</u>	<u>\$ (2,696)</u>	<u>\$ 3,244</u>
	Three Months Ended February 29, 2008				
	Parent	Guarantors	Non-Guarantors	Eliminations	Consolidated
Net sales	\$42,288	\$ 141,294	\$ 216,047	\$ —	\$ 399,629
Cost of products sold	17,715	103,305	144,769	—	265,789
Gross profit	24,573	37,989	71,278	—	133,840
Selling, administrative and engineering expenses	19,232	24,781	38,666	—	82,679
Restructuring charge	—	—	4,952	—	4,952
Amortization of intangible assets	—	2,331	1,130	—	3,461
Operating profit	5,341	10,877	26,530	—	42,748
Financing costs, net	8,379	62	591	—	9,032
Intercompany expense (income), net	(7,752)	6,706	1,046	—	—
Other expense (income), net	125	(35)	(760)	—	(670)
Earnings before income tax expense and minority interest	4,589	4,144	25,653	—	34,386
Income tax expense	1,621	1,465	9,068	—	12,154
Minority interest, net of income taxes	—	—	(7)	—	(7)
Net earnings before equity in earnings of subsidiaries	2,968	2,679	16,592	—	22,239
Equity in earnings of subsidiaries	19,271	6,058	1,961	(27,290)	—
Net earnings	<u>\$22,239</u>	<u>\$ 8,737</u>	<u>\$ 18,553</u>	<u>\$ (27,290)</u>	<u>\$ 22,239</u>



**CONDENSED CONSOLIDATING STATEMENTS OF EARNINGS**  
(In thousands)

	Six Months Ended February 28, 2009				
	Parent	Guarantors	Non-Guarantors	Eliminations	Consolidated
Net sales	\$ 78,572	\$ 264,121	\$ 336,961	\$ —	\$ 679,654
Cost of products sold	28,285	188,925	235,472	—	452,682
Gross profit	50,287	75,196	101,489	—	226,972
Selling, administrative and engineering expenses	28,026	51,297	70,892	—	150,215
Restructuring charge	415	1,696	1,765	—	3,876
Impairment charge	—	23,774	2,779	—	26,553
Amortization of intangible assets	—	7,021	2,645	—	9,666
Operating profit	21,846	(8,592)	23,408	—	36,662
Financing costs, net	21,586	143	410	—	22,139
Intercompany expense (income), net	(7,202)	(285)	7,487	—	—
Other expense (income), net	(427)	(387)	245	—	(569)
Earnings (loss) before income tax expense and minority interest	7,889	(8,063)	15,266	—	15,092
Income tax (benefit) expense	2,991	(7,205)	4,479	—	265
Minority interest, net of income taxes	—	—	(15)	—	(15)
Net earnings (loss) before equity in earnings of subsidiaries	4,898	(858)	10,802	—	14,842
Equity in earnings (loss) of subsidiaries	9,944	3,541	(2,890)	(10,595)	—
Net earnings	<u>\$ 14,842</u>	<u>\$ 2,683</u>	<u>\$ 7,912</u>	<u>\$ (10,595)</u>	<u>\$ 14,842</u>

	Six Months Ended February 29, 2008				
	Parent	Guarantors	Non-Guarantors	Eliminations	Consolidated
Net sales	\$ 83,198	\$ 292,277	\$ 439,297	\$ —	\$ 814,772
Cost of products sold	33,606	213,110	293,383	—	540,099
Gross profit	49,592	79,167	145,914	—	274,673
Selling, administrative and engineering expenses	35,948	51,940	76,088	—	163,976
Restructuring charge	—	—	10,472	—	10,472
Amortization of intangible assets	—	4,603	2,115	—	6,718
Operating profit	13,644	22,624	57,239	—	93,507
Financing costs, net	16,952	59	1,320	—	18,331
Intercompany expense (income), net	(13,371)	11,687	1,684	—	—
Other expense (income), net	527	(34)	(2,274)	—	(1,780)
Earnings before income tax expense and minority interest	9,536	10,912	56,508	—	76,956
Income tax expense	3,382	3,873	20,047	—	27,302
Minority interest, net of income taxes	—	—	(12)	—	(12)
Net earnings before equity in earnings of subsidiaries	6,154	7,039	36,473	—	49,666
Equity in earnings of subsidiaries	43,512	20,996	1,793	(66,301)	—
Net earnings	<u>\$ 49,666</u>	<u>\$ 28,035</u>	<u>\$ 38,266</u>	<u>\$ (66,301)</u>	<u>\$ 49,666</u>

**CONDENSED CONSOLIDATING BALANCE SHEETS**  
(In thousands)

	February 28, 2009				
	Parent	Guarantors	Non-Guarantors	Eliminations	Consolidated
<b>ASSETS</b>					
Current Assets					
Cash and cash equivalents	\$ —	\$ 245	\$ 22,084	\$ —	\$ 22,329
Accounts receivable, net	1,845	13,108	151,904	—	166,857
Inventories, net	26,860	91,334	87,319	—	205,513
Deferred income taxes	12,708	37	(1,273)	—	11,472
Prepaid expenses and other current assets	10,039	2,063	1,545	—	13,647
Total Current Assets	51,452	106,787	261,579	—	419,818
Property, Plant & Equipment, net	9,035	52,038	73,165	—	134,238
Goodwill	68,969	420,562	212,723	—	702,254
Other Intangibles, net	—	267,599	96,877	—	364,476
Investment in Subsidiaries	1,572,036	265,410	150,209	(1,987,655)	—
Other Long-term Assets	11,795	213	612	—	12,620
Total Assets	<u>\$ 1,713,287</u>	<u>\$ 1,112,609</u>	<u>\$ 795,165</u>	<u>\$ (1,987,655)</u>	<u>\$ 1,633,406</u>
<b>LIABILITIES &amp; SHAREHOLDERS' EQUITY</b>					
Current Liabilities					
Short-term borrowings	\$ —	\$ —	\$ 2,865	\$ —	\$ 2,865
Trade accounts payable	14,370	33,859	61,498	—	109,727
Accrued compensation and benefits	8,664	7,623	17,791	—	34,078
Income taxes payable (receivable)	7,844	(235)	6,444	—	14,053
Current maturities of long-term debt	5,750	2	14	—	5,766
Other current liabilities	15,243	16,467	20,082	—	51,792
Total Current Liabilities	51,871	57,716	108,694	—	218,281
Long-term Debt, less Current Maturities	671,993	—	—	—	671,993
Deferred Income Taxes	102,289	(477)	17,217	—	119,029
Pension and Post-retirement Benefit Liabilities	9,002	381	16,395	—	25,778
Other Long-term Liabilities	18,099	1,879	7,707	—	27,685
Intercompany Payable (Receivable)	289,393	(227,040)	(62,353)	—	—
Shareholders' Equity	570,640	1,280,150	707,505	(1,987,655)	570,640
Total Liabilities and Shareholders' Equity	<u>\$ 1,713,287</u>	<u>\$ 1,112,609</u>	<u>\$ 795,165</u>	<u>\$ (1,987,655)</u>	<u>\$ 1,633,406</u>

**CONDENSED CONSOLIDATING BALANCE SHEETS**  
(In thousands)

	August 31, 2008				
	Parent	Guarantors	Non-Guarantors	Eliminations	Consolidated
<b>ASSETS</b>					
Current Assets					
Cash and cash equivalents	\$ 43,132	\$ 213	\$ 79,204	\$ —	\$ 122,549
Accounts receivable, net	325	9,039	217,200	—	226,564
Inventories, net	26,273	87,835	101,283	—	215,391
Deferred income taxes	12,835	36	(1,001)	—	11,870
Prepaid expenses and other current assets	4,651	2,541	8,900	—	16,092
Total Current Assets	87,216	99,664	405,586	—	592,466
Property, Plant & Equipment, net	9,463	46,209	78,878	—	134,550
Goodwill	65,062	390,306	184,494	—	639,862
Other Intangibles, net	—	228,099	64,260	—	292,359
Investment in Subsidiaries	1,345,395	250,953	42,212	(1,638,560)	—
Other Long-term Assets	8,185	220	740	—	9,145
Total Assets	<u>\$ 1,515,321</u>	<u>\$ 1,015,451</u>	<u>\$ 776,170</u>	<u>\$ (1,638,560)</u>	<u>\$ 1,668,382</u>
<b>LIABILITIES &amp; SHAREHOLDERS' EQUITY</b>					
Current Liabilities					
Short-term borrowings	\$ —	\$ 4	\$ 335	\$ —	\$ 339
Trade accounts payable	23,394	45,408	98,061	—	166,863
Accrued compensation and benefits	19,431	10,664	28,928	—	59,023
Income taxes payable (receivable)	(6,702)	278	31,291	—	24,867
Other current liabilities	16,461	17,829	25,743	—	60,033
Total Current Liabilities	52,584	74,183	184,358	—	311,125
Long-term Debt, less Current Maturities	573,815	1	2	—	573,818
Deferred Income Taxes	80,744	(286)	19,176	—	99,634
Pension and Post-retirement Benefit Liabilities	9,628	—	18,013	—	27,641
Other Long-term Liabilities	19,012	1,218	6,428	—	26,658
Intercompany Payable (Receivable)	150,032	(229,662)	79,630	—	—
Shareholders' Equity	629,506	1,169,997	468,563	(1,638,560)	629,506
Total Liabilities and Shareholders' Equity	<u>\$ 1,515,321</u>	<u>\$ 1,015,451</u>	<u>\$ 776,170</u>	<u>\$ (1,638,560)</u>	<u>\$ 1,668,382</u>

**CONDENSED CONSOLIDATING STATEMENTS OF CASH FLOWS**  
*(In thousands)*

	Six Months Ended February 28, 2009				
	Parent	Guarantors	Non-Guarantors	Eliminations	Consolidated
<b>Operating Activities</b>					
Net cash provided by operating activities	\$ 8,567	\$ 25,280	\$ 6,249	\$ (6,477)	\$ 33,619
<b>Investing Activities</b>					
Proceeds from sale of property, plant & equipment	—	129	161	—	290
Capital expenditures	(86)	(2,650)	(9,771)	—	(12,507)
Changes in intercompany receivables/payables	62,037	(16,684)	(45,353)	—	—
Business acquisitions, net of cash acquired	(234,600)	434	(1,706)	—	(235,872)
Cash used in investing activities	(172,649)	(18,771)	(56,669)	—	(248,089)
<b>Financing Activities</b>					
Net borrowings on revolver and other debt	165,658	—	2,551	—	168,209
Proceeds from issuance of term loans	115,000	—	—	—	115,000
Principal repayments on term loans	(155,000)	—	—	—	(155,000)
Debt issuance and amendment costs	(5,333)	—	—	—	(5,333)
Dividends paid	(2,251)	(6,477)	—	6,477	(2,251)
All other	2,876	—	—	—	2,876
Cash provided by (used in) financing activities	120,950	(6,477)	2,551	6,477	123,501
<b>Effect of exchange rate changes on cash</b>	—	—	(9,251)	—	(9,251)
<b>Net increase (decrease) in cash and cash equivalents</b>	(43,132)	32	(57,120)	—	(100,220)
<b>Cash and cash equivalents - beginning of period</b>	43,132	213	79,204	—	122,549
<b>Cash and cash equivalents - end of period</b>	<u>\$ —</u>	<u>\$ 245</u>	<u>\$ 22,084</u>	<u>\$ —</u>	<u>\$ 22,329</u>

**CONDENSED CONSOLIDATING STATEMENTS OF CASH FLOWS**  
*(In thousands)*

	Six Months Ended February 29, 2008				
	Parent	Guarantors	Non-Guarantors	Eliminations	Consolidated
<b>Operating Activities</b>					
Net cash provided by (used in) operating activities	\$ (5,915)	\$ 39,478	\$ 85,491	\$ (58,210)	\$ 60,844
<b>Investing Activities</b>					
Proceeds from sale of property, plant & equipment	1,084	8,137	2,358	—	11,579
Capital expenditures	(1,792)	(4,247)	(13,195)	—	(19,234)
Changes in intercompany receivables/payables	42,064	3,907	(45,971)	—	—
Business acquisitions, net of cash acquired	(47,464)	27	(3,629)	—	(51,066)
Cash provided by (used in) investing activities	(6,108)	7,824	(60,437)	—	(58,721)
<b>Financing Activities</b>					
Net borrowings on revolver and other debt	—	—	2,140	—	2,140
Principal repayments on term loans	—	—	(1,001)	—	(1,001)
Dividends paid	(2,221)	(48,082)	(10,128)	58,210	(2,221)
All other	3,338	—	—	—	3,338
Cash provided by (used in) financing activities	1,117	(48,082)	(8,989)	58,210	2,256
<b>Effect of exchange rate changes on cash</b>	—	—	3,853	—	3,853
<b>Net increase (decrease) in cash and cash equivalents</b>	(10,906)	(780)	19,918	—	8,232
<b>Cash and cash equivalents - beginning of period</b>	25,605	—	61,075	—	86,680
<b>Cash and cash equivalents - end of period</b>	<u>\$ 14,699</u>	<u>\$ (780)</u>	<u>\$ 80,993</u>	<u>\$ —</u>	<u>\$ 94,912</u>

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### Item 2 – Management’s Discussion and Analysis of Financial Condition and Results of Operations

We are a diversified global manufacturer of a broad range of industrial products and systems, organized into four reportable segments, Industrial, Energy, Electrical and Engineered Solutions. During the second quarter of fiscal 2009, the Company’s financial reporting segments were modified to reflect changes in the portfolio of businesses, due to acquisitions, as well as changes in business reporting lines. The Industrial segment is primarily involved in the design, manufacture and distribution of branded hydraulic and mechanical tools to the maintenance, industrial, infrastructure and production automation markets. The Energy segment provides joint integrity products and services, as well as, umbilical, rope and cable solutions to the global oil & gas, power generation and energy markets. The Electrical segment is primarily involved in the design, manufacture and distribution of a broad range of electrical products to the retail DIY, wholesale, OEM, utility and marine markets. The Engineered Solutions segment provides highly engineered position and motion control systems to OEMs in various vehicle and other industrial markets, as well as, other industrial products.

Our long-term goal is to grow annual diluted earnings per share (“EPS”), excluding unusual or non-recurring items, faster than most multi-industry peers. We intend to leverage our leading market positions to generate annual internal sales growth that exceeds the annual growth rates of the gross domestic product in the geographic regions in which we operate. In addition to internal sales growth, we are focused on acquiring complementary businesses (tuck-in acquisitions). Following an acquisition, we seek to drive cost reductions, develop additional cross-selling opportunities and deepen customer relationships. We also focus on profit margin expansion and cash flow generation to achieve our EPS growth goal. Our LEAD (“Lean Enterprise Across Disciplines”) process utilizes various continuous improvement techniques to drive out costs and improve efficiencies across all locations and functions worldwide, thereby expanding profit margins. Strong cash flow generation is achieved by maximizing returns on assets and minimizing primary working capital needs. The cash flow that results from efficient asset management and improved profitability is used to reduce debt and fund additional acquisitions and internal growth opportunities.

In the first half of fiscal 2009 demand for our products serving markets in the Industrial, Electrical and Engineered Solutions segments slowed, especially in the most recent quarter. We attribute this to the worldwide economic downturn. In response to this economic environment, we have implemented a number of cost reduction programs across all four of our reportable segments in order to reduce the impact of lower customer demand on our profitability. We incurred approximately \$4 million of restructuring charges and severance costs in the first half of fiscal 2009, closed approximately ten facilities and reduced our headcount by 17%. Similar actions will continue during the balance of the fiscal year resulting in additional facility closures, employment reductions and restructuring charges. Our priorities during the remainder of fiscal 2009 include the effective execution of these cost reduction activities, working capital management, investments in selected growth initiatives and maximizing cash flow generation.

### Results of Operations

The following table sets forth our results of operations, on a consolidated basis, for the three and six months ended February 28, 2009 and February 29, 2008 (in millions):

	Three Months Ended		Six Months Ended	
	February 28, 2009	February 29, 2008	February 28, 2009	February 29, 2008
Net sales	\$ 300	\$ 400	\$ 680	\$ 815
Cost of products sold	205	266	453	540
Gross profit	95	134	227	275
Selling, administrative and engineering expenses	75	83	150	164
Restructuring charges	3	5	3	10
Impairment charge	—	—	27	—
Amortization of intangible assets	5	3	10	7
Operating profit	12	43	37	94
Financing costs, net	10	9	22	18
Other income, net	—	—	—	(1)
Earnings before income tax expense	2	34	15	77
Income tax (benefit) expense	(1)	12	—	27
Net earnings	\$ 3	\$ 22	\$ 15	\$ 50

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The comparability of the operating results for the three and six months ended February 28, 2009 to the prior year periods has been impacted by acquisitions. Listed below are the larger acquisitions completed since September 1, 2007.

Business	Segment	Product Line	Acquisition Date
Templeton, Kenly & Co., Inc.	Industrial	Industrial	September 13, 2007
Superior Plant Services, LLC	Energy	Energy	March 3, 2008
The Cortland Companies			September 26, 2008
Cortland Cable Company	Energy	Energy	
Sanlo, Inc.	Engineered Solutions	Other	

The operating results of acquired businesses are included in the Company's consolidated results only since their respective acquisition dates. Currency translation rates can also influence our results since approximately half of our sales are denominated in currencies other than the US dollar. The strengthening of the US dollar over the past year has negatively impacted comparisons of fiscal 2009 results to the prior year due to the translation of non-US dollar denominated subsidiary results. In addition, our financial results have been, and will continue to be, impacted by the economic conditions that exist in the end markets we serve.

Consolidated net sales decreased by \$100 million, or 25%, from \$400 million for the three months ended February 29, 2008 to \$300 million for the three months ended February 28, 2009. Excluding the \$25 million of sales from acquired businesses and the \$26 million unfavorable impact of foreign currency exchange rate changes on translated results, fiscal 2009 second quarter consolidated core sales decreased 26% as compared to the fiscal 2008 second quarter. Fiscal 2009 year-to-date sales decreased by \$135 million, or 17%, from \$815 million in the comparable prior year period to \$680 million in the current year. Excluding \$45 million of sales from acquired businesses and the \$40 million unfavorable impact of foreign currency exchange rate changes, core sales for the six months ended February 28, 2009 decreased 18% compared to the prior year period. The changes in sales at the segment level are discussed in further detail below.

Operating profit for the three months ended February 28, 2009 was \$12 million, compared with \$43 million for the three months ended February 29, 2008. Operating profit includes \$3 million and \$5 million of restructuring charges for the second quarter of fiscal 2009 and 2008, respectively. Operating profit for the six months ended February 28, 2009 was \$37 million, compared to \$94 million for the six months ended February 29, 2008. Operating profit for the six months ended February 28, 2009 includes restructuring charges of \$4 million and a non-cash impairment charge of \$27 million related to the goodwill, indefinite lived intangibles and long-lived assets of the RV reporting unit (see Note 3 "Restructuring" and Note 5 "Goodwill and Other Intangible Assets"). The operating profit in the comparable prior year period includes \$10 million of restructuring charges related to the European Electrical business. The comparability of operating profit between periods is also impacted by lower production levels, reduced selling, administration and engineering expenses, acquisitions and the impact of foreign currency exchange rate changes. The changes in operating profit at the segment level are discussed in further detail below.

## Segment Results

### Net Sales (in millions)

	Three Months Ended		Six Months Ended	
	February 28, 2009	February 29, 2008	February 28, 2009	February 29, 2008
Industrial	\$ 72	\$ 87	\$ 162	\$ 175
Energy	59	44	134	93
Electrical	92	136	200	276
Engineered Solutions	77	133	184	271
	<u>\$ 300</u>	<u>\$ 400</u>	<u>\$ 680</u>	<u>\$ 815</u>

### Industrial Segment

Industrial segment net sales decreased by \$15 million, or 18%, from \$87 million for the three months ended February 29, 2008 to \$72 million for the three months ended February 28, 2009. During the six months ended February 28, 2009, Industrial net sales decreased by \$13 million, or 7%, from \$175 million for the six months ended February 29, 2008 to \$162 million. Foreign currency rate changes on translated results negatively impacted sales comparisons for the three and six months ended February 28, 2009 by \$5 million and \$7 million, respectively. Excluding foreign currency rate changes and sales from the Templeton, Kenly & Co., Inc. (Simplex) acquisition, core sales declined 13% and 1%, respectively, for the three and six months ended February 28, 2009. The core sales declines reflect customer inventory destocking and a significant weakening of end market demand across all geographic regions, during the second quarter.

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### Energy Segment

Energy segment net sales increased by \$15 million, or 37%, from \$44 million for the three months ended February 29, 2008 to \$59 million for the three months ended February 28, 2009, reflecting core sales growth and the acquisitions of Superior Plant Services, LLC in March 2008 and Cortland Cable Company in September 2008. During the six months ended February 28, 2009, Energy net sales increased by \$40 million, or 43%, from \$93 million for the six months ended February 29, 2008 to \$134 million. Foreign currency rate changes on translated results negatively impacted sales comparisons for the three and six months ended February 28, 2009 by \$7 million and \$12 million, respectively. Excluding foreign currency rate changes and acquisitions, core sales increased 5% and 12%, respectively for the three and six months ended February 28, 2009, reflecting the continued expansion of our products, rental assets and services into the global energy market.

### Electrical Segment

Electrical segment net sales decreased by \$44 million, or 32%, from \$136 million for the three months ended February 29, 2008 to \$92 million for the three months ended February 28, 2009. During the six months ended February 28, 2009, Electrical Segment net sales decreased by \$76 million, or 28%, from \$276 million for the six months ended February 29, 2008 to \$200 million for the six months ended February 28, 2009. Foreign currency rate changes on translated results negatively impacted sales comparisons for the three and six months ended February 28, 2009 by \$6 million and \$9 million, respectively. Excluding foreign currency rate changes, core sales declined 29% and 25% for the three and six months ended February 28, 2009, the result of lower demand in the global retail DIY and construction markets and a substantial decline in products sold to domestic boat builders, both reflecting weak consumer confidence. Additionally, year-over-year comparisons are negatively affected by the loss of certain business with a major North American DIY customer during the second half of fiscal 2008 and our strategic decision to exit low margin products in our European Electrical business.

### Engineered Solutions Segment

Engineered Solutions segment net sales decreased by \$56 million, or 42%, from \$133 million for the three months ended February 29, 2008 to \$77 million for the three months ended February 28, 2009. During the six months ended February 28, 2009, Engineered Solutions net sales decreased by \$87 million, or 32%, from \$271 million for the six months ended February 29, 2008 to \$184 million. Foreign currency rate changes on translated results negatively impacted sales comparisons for the three and six months ended February 28, 2009 by \$8 million and \$12 million, respectively. Excluding foreign currency rate changes and sales from the Sanlo acquisition, core sales declined 42% and 31%, respectively, for the three and six months ended February 28, 2009. This core sales decline reflects substantially lower sales to vehicle OEM's serving truck, automotive, RV, off-highway, construction and agricultural markets. Weak economic conditions globally have resulted in a substantial reduction in customer production levels, adversely impacting our sales, as well as a concerted effort by customers to reduce inventory levels.

### **Operating Profit (in millions)**

	Three Months Ended		Six Months Ended	
	February 28, 2009	February 29, 2008	February 28, 2009	February 29, 2008
Industrial	\$ 15	\$ 26	\$ 42	\$ 52
Energy	6	7	22	19
Electrical	(1)	7	4	13
Engineered Solutions	(3)	11	(22)	24
General Corporate	(5)	(8)	(9)	(14)
	<u>\$ 12</u>	<u>\$ 43</u>	<u>\$ 37</u>	<u>\$ 94</u>

### Industrial Segment

Industrial Segment operating profit decreased by \$11 million, or 40%, from \$26 million for the three months ended February 29, 2008 to \$15 million for the three months ended February 28, 2009. For the six months ended February 28, 2009, Industrial operating profit decreased by \$10 million, or 20%, from \$52 million for the six months ended February 29, 2008 to \$42 million. Excluding the TK Simplex acquisition and the unfavorable impact of foreign currency rate changes, operating profit declined by 37% and 16%, for the three and six months ended February 28, 2009, respectively. This decline is due to lower sales and profit margins, the latter of which resulted from unfavorable product mix and lower absorption of manufacturing costs due to reduced production levels.

### Energy Segment

Energy Segment operating profit decreased by \$1 million, or 12%, from \$7 million for the three months ended February 29, 2008 to \$6 million for the three months ended February 28, 2009. For the six months ended February 28, 2009, Energy operating profit increased by \$3 million, or 13%, from \$19 million for the six months ended February 29, 2008 to \$22 million. Excluding the



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Cortland acquisition and the unfavorable impact of foreign currency rate changes, operating profits declined 19% in the second quarter of fiscal 2009 as a result of lower profit margins, which reflected unfavorable acquisition mix, higher intangible asset amortization and investments in growth initiatives. Excluding the Cortland acquisition and the unfavorable impact of foreign currency rate changes, operating profit for the six months ended February 28, 2009 increased 11% as a result of increased sales volumes, favorable sales mix and operating efficiencies, all of which were partially offset by higher intangible asset amortization.

### Electrical Segment

Electrical Segment operating profit decreased by \$8 million from \$7 million for the three months ended February 29, 2008 to an operating loss of \$1 million for the three months ended February 28, 2009. For the six months ended February 28, 2009, Electrical operating profit decreased by \$9 million, or 71%, from \$13 million for the six months ended February 29, 2008 to \$4 million. Operating profit for the six months ended February 28, 2009 includes \$1 million of restructuring charges while the operating profit for the comparable prior year period includes European Electrical restructuring charges of \$10 million. The decline in operating profit for the three and six months ended February 28, 2009 results from lower sales volumes, unfavorable product line mix and costs associated with facility consolidations and headcount reductions.

### Engineered Solutions Segment

Engineered Solutions Segment operating profit decreased by \$14 million from \$11 million for the three months ended February 29, 2008 to an operating loss of \$3 million for the three months ended February 28, 2009. For the six months ended February 28, 2009, Engineered Solutions operating profit decreased by \$46 million from \$24 million for the six months ended February 29, 2008 to an operating loss of \$22 million. Operating profit for the six months ended February 28, 2009 was impacted by the aforementioned \$27 million RV impairment charge and \$1 million of restructuring costs. In addition, operating profit declined in the three and six months ended February 28, 2009, as a result of significantly lower production levels (resulting in decreased absorption of fixed costs) and the unfavorable impact of foreign currency rate changes.

### General Corporate

General corporate expenses decreased by \$3 million, or 32%, from \$8 million for the three months ended February 29, 2008 to \$5 million for the three months ended February 28, 2009. For the six months ended February 28, 2009, general corporate expenses decreased by \$5 million, or 40%, from \$14 million for the six months ended February 29, 2008 to \$9 million. This reduction resulted from lower incentive compensation expense, headcount reductions and the benefit of other Corporate cost reduction efforts.

### **Financing Costs, net**

All debt is considered to be for general corporate purposes, and financing costs, therefore, have not been allocated to the reportable segments. The \$4 million year-over-year increase in financing costs reflects higher debt levels resulting from acquisitions, higher borrowing spreads during the six months ended February 28, 2009, attributable to the senior credit agreement amendment, as well as interest rate swap agreement costs (see Note 7, "Debt").

### **Income Taxes**

The effective income tax rate for the three and six months ended February 28, 2009 was (51.9)% and 1.8%. The decrease in the effective tax rate for the three and six months ended February 28, 2009 relative to the prior year, reflects a decrease in the estimated fiscal 2009 taxable income and the tax benefit on the impairment charge (Note 5, "Goodwill and Other Intangible Assets") being recognized at a 38% rate, consistent with the underlying combined U.S. federal and state income tax rate. This tax rate is higher than the Company's consolidated global effective tax rate. Excluding the impairment charge, the effective income tax rate for the six months ended February 28, 2009 would have been 24.9%. The effective income tax rate of 35.3% and 35.5% for the three and six months ended February 29, 2008 was relatively higher, primarily as a result of restructuring charges for which no tax benefits were recorded.

### **Restructuring**

During 2009, we committed to various restructuring initiatives including workforce reductions, plant consolidations, the continued movement of production and product sourcing to low cost countries and the centralization of certain selling and administrative functions. The total restructuring charges for these activities, were \$3 million and \$4 million for the three and six months ended February 28, 2009, respectively. We believe these restructuring charges will better align our resources with strategic growth opportunities, optimize existing manufacturing capabilities, improve our overall cost structure and deliver increased free cash flow and profitability.

During the second quarter of fiscal 2008, we completed a specific restructuring plan in our European Electrical business (Electrical segment), at a cumulative pre-tax cost of \$21 million. See Note 3, "Restructuring" in the Notes to the Condensed Consolidated Financial Statements for further discussion

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### Impairment Charge

Significant adverse developments in the RV market including reduced wholesale motorhome shipments by OEM's, declining consumer confidence and the lack of financing available to RV dealers and retail customers have negatively impacted the financial results of the RV product line. As a result, during the first quarter of fiscal 2009, we recognized a \$27 million non-cash impairment charge related to the goodwill and long-lived assets included in the RV product line. See Note 5, "Goodwill and Other Intangible Assets" in the Notes to the Condensed Consolidated Financial Statements for further discussion.

### Capital Resources

The following table summarizes the cash flows from operating, investing and financing activities for the six month period ended (in millions):

	February 28, 2009	February 29, 2008
Net cash provided by operating activities	\$ 34	\$ 61
Net cash used in investing activities	(248)	(59)
Net cash provided by financing activities	123	2
Effect of exchange rates on cash	(9)	4
Net increase (decrease) in cash and cash equivalents	<u>\$ (100)</u>	<u>\$ 8</u>

In the first half of fiscal 2009 we completed two acquisitions including the acquisition of Cortland for approximately \$231 million. These acquisitions were funded with existing cash balances and borrowings under our Senior Credit Facility, which we amended in November 2008.

The amended Senior Credit Facility provides for \$110 million of additional borrowing capacity, to a total of \$515 million, and includes a \$400 million revolver and a \$115 million term loan. See Note 3, "Debt" in the Notes to the Condensed Consolidated Financial Statements for further discussion of the refinancing. We believe that the availability under the amended Senior Credit Facility, combined with our existing cash on hand and funds generated from operations, will be adequate to meet operating, debt service and capital expenditure requirements for the foreseeable future.

Despite difficult business conditions during the current year, we generated approximately \$34 million of cash from operating activities reflecting cash earnings and reductions in accounts receivable and inventory. These working capital reductions were partially offset by the payment of prior fiscal year incentive compensation as well as a reduction in our accounts payable, reflecting lower purchasing levels as a result of weak business activity.

In response to these business conditions, we implemented a number of restructuring actions including reductions in employment, facility consolidations and other similar actions. We have also reevaluated capital plans for the remainder of the fiscal year and have reduced our capital spending accordingly. Finally, we have placed a heightened emphasis on working capital management. Based on our forecast, we project continued compliance with financial and non-financial debt covenants throughout fiscal 2009. Our ability to comply with the covenants in the future depends on global economic and credit market conditions and other factors. In addition to reducing costs in response to changes in end market demands, we believe there are a number of additional measures we could take to maintain compliance with debt covenants in the future. Refer to the section entitled "Risk Factors" in our Form 10-K for the fiscal year ended August 31, 2008 for further discussion regarding debt covenant compliance.

### Primary Working Capital Management

The Company uses primary working capital as a percentage of sales (PWC%) as a key indicator of working capital management. We define this metric as the sum of net accounts receivable, outstanding balances on the accounts receivable securitization facility, and net inventory less accounts payable, divided by the past three months sales annualized. The following table shows the components of the metric (in millions):

	February 28, 2009	PWC%	February 29, 2008	PWC%
Accounts receivable, net	\$ 167		\$ 236	
Accounts receivable securitization	42		57	
Total accounts receivable	209	17%	293	18%
Inventory, net	206	17%	221	14%
Accounts payable	(110)	(9)%	(167)	(10)%
Net primary working capital	<u>\$ 305</u>	<u>25%</u>	<u>\$ 347</u>	<u>22%</u>

Our PWC% for second quarter of fiscal 2009 increased to 25% from 22% for the comparable period in the prior year, primarily as a result of the significant decrease in sales during the three months ended February 28, 2009. Despite the increase in

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PWC %, significant progress was made during the second quarter of fiscal 2009 to reduce working capital, which resulted in a reduction in both accounts receivable and inventory. Accounts receivable balances, including amounts outstanding on the accounts receivable securitization facility, decreased \$56 million from November 30, 2008 to February 28, 2009 as a result of lower sales levels and increased collection efforts, while inventory levels have declined \$18 million during the same period, as a result of lower production levels and our efforts to destock inventory as demand in end markets has slowed. The reduction in inventory levels has also led to a decrease in purchasing activity and trade accounts payable balances.

### **Liquidity**

We currently have in excess of \$175 million of available liquidity to fund our businesses, including approximately \$22 million of cash and cash equivalents at February 28, 2009 and availability under our existing Senior Credit Facility. We also expect to generate free cash flow during the remainder of fiscal 2009, which will be applied against revolver borrowings. Our required principal repayments on all debt obligations over the next twelve months are approximately \$6 million.

### **Commitments and Contingencies**

We lease certain facilities, computers, equipment and vehicles under various operating lease agreements, generally over periods from one to twenty years. Under most arrangements, we pay the property taxes, insurance, maintenance and expenses related to the leased property. Many of the leases include provisions that enable us to renew the lease based upon fair value rental rates on the date of expiration of the initial lease.

In the normal course of business we have entered into certain real estate and equipment leases or have guaranteed such leases on behalf of its subsidiaries. In conjunction with the spin-off of a former subsidiary in fiscal 2000, we assigned our rights in the leases used by the former subsidiary, but were not released as a responsible party from all such leases by the lessors. All of these businesses were subsequently sold. We remain contingently liable for those leases if any of these businesses are unable to fulfill their obligations thereunder. The discounted present value of future minimum lease payments for such leases totals, assuming no offset for sub-leasing, approximately \$5 million at February 28, 2009. The future undiscounted minimum lease payments for these leases are as follows: \$1 million in the balance of calendar 2009; \$1 million annually in calendar 2010 through 2013 and \$3 million thereafter.

We have outstanding letters of credit of \$7 million and \$6 million at February 28, 2009 and August 31, 2008, respectively, which secure self-insured workers compensation liabilities.

### **Off-Balance Sheet Arrangements**

As more fully discussed in Note 4, "Accounts Receivable Securitization," in the Notes to Condensed Consolidated Financial Statements, we are party to an accounts receivable securitization program. Trade receivables sold, that we continue to service, were \$42 million and \$53 million at February 28, 2009 and August 31, 2008, respectively. If we had discontinued this securitization program at February 28, 2009 we would have been required to borrow approximately \$42 million to finance the working capital increase. The securitization agreement, which matures in September 2009, was amended in December 2008 to decrease available capacity from \$65 million to \$60 million.

### **Contractual Obligations**

Our contractual obligations are discussed in Part 1, Item 2, "Management's Discussion and Analysis of Financial Condition and Results of Operations" under the heading "Contractual Obligations" in our Quarterly Report on Form 10-Q for the three months ended November 30, 2008, and have not materially changed since that report was filed.

### **Item 3 – Quantitative and Qualitative Disclosures about Market Risk**

There has been no significant change in our exposure to market risk during the first six months of fiscal 2009. For a discussion of our exposure to market risk, refer to Item 7A, Quantitative and Qualitative Disclosures about Market Risk, contained in our Annual Report on Form 10-K for the fiscal year ended August 30, 2008.

### **Item 4 – Controls and Procedures**

#### *Evaluation of Disclosure Controls and Procedures.*

Under the supervision and with the participation of our senior management, including our chief executive officer and chief financial officer, we conducted an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange

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Act”), as of the end of the period covered by this quarterly report (the “Evaluation Date”). Based on this evaluation, our chief executive officer and chief financial officer concluded as of the Evaluation Date that our disclosure controls and procedures were effective such that the information relating to the Company, including consolidated subsidiaries, required to be disclosed in our Securities and Exchange Commission (“SEC”) reports (i) is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms, and (ii) is accumulated and communicated to the Company’s management, including our chief executive officer and chief financial officer, as appropriate to allow timely decisions regarding required disclosure.

### *Changes in Internal Control Over Financial Reporting.*

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rule 13a-15(f). There have been no changes in our internal control over financial reporting that occurred during the quarter ended February 28, 2009 that have materially affected or are reasonably likely to materially affect our internal control over financial reporting.

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**PART II - OTHER INFORMATION**

Items 1, 1A, 2, 3 and 5 are not applicable and have been omitted.

**Item 4 – Submission of Matters to a Vote of Security Holders**

The Annual Meeting of Shareholders was held on January 9, 2009 to elect a board of nine directors. Each director nominee was elected. The number of votes for each nominee is set forth below:

	<u>Shares Voted</u>	<u>Shares Withheld</u>
Robert C. Arzbaecher	52,257,296	550,718
Gurminder S. Bedi	52,730,263	77,751
Gustav H.P. Boel	52,537,964	270,050
Thomas J. Fischer	47,893,920	4,914,094
William K. Hall	51,276,682	1,531,332
R. Alan Hunter, Jr.	51,710,966	1,323,194
Robert A. Peterson	51,484,820	1,323,194
Holly A. Van Deursen	52,301,767	506,547
Dennis K. Williams	52,564,893	243,121

At the Company's Annual Meeting of Shareholders, the shareholders also approved the Actuant Corporation 2009 Omnibus Incentive Plan by the vote set forth below:

	<u>For</u>	<u>Against</u>	<u>Abstain</u>
Actuant Corporation 2009 Omnibus Incentive Plan	45,375,817	4,548,997	155,612

**Item 6 – Exhibits**

**(a) Exhibits**

See "Index to Exhibits" on page 31, which is incorporated herein by reference.

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**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

**ACTUANT CORPORATION**  
(Registrant)

Date: April 9, 2009

By: /s/ Andrew G. Lampereur  
Andrew G. Lampereur  
Executive Vice President and Chief Financial Officer  
(Principal Financial Officer)

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ACTUANT CORPORATION  
(the "Registrant")  
(Commission File No. 1-11288)

QUARTERLY REPORT ON FORM 10-Q  
FOR THE QUARTER ENDED February 28, 2009  
INDEX TO EXHIBITS

<u>Exhibit</u>	<u>Description</u>	<u>Incorporated Herein By Reference To</u>	<u>Filed Herewith</u>
10.1	Amendment No. 11, dated February 10, 2009, to the Receivables Sale Agreement dated May 31, 2001, among Actuant Corporation as Parent, the Originators party thereto, Actuant Receivables Corporation as buyer and Wachovia Bank, National Association, as Agent		X
10.2	Amendment No. 12, dated March 10, 2009 to the Receivables Sale Agreement dated May 31, 2001, among Actuant Corporation as Parent, the Originators party thereto, Actuant Receivables Corporation as buyer and Wachovia Bank, National Association, as Agent		X
10.3	Amended and Restated Receivables Purchase Agreement, dated September 10, 2008, among Actuant Corporation as Initial Servicer, Actuant Receivables Corporation, as Seller and Wachovia Bank, National Association, as Purchaser and Agent		X
10.4	Amendment No. 1, dated December 11, 2008, to the Amended and Restated Receivables Purchase Agreement, among Actuant Corporation as Initial Servicer, Actuant Receivables Corporation, as Seller and Wachovia Bank, National Association, as Purchaser and Agent		X
10.5	Amendment No. 2, dated February 10, 2009, to the Amended and Restated Receivables Purchase Agreement, among Actuant Corporation as Initial Servicer, Actuant Receivables Corporation, as Seller and Wachovia Bank, National Association, as Purchaser and Agent		X
31.1	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002		X
31.2	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002		X
32.1	Certification of Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002		X
32.2	Certification of Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002		X

## AMENDMENT #11 TO RECEIVABLES SALE AGREEMENT

**THIS AMENDMENT #11** (this "**Amendment**"), is dated as of February 10, 2009, is by and among Actuant Corporation, a Wisconsin corporation ("**Parent**"), GB Tools and Supplies, Inc., a Wisconsin corporation, Versa Technologies, Inc., a Delaware corporation, Kwiikee Products Company, LLC, a Delaware limited liability company, Nielsen Hardware Corp., a Connecticut corporation, B.W. Elliott Manufacturing Co., LLC, a New York limited liability company, ACME Electric Corporation, a New York corporation, Atlantic Guest, Inc., a Delaware corporation, Hydratight Operations, Inc. (formerly Hydratight Sweeney, Inc. ), a Delaware corporation, Hydratight, Inc. (formerly Hydratight Sweeney Products Corporation), a Delaware corporation, D.L. Ricci Corp., a Minnesota corporation, Precision Sure-Lock, Inc., a Delaware corporation, Key Components, Inc. (successor by merger to Key Components, LLC), a New York corporation, Maxima Technologies & Systems, LLC, a Delaware limited liability company, ACME Electric Inc. (successor by merger to Actown Electrocoil, Inc.), a Delaware corporation, BH Electronics, Inc., a Tennessee corporation, Templeton, Kenly & Co., Inc., an Illinois corporation (each of the foregoing, an "**Existing Originator**" and collectively, the "**Existing Originators**"), ACME Electric Inc., a Delaware corporation, Key Components, Inc., a New York corporation (each a "**New Originator**" and collectively, the "**New Originators**"), Actuant Receivables Corporation, a Nevada corporation ("**Buyer**"), and Wachovia Bank, National Association, as Agent (the "**Agent**"), and pertains to the Receivables Sale Agreement dated as of May 30, 2001 by and among Parent, the Existing Originators and Buyer (as amended, the "**Existing Agreement**"). *Unless defined elsewhere herein, capitalized terms used in this Amendment shall have the meanings assigned to such terms in the Existing Agreement.*

## PRELIMINARY STATEMENT

Each of the Existing Originators, Buyer and the New Originators has requested that Agent amend the Existing Agreement to add the New Originators as Originators, and the Agent is willing to consent to such amendment on the terms and subject to the conditions hereinafter set forth.

**NOW, THEREFORE**, in consideration of the foregoing premises and the mutual agreements herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

Section 1. Amendments.

(a) The New Originators are hereby added as Originators under the Existing Agreement; *provided, however*, that solely insofar as the New Originators are concerned: (a) any reference in the Existing Agreement to "the date hereof" or "the date of this Agreement" shall be deemed to be references to the date of this Amendment, and (b) the "**Initial Cutoff Date**" for the New Originators shall be deemed to be the Business Day preceding the date of this Amendment.



(b) The definition of "Receivable" in the Existing Agreement is hereby amended and restated in its entirety to read as follows:

**"Receivable"** means each Account owed to an Originator (at the times it arises, and before giving effect to any transfer or conveyance under the Agreement) or to Buyer (after giving effect to the transfers under the Agreement) including, without limitation, the obligation to pay any Finance Charges with respect thereto: **provided, however**, that (i) with respect to Del City with regards to Actuant Corporation, only an Account arising in connection with the sale of goods or the rendering of services by its Enerpac Division, Power Packer Division, Del City Wire Division and Power Packer Automotive Division shall be included in **"Receivable"**, (ii) with respect to Versa Technologies, Inc., only an Account arising in connection with the sale of goods or the rendering of services by its Power Gear Division or its Milwaukee Cylinder Division shall be included in **"Receivable"** and (iii) with respect Key Components, Inc., no Accounts owing by Honeywell International, Inc. shall be included in **"Receivable"**. Indebtedness and other rights and obligations arising from any one transaction, including, without limitation, indebtedness and other rights and obligations represented by an individual invoice, shall constitute a Receivable separate from a Receivable consisting of the indebtedness and other rights and obligations arising from any other transaction; **provided, further**, that any indebtedness, rights or obligations referred to in the immediately preceding sentence shall be a Receivable regardless of whether the account debtor or such Originator treats such indebtedness, rights or obligations as a separate payment obligation."

(c) Exhibit II to the Existing Agreement is hereby amended and restated in its entirety to read as set forth in Exhibit II to this Amendment.

(d) Exhibit III to the Existing Agreement is hereby amended and restated in its entirety to read as set forth in Exhibit III to this Amendment.

Section 2. Representations. In order to induce the other parties hereto to consent to this Amendment each of the Existing Originators and the New Originators hereby confirm that, as of the date of this Amendment, no event has occurred and is continuing that will constitute a Termination Event or an Unmatured Termination Event.

Section 3. Conditions Precedent. This Amendment shall become effective as of the date first above written upon the (a) receipt by the Agent of counterparts hereof, duly executed by each of the parties hereto, (b) filing of UCC financing statements against the New Originators to perfect the ownership interests conveyed by the New Originators, (c) receipt by the Agent of counterparts to Amendment #2 to the Amended and Restated Receivables Purchase Agreement, duly executed by each of the parties thereto, (d) effectiveness of (i) Amendment #20 to the Receivables Purchase Agreement of even date herewith and (ii) the Seventh Amended and Restated Collection Account Agreement of even date herewith by and among JPMorgan Chase

Section 4. Miscellaneous.

4.1. CHOICE OF LAW. THIS AMENDMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS (AND NOT THE LAW OF CONFLICTS) OF THE STATE OF ILLINOIS.

4.2. CONSENT TO JURISDICTION. EACH ORIGINATOR AND BUYER HEREBY IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR ILLINOIS STATE COURT SITTING IN CHICAGO, ILLINOIS IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY OR ANY DOCUMENT EXECUTED BY SUCH ORIGINATOR PURSUANT TO THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY AND EACH ORIGINATOR AND BUYER HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH COURT AND IRREVOCABLY WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH A COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM. NOTHING HEREIN SHALL LIMIT THE RIGHT OF BUYER (OR ITS ASSIGNS) TO BRING PROCEEDINGS AGAINST ANY ORIGINATOR IN THE COURTS OF ANY OTHER JURISDICTION. ANY JUDICIAL PROCEEDING BY ANY ORIGINATOR AGAINST BUYER (OR ITS ASSIGNS) OR ANY AFFILIATE THEREOF INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY OR ANY DOCUMENT EXECUTED BY ANY ORIGINATOR PURSUANT TO THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY SHALL BE BROUGHT ONLY IN A COURT IN CHICAGO, ILLINOIS.

4.3. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY, ANY DOCUMENT EXECUTED BY ANY ORIGINATOR PURSUANT TO THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY OR THE RELATIONSHIP ESTABLISHED HEREUNDER OR THEREUNDER.

4.4. Counterparts. This Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same Agreement.

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4.5. Reference To And Effect on Existing Agreement Except as specifically modified above, the Existing Agreement and the other Transaction Documents shall remain in full force and effect and are hereby ratified and confirmed. The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of Agent under the Existing Agreement or any other Transaction Documents, nor constitute a waiver of any provision of the Existing Agreement or any other Transaction Documents, except as specifically set forth herein.

*<signature pages follow>*

*IN WITNESS WHEREOF*, the parties hereto have caused this Amendment to be executed and delivered by their duly authorized officers as of the date hereof.

ACTUANT CORPORATION

By: /s/ Terry M. Braatz  
Name: Terry M. Braatz  
Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007  
Attn: Terry M. Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

GB TOOLS AND SUPPLIES, INC.

By: /s/ Terry M. Braatz  
Name: Terry M. Braatz  
Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007  
Attn: Terry M. Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

VERSA TECHNOLOGIES, INC.

By: /s/ Terry M. Braatz  
Name: Terry M. Braatz  
Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007  
Attn: Terry M. Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

[Signature Page to Amendment No. 78 to Receivables Sale Agreement]

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NIELSEN HARDWARE CORP.

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007

Attn: Terry M. Braatz

Phone: 262-373-7437

Fax: 262-790-6820

KWIKEE PRODUCTS COMPANY, LLC

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007

Attn: Terry M. Braatz

Phone: 262-373-7437

Fax: 262-790-6820

B.W. ELLIOTT MANUFACTURING CO., LLC

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007

Attn: Terry M. Braatz

Phone: 262-373-7437

Fax: 262-790-6820

[Signature Page to Amendment No. 11 to Receivables Sale Agreement]

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ACME ELECTRIC CORPORATION

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007  
Attn: Terry M. Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

ATLANTIC GUEST, INC.

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007  
Attn: Terry M. Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

HYDRATIGHT OPERATIONS, INC.

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007  
Attn: Terry M. Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

[Signature Page to Amendment No. 11 to Receivables Sale Agreement]

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HYDRATIGHT, INC.

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007  
Attn: Terry M. Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

D.L. RICCI CORP.

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007  
Attn: Terry M. Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

PRECISION SURE-LOCK, INC.

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007  
Attn: Terry Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

[Signature Page to Amendment No. 11 to Receivables Sale Agreement]

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KEY COMPONENTS, INC.

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007  
Attn: Terry Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

MAXIMA TECHNOLOGIES & SYSTEMS, LLC

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007  
Attn: Terry Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

ACME ELECTRIC INC.

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007  
Attn: Terry Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

[Signature Page to Amendment No. 11 to Receivables Sale Agreement]



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BH ELECTRONICS, INC.

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007

Attn: Terry Braatz

Phone: 262-373-7437

Fax: 262-790-6820

TEMPLETON, KENLY & CO., INC.

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007

Attn: Terry Braatz

Phone: 262-373-7437

Fax: 262-790-6820

[Signature Page to Amendment No. 11 to Receivables Sale Agreement]

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ACTUANT RECEIVABLES CORPORATION

By: /s/ Patrick C. Dorn

Name: Patrick C. Dorn

Title: President

**Address:** 3993 Howard Hughes Pkwy.  
Suite 100  
Las Vegas, Nevada 89109  
Attn: Pat Dorn  
Phone: (702) 691-2210  
Fax: (702) 691-2236

WACHOVIA BANK, NATIONAL ASSOCIATION, AS AGENT

By: /s/ Michael J. Landry

Name: Michael J. Landry

Title: Vice President

[Signature Page to Amendment No. 11 to Receivables Sale Agreement]

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**Exhibit II**

Locations of Records:  
Federal Employer Identification Numbers: Other Names

***Locations of Records for Each Originator:***

All Originators

13000 W Silver Spring Road  
Milwaukee, WI 53007

Actuant Corporation

GB Tools and Supplies, Inc.

Versa Technologies, Inc.

Kwikkee Products Company, LLC

6100 North Baker Road  
Glendale, WI 53209

Nielsen Hardware Corp.

770 Wethersfield Avenue  
Hartford, CT 06114

B.W. Elliott Manufacturing Co., LLC

11 Beckwith Ave.  
Binghamton NY 13901

Acme Electric Corporation

528 West 21st Street  
Tempe, AZ 28358

Atlantic Guest, Inc.

24 Newpark Drive  
Berlin, CT 06037

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Hydratight Operations, Inc.  
Hydratight, Inc.

1102 Hall Court  
Deer Park, Texas 77536

D.L. Ricci Corp.

5001 Moundview Drive  
Red Wing, MN 55066

Precision Sure-Lock, Inc.

704 W Simmonds, Suite B  
Seagoville, TX 75159

Key Components, Inc.

Gits:  
1739 Commerce Drive  
Creston, IA 50801-8900

Turner:  
131 Enterprise Drive  
Edwardsville, IL 62025

Marinco:  
2655 Napa Valley Corporate Drive  
Napa, CA 94558

Maxima Technologies & Systems, LLC

1811 Rohrerstown Rd.  
Lancaster, PA 17601

ACME Electric Inc.

2414 Highview St.  
Spring Grove, IL 60081

4815 West 5th Street  
Lumberton, NC 28358

BH Electronics, Inc.

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1000 McLaughlin Drive  
Mumford, TN 38058  
Templeton, Kenly & Co., Inc.  
2525 Gardner Road  
Broadview, Illinois 60155

***Prior Names for Each Originator (as indicated on the public record of each Originator's jurisdiction of organization):***

Actuant Corporation:	Del City Wire Co., Inc.
GB Tools and Supplies, Inc.:	n/a
Versa Technologies, Inc.:	n/a
Nielsen Hardware Corp.	n/a
Kwikee Products Company, LLC	n/a
B.W. Elliott Manufacturing Co., LLC	n/a
Acme Electric Corporation	ACME Aerospace Corporation
Atlantic Guest, Inc.	n/a
Hydratight Operations, Inc.	Hydratight Sweeney, Inc.
Hydratight, Inc.	Hydratight Sweeney Products Corporation
D.L. Ricci Corp.	n/a
Precision Sure-Lock, Inc.	PSPT Holdings, Inc.; Precision Sure-Lock, LP (predecessor), Precision Screw Products Company (predecessor), Post Tension Product Manufacturing Co., Inc. (predecessor), Precision Intermediate Holdings, LLC (predecessor), PPT GP, LLC (predecessor)
Key Components, Inc.	Key Components, LLC, Gits Manufacturing Company, LLC, Marine Industries Company, LLC, Turner Electric, LLC
Maxima Technologies & Systems, LLC	[N/A]
ACME Electric Inc.	ACME Electric Corporation, Actown Electrocoil, Inc.
BH Electronics, Inc.	[N/A]
Templeton, Kenly & Co., Inc.	[N/A]

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**Exhibit III**

**Revised Cash Collection Structure**

Ex III-1

**AMENDMENT #12 TO RECEIVABLES SALE AGREEMENT**

**THIS AMENDMENT #12** (this "**Amendment**"), is dated as of March 10, 2009, is by and among Actuant Corporation, a Wisconsin corporation ("**Parent**"), GB Tools and Supplies, Inc., a Wisconsin corporation, Versa Technologies, Inc., a Delaware corporation, Kwikkee Products Company, LLC, a Delaware limited liability company, Nielsen Hardware Corp., a Connecticut corporation, B.W. Elliott Manufacturing Co., LLC, a New York limited liability company, ACME Electric Corporation, a New York corporation, Atlantic Guest, Inc., a Delaware corporation, Hydratight Operations, Inc. (formerly Hydratight Sweeney, Inc. ), a Delaware corporation, Hydratight, Inc. (formerly Hydratight Sweeney Products Corporation), a Delaware corporation, D.L. Ricci Corp., a Minnesota corporation, Precision Sure-Lock, Inc., a Delaware corporation, Key Components, Inc. (successor by merger to Key Components, LLC), a New York corporation, Maxima Technologies & Systems, LLC, a Delaware limited liability company, ACME Electric Inc. (successor by merger to Actown Electrocoil, Inc.), a Delaware corporation, BH Electronics, Inc., a Tennessee corporation, Templeton, Kenly & Co., Inc., an Illinois corporation (each of the foregoing, an "**Originator**" and collectively, the "**Originators**"), Actuant Receivables Corporation, a Nevada corporation ("**Buyer**"), and Wachovia Bank, National Association, as Agent (the "**Agent**"), and pertains to the Receivables Sale Agreement dated as of May 30, 2001 by and among Parent, the Originators and Buyer (as amended, the "**Existing Agreement**"). *Unless defined elsewhere herein, capitalized terms used in this Amendment shall have the meanings assigned to such terms in the Existing Agreement.*

**PRELIMINARY STATEMENT**

The parties wish to amend certain terms of the Existing Agreement on the terms and subject to the conditions hereinafter set forth.

**NOW, THEREFORE**, in consideration of the foregoing premises and the mutual agreements herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

Section 1. Amendments.

- (a) The definition of "Settlement Date" contained in Exhibit I to the Existing Agreement is hereby amended and restated in its entirety to read as follows:  
 " "**Settlement Date** " means (A) the 2nd Business Day after each Monthly Reporting Date, and (B) the last day of the relevant Interest Period in respect of each Receivable Interest."
- (b) The third preliminary statement to the Existing Agreement is hereby amended and restated in its entirety to read as follows:  
 "Following the purchase of Receivables from each Originator, Buyer will sell undivided interests therein and in the associated Related Security and Collections pursuant to that certain Receivables Purchase Agreement

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dated as of May 30, 2001 (as the same may from time to time hereafter be amended, supplemented, restated or otherwise modified, including by that certain Amended and Restated Receivables Purchase Agreement dated as of September 10, 2008, the "**Purchase Agreement**") among Buyer, Parent, as initial Servicer, and Wachovia Bank, National Association, individually ("**Wachovia**") and as agent (together with its successors and assigns in such capacity, the "**Agent**")."

(c) Section 4.1(a)(vi) of the Existing Agreement is hereby amended and restated in its entirety to read as follows:

"(vi) Copies of Notices. Promptly upon its receipt of any notice, request for consent, financial statements, certification, report or other communication under or in connection with any Transaction Document from any Person other than Buyer, the Agent or Wachovia, copies of the same."

(d) Section 7.1(b) of the Existing Agreement is hereby amended and restated in its entirety to read as follows:

"(b) No provision of this Agreement may be amended, supplemented, modified or waived except in writing signed by each Originator and Buyer and, to the extent required under the Purchase Agreement, the Agent and Purchaser."

(e) Section 7.4 of the Existing Agreement is hereby amended and restated in its entirety to read as follows:

"Section 7.4 Confidentiality.

(a) Each Originator and Buyer shall maintain and shall cause each of its employees and officers to maintain the confidentiality of the Fee Letter and the other confidential or proprietary information with respect to the Agent and Wachovia and their respective businesses obtained by it or them in connection with the structuring, negotiating and execution of the transactions contemplated herein, except that such Originator and its officers and employees may disclose such information to such Originator's external accountants, attorneys and other advisors and as required by any applicable law or order of any judicial or administrative proceeding.

(b) Each Originator hereby consents to the disclosure of any nonpublic information with respect to it (i) to Buyer, the Agent, the Purchaser or Wachovia by each other, (ii) to any prospective or actual assignee or participant of any of the Persons described in clause (i), and (iii) to any



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rating agency, Commercial Paper dealer or provider of a surety, guaranty or credit or liquidity enhancement to Wachovia or any entity organized for the purpose of purchasing, or making loans secured by, financial assets for which Wachovia Bank, N.A. (or its successor) acts as the administrative agent and to any officers, directors, employees, outside accountants and attorneys of any of the foregoing, *provided* each such Person described in the foregoing clauses (ii) and (iii) is informed of the confidential nature of such information. In addition, the Purchasers and the Agent may disclose any such nonpublic information pursuant to any law, rule, regulation, direction, request or order of any judicial, administrative or regulatory authority or proceedings (whether or not having the force or effect of law).”

(f) Section 7.5(a) of the Existing Agreement is hereby amended and restated in its entirety to read as follows:

“(a) Each Originator and Buyer each hereby covenants and agrees that, prior to the date that is one year and one day after the payment in full of all outstanding senior indebtedness of Wachovia, it will not institute against, or join any other Person in instituting against, Wachovia any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or other similar proceeding under the laws of the United States or any state of the United States.”

(g) Section 7.6 of the Existing Agreement is hereby amended and restated in its entirety to read as follows:

“Section 7.6 Limitation of Liability. Except with respect to any claim arising out of the willful misconduct or gross negligence of any Originator, Buyer, Wachovia, the Agent or Purchaser, no claim may be made by any such Person (or its Affiliates, directors, officers, employees, attorneys or agents) against any such other Person (or its Affiliates, directors, officers, employees, attorneys or agents) for any special, indirect, consequential or punitive damages in respect of any claim for breach of contract or any other theory of liability arising out of or related to the transactions contemplated by this Agreement, or any act, omission or event occurring in connection therewith; and each of the parties hereto, on behalf of itself and its Affiliates, directors, officers, employees, attorneys, agents, successors and assigns, hereby waives, releases, and agrees not to sue upon any claim for any such damages, whether or not accrued and whether or not known or suspected to exist in its favor.”

Section 2. Representations. Each of the Originators hereby confirms that, as of the date of this Amendment, no event has occurred and is continuing that will constitute a Termination Event or an Unmatured Termination Event.

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Section 3. Conditions Precedent. This Amendment shall become effective as of the date first above written upon receipt by the Agent of counterparts of this Amendment duly executed by each of the parties.

Section 4. Miscellaneous.

4.1. CHOICE OF LAW. THIS AMENDMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS (AND NOT THE LAW OF CONFLICTS) OF THE STATE OF ILLINOIS.

4.2. CONSENT TO JURISDICTION. EACH ORIGINATOR AND BUYER HEREBY IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR ILLINOIS STATE COURT SITTING IN CHICAGO, ILLINOIS IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY OR ANY DOCUMENT EXECUTED BY SUCH ORIGINATOR PURSUANT TO THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY AND EACH ORIGINATOR AND BUYER HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH COURT AND IRREVOCABLY WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH A COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM. NOTHING HEREIN SHALL LIMIT THE RIGHT OF BUYER (OR ITS ASSIGNS) TO BRING PROCEEDINGS AGAINST ANY ORIGINATOR IN THE COURTS OF ANY OTHER JURISDICTION. ANY JUDICIAL PROCEEDING BY ANY ORIGINATOR AGAINST BUYER (OR ITS ASSIGNS) OR ANY AFFILIATE THEREOF INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY OR ANY DOCUMENT EXECUTED BY ANY ORIGINATOR PURSUANT TO THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY SHALL BE BROUGHT ONLY IN A COURT IN CHICAGO, ILLINOIS.

4.3. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY, ANY DOCUMENT EXECUTED BY ANY ORIGINATOR PURSUANT TO THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY OR THE RELATIONSHIP ESTABLISHED HEREUNDER OR THEREUNDER.

4.4. Counterparts. This Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same Agreement.

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4.5. Reference To And Effect on Existing Agreement Except as specifically modified above, the Existing Agreement and the other Transaction Documents shall remain in full force and effect and are hereby ratified and confirmed. The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of Agent under the Existing Agreement or any other Transaction Documents, nor constitute a waiver of any provision of the Existing Agreement or any other Transaction Documents, except as specifically set forth herein.

*<signature pages follow>*

*IN WITNESS WHEREOF*, the parties hereto have caused this Amendment to be executed and delivered by their duly authorized officers as of the date hereof.

ACTUANT CORPORATION

By: /s/ Terry M. Braatz  
Name: Terry M. Braatz  
Title: Treasurer

**Address:** 13000 W Silver Spring Road Milwaukee, WI  
53007  
Attn: Terry M. Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

GB TOOLS AND SUPPLIES, INC.

By: /s/ Terry M. Braatz  
Name: Terry M. Braatz  
Title: Treasurer

**Address:** 13000 W Silver Spring  
Road Milwaukee, WI 53007  
Attn: Terry M. Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

VERSA TECHNOLOGIES, INC.

By: /s/ Terry M. Braatz  
Name: Terry M. Braatz  
Title: Treasurer

**Address:** 13000 W Silver Spring Road Milwaukee, WI  
53007  
Attn: Terry M. Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

[Signature Page to Amendment No. 12 to Receivables Sale Agreement]

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NIELSEN HARDWARE CORP.

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007  
Attn: Terry M. Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

KWIKEE PRODUCTS COMPANY, LLC

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007  
Attn: Terry M. Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

B.W. ELLIOTT MANUFACTURING CO., LLC

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007  
Attn: Terry M. Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

[Signature Page to Amendment No. 12 to Receivables Sale Agreement]

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ACME ELECTRIC CORPORATION

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road Milwaukee, WI  
53007

Attn: Terry M. Braatz

Phone: 262-373-7437

Fax: 262-790-6820

ATLANTIC GUEST, INC.

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road Milwaukee, WI  
53007

Attn: Terry M. Braatz

Phone: 262-373-7437

Fax: 262-790-6820

HYDRATIGHT OPERATIONS, INC.

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road Milwaukee, WI  
53007

Attn: Terry M. Braatz

Phone: 262-373-7437

Fax: 262-790-6820

[Signature Page to Amendment No. 12 to Receivables Sale Agreement]

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HYDRATIGHT, INC.

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007

Attn: Terry M. Braatz

Phone: 262-373-7437

Fax: 262-790-6820

D.L. RICCI CORP.

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road Milwaukee, WI  
53007

Attn: Terry M. Braatz

Phone: 262-373-7437

Fax: 262-790-6820

PRECISION SURE-LOCK, INC.

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007

Attn: Terry Braatz

Phone: 262-373-7437

Fax: 262-790-6820

[Signature Page to Amendment No. 12 to Receivables Sale Agreement]

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KEY COMPONENTS, INC.

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007  
Attn: Terry Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

MAXIMA TECHNOLOGIES & SYSTEMS, LLC

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007  
Attn: Terry Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

ACME ELECTRIC INC.

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007  
Attn: Terry Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

[Signature Page to Amendment No. 12 to Receivables Sale Agreement]



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BH ELECTRONICS, INC.

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007

Attn: Terry Braatz

Phone: 262-373-7437

Fax: 262-790-6820

TEMPLETON, KENLY & CO., INC.

By: /s/ Terry M. Braatz

Name: Terry M. Braatz

Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007

Attn: Terry Braatz

Phone: 262-373-7437

Fax: 262-790-6820

[Signature Page to Amendment No. 12 to Receivables Sale Agreement]

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ACTUANT RECEIVABLES CORPORATION

By: /s/ Patrick C. Dorn

Name: Patrick C. Dorn

Title: President

**Address:** 3993 Howard Hughes Pkwy.  
Suite 100  
Las Vegas, Nevada 89109  
Attn: Pat Dorn  
Phone: (702) 691-2210  
Fax: (702) 691-2236

WACHOVIA BANK, NATIONAL ASSOCIATION, AS AGENT

By: /s/ Michael J. Landry

Name: Michael J. Landry

Title: Vice President

[Signature Page to Amendment No. 12 to Receivables Sale Agreement]

**AMENDED AND RESTATED RECEIVABLES PURCHASE AGREEMENT**

**DATED AS OF SEPTEMBER 10, 2008  
(TO BE EFFECTIVE ON THE EFFECTIVE DATE)**

**AMONG**

**ACTUANT RECEIVABLES CORPORATION, AS SELLER,**

**ACTUANT CORPORATION, AS INITIAL SERVICER,**

***AND***

**WACHOVIA BANK, NATIONAL ASSOCIATION, AS PURCHASER AND AGENT**

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## AMENDED AND RESTATED RECEIVABLES PURCHASE AGREEMENT

**THIS AMENDED AND RESTATED RECEIVABLES PURCHASE AGREEMENT**, dated as of September 10, 2008 (to be effective on the Effective Date (as such term is defined in Exhibit I hereto)) is entered into by and among:

- (a) Actuant Receivables Corporation, a Nevada corporation (“**Seller**”),
- (b) Actuant Corporation, a Wisconsin corporation (“**Parent**”), as initial Servicer, and
- (c) Wachovia Bank, National Association, individually as purchaser (“**Purchaser**”) and as agent for Purchaser and its assigns under the Transaction Documents (together with its successors and assigns in such capacity, the “**Agent**”).

*Unless defined elsewhere herein, capitalized terms used in this Agreement shall have the meanings assigned to such terms in Exhibit I.*

### PRELIMINARY STATEMENTS

Seller desires to transfer and assign Receivable Interests from time to time.

Purchaser shall purchase Receivable Interests from Seller from time to time.

Wachovia Bank, National Association has been requested and is willing to act as Agent on behalf of itself as Purchaser and its assigns in accordance with the terms hereof.

This Agreement amends and restates in its entirety that certain Receivables Purchase Agreement (the “**Existing Agreement**”) dated as of May 30, 2001 among the parties hereto, as amended from time to time. All “Aggregate Unpaid” (as defined in the Existing Agreement) outstanding on the Effective Date shall, to the extent not paid on the Effective Date, be deemed to be Aggregate Unpaid outstanding hereunder.

### ARTICLE I.

#### PURCHASE ARRANGEMENTS

##### Section 1.1 Purchase Facility.

(a) Upon the terms and subject to the conditions of this Agreement (including, without limitation, Article VI), from time to time from and after the Effective Date, but prior to the Facility Termination Date, Seller may request that Purchaser purchase from Seller undivided ownership interests in the Receivables and the associated Related Security and Collections, and Purchaser shall make such Purchase; **provided that** no Purchase shall be made by Purchaser if, after giving effect thereto, either (i) the Aggregate Invested Amount would exceed the Purchase Limit, or (ii) the aggregate of the Receivable Interests would exceed 100%. Seller will pay Yield on the Receivable Interests at the Alternate Base Rate, the LIBO Rate or LIMR, selected in accordance with Article IV hereof.

(b) Seller may, upon at least 10 Business Days' notice to the Agent, terminate in whole or reduce in part, the unused portion of the Purchase Limit *provided that* each partial reduction of the Purchase Limit shall be in an amount equal to \$2,000,000 (or a larger integral multiple of \$1,000,000 if in excess thereof).

Section 1.2 Incremental Purchases. Seller shall provide the Agent with at least two (2) Business Days' prior written notice in a form set forth as Exhibit II hereto of each Incremental Purchase (each, a "**Purchase Notice**"). Each Purchase Notice shall be subject to Section 6.2 hereof and, except as set forth below, shall be irrevocable and shall specify the requested Purchase Price (which shall not be less than \$1,000,000 or a larger integral multiple of \$100,000) and the Purchase Date (which, in the case of any Incremental Purchase after the initial Purchase hereunder, shall only be on a Settlement Date). On each Purchase Date, upon satisfaction of the applicable conditions precedent set forth in Article VI, Purchaser shall deposit to the Facility Account, in immediately available funds, no later than 2:00 p.m. (New York time), an amount equal to the requested Purchase Price.

Section 1.3 Decreases. Seller shall provide the Agent with prior written notice in conformity with the Required Notice Period (a "**Reduction Notice**") of any proposed reduction of Aggregate Invested Amount. Such Reduction Notice shall designate (i) the date (the "**Proposed Reduction Date**") upon which any such reduction of Aggregate Invested Amount shall occur (which date shall give effect to the applicable Required Notice Period), and (ii) the amount of Aggregate Invested Amount to be reduced which shall be applied ratably to all Receivable Interests in accordance with the respective Invested Amounts thereof (the "**Aggregate Reduction**"). Only one (1) Reduction Notice shall be outstanding at any time.

Section 1.4 Deemed Collections; Purchase Limit.

(a) If on any day:

(i) the Outstanding Balance of any Receivable is reduced or cancelled as a result of any defective or rejected goods or services, any Contractual Dilution or other cash discount or adjustment by any Originator or any Affiliate thereof, or as a result of any governmental or regulatory action, or

(ii) the Outstanding Balance of any Receivable is reduced or canceled as a result of a setoff in respect of any claim by the Obligor thereof (whether such claim arises out of the same or a related or an unrelated transaction), or

(iii) the Outstanding Balance of any Receivable is reduced on account of the obligation of any Originator or any Affiliate thereof to pay to the related Obligor any rebate or refund, or

(iv) the Outstanding Balance of any Receivable is less than the amount included in calculating the Net Pool Balance for purposes of any Monthly Report (for any reason other than receipt of Collections or such Receivable becoming a Defaulted Receivable), or

(v) any of the representations or warranties of Seller set forth in Section 5.1(g), (i), (j), (r), (s), (t) or (u) were not true when made with respect to any Receivable,



then, on such day, Seller shall be deemed to have received a Collection of such Receivable (A) in the case of clauses (i)-(iv) above, in the amount of such reduction or cancellation or the difference between the actual Outstanding Balance and the amount included in calculating such Net Pool Balance, as applicable; and (B) in the case of clause (v) above, in the amount of the Outstanding Balance of such Receivable and, not later than 2 Business Days thereafter shall pay to the Agent's Account the amount of any such Collection deemed to have been received in the same manner as actual cash collections are distributed under the terms of this Agreement.

(b) Seller shall ensure that the Aggregate Invested Amount at no time exceeds the Purchase Limit. If at any time the Aggregate Invested Amount exceeds the Purchase Limit, Seller shall pay to the Agent immediately an amount to be applied to reduce the Aggregate Invested Amount (as allocated by the Agent), such that after giving effect to such payment the Aggregate Invested Amount is less than or equal to the Purchase Limit.

(c) Seller shall also ensure that the Receivable Interests shall at no time exceed in the aggregate 100%. If the aggregate of the Receivable Interests exceeds 100%, Seller shall pay to the Agent on or before the next succeeding Settlement Date (or, if such excess is discovered on a Settlement Date, on such Settlement Date) an amount to be applied to reduce the Aggregate Invested Amount (as allocated by the Agent), such that after giving effect to such payment the aggregate of the Receivable Interests equals or is less than 100%.

Section 1.5 Payment Requirements and Computations. All amounts to be paid or deposited by any Seller Party pursuant to any provision of this Agreement shall be paid or deposited in accordance with the terms hereof no later than 12:00 noon (New York time) on the day when due in immediately available funds, and if not received before 12:00 noon (New York time) shall be deemed to be received on the next succeeding Business Day. If such amounts are payable to the Agent for the account of Purchaser, they shall be paid to the Agent's Account, for the account of Purchaser until otherwise notified by the Agent. All computations of Yield, *per annum* fees hereunder and *per annum* fees under the Fee Letter shall be made on the basis of a year of 360 days for the actual number of days elapsed. If any amount hereunder shall be payable on a day which is not a Business Day, such amount shall be payable on the next succeeding Business Day.

## ARTICLE II.

### PAYMENTS AND COLLECTIONS

Section 2.1 Payments of Recourse Obligations. Seller hereby promises to pay the following (collectively, the "*Recourse Obligations*"):

- (a) all amounts due and owing under Section 1.3 or 1.4 on the dates specified therein;
- (b) the fees set forth in the Fee Letter on the dates specified therein;

(c) all accrued and unpaid Yield on the Receivable Interests accruing Yield at the Alternate Base Rate or the Default Rate on each Settlement Date applicable thereto;

(d) all accrued and unpaid Yield on the Receivable Interests accruing Yield at the LIBO Rate or LMIR, as applicable, on the last day of each Interest Period applicable thereto; and

(f) all Broken Funding Costs and Indemnified Amounts upon demand.

**Section 2.2 Collections Prior to the Facility Termination Date: Repayment of Certain Demand Advances**

(a) Prior to the Facility Termination Date, any Deemed Collections received by the Servicer and Purchaser's Portion of any Collections received by the Servicer shall be set aside and held in trust by the Servicer for the payment of any accrued and unpaid Aggregate Unpaid or for a Reinvestment as provided in this Section 2.2. If at any time any Collections are received by the Servicer prior to the Facility Termination Date, Seller hereby requests and Purchaser hereby agrees to make, simultaneously with such receipt, a reinvestment (each, a "**Reinvestment**") with Purchaser's Portion of the balance of each and every Collection received by the Servicer such that after giving effect to such Reinvestment, the Invested Amount of such Receivable Interest immediately after such receipt and corresponding Reinvestment shall be equal to the amount of Invested Amount immediately prior to such receipt.

(b) On each Settlement Date prior to the Facility Termination Date, the Servicer shall remit to the Agent's Account the amounts set aside during the preceding Settlement Period that have not been subject to a Reinvestment and (after deduction of its Servicing Fee) apply such amounts (if not previously paid in accordance with Section 2.1) to the Aggregate Unpaid in the order specified:

**first**, ratably to the payment of all accrued and unpaid Yield and Broken Funding Costs (if any) that are then due and owing,

**second**, ratably to the payment of all accrued and unpaid fees under the Fee Letter (if any) that are then due and owing,

**third**, if required under Section 1.3 or 1.4, to the ratably reduction of Aggregate Invested Amount,

**fourth**, for the ratably payment of all other unpaid Recourse Obligations, if any, that are then due and owing, and

**fifth**, the balance, if any, to Seller or otherwise in accordance with Seller's instructions.

(c) If the Collections are insufficient to pay the Servicing Fee and the Aggregate Unpaid specified above on any Settlement Date, Seller shall make demand upon Parent for repayment of any outstanding Demand Advances in an aggregate amount equal to the lesser of (i) the amount of such shortfall in Collections, and (ii) the aggregate outstanding principal balance of the Demand Advances, together with all accrued and unpaid interest thereon, and Parent hereby agrees to pay such amount to the Agent's Account on such Settlement Date.

Section 2.3 Repayment of Demand Advances on the Facility Termination Date: Collections

(a) On the Facility Termination Date, Parent hereby agrees to repay the aggregate outstanding principal balance of all Demand Advances, together with all accrued and unpaid interest thereon, to the Agent's Account, without demand or notice of any kind, all of which are hereby expressly waived by Parent.

(b) On the Facility Termination Date and on each day thereafter, the Servicer shall set aside and hold in trust, for the Secured Parties, all Collections received on each such day. On and after the Facility Termination Date, the Servicer shall, on each Settlement Date and on each other Business Day specified by the Agent (after deduction of any accrued and unpaid Servicing Fee as of such date): (i) remit to the Agent's Account the amounts set aside pursuant to the preceding two sentences, and (ii) apply such amounts to reduce the Aggregate Unpaid as follows:

*first*, to the reimbursement of the Agent's costs of collection and enforcement of this Agreement,

*second*, ratably to the payment of all accrued and unpaid Yield and Broken Funding Costs,

*third*, ratably to the payment of all accrued and unpaid fees under the Fee Letter,

*fourth*, to the ratable reduction of Aggregate Invested Amount,

*fifth*, for the ratable payment of all other Aggregate Unpaid, and

*sixth*, after the Final Payout Date, to Seller.

Section 2.4 Payment Recission. Payment of any of the Aggregate Unpaid shall be considered paid or applied hereunder to the extent that, at any time, all or any portion of such payment or application is rescinded by application of law or judicial authority, or must otherwise be returned or refunded for any reason. Seller shall remain obligated for the amount of any payment or application so rescinded, returned or refunded, and shall promptly pay to the Agent (for application to the Person or Persons who suffered such recission, return or refund) the full amount thereof, plus interest thereon at the Default Rate from the date of any such recission, return or refunding.

Section 2.5 Clean Up Call. In addition to Seller's rights pursuant to Section 1.3, Seller shall have the right (after providing written notice to the Agent in accordance with the Required Notice Period), at any time following the reduction of the Aggregate Invested Amount to a level that is less than 10.0% of the original Purchase Limit, to repurchase all, but not less than all, of the then outstanding Receivable Interests. The purchase price in respect thereof shall be an

amount equal to the Aggregate Unpaid through the date of such repurchase, payable in immediately available funds to the Agent's Account. Such repurchase shall be without representation, warranty or recourse of any kind by, on the part of, or against Purchaser or the Agent.

**ARTICLE III.**

**[RESERVED]**

**ARTICLE IV.**

**FUNDINGS**

Section 4.1 Fundings. Prior to the occurrence of an Amortization Event, the outstanding Invested Amount of each Receivable Interest shall accrue Yield for each day during its Interest Period at the LIBO Rate, LMIR or the Alternate Base Rate in accordance with the terms and conditions hereof. Until Seller gives the required notice to the Agent of another Yield Rate in accordance with Section 4.4, the initial Yield Rate for any Receivable Interest shall be the Alternate Base Rate (unless the Default Rate is then applicable).

Section 4.2 Yield Payments. On the Settlement Date for each Receivable Interest, Seller shall pay to the Agent (for the benefit of Purchaser) an aggregate amount equal to the accrued and unpaid Yield thereon for the entire Interest Period of each such Receivable Interest in accordance with Article II.

Section 4.3 Selection and Continuation of Interest Periods.

(a) With consultation from (and approval by) the Agent, Seller shall from time to time request Interest Periods for the Receivable Interests *provided that* Seller shall always request Interest Periods such that at least one Interest Period shall end on the date specified in clause (A) of the definition of Settlement Date.

(b) Seller or the Agent, upon notice to and consent by the other received at least three (3) Business Days prior to the end of an Interest Period (the "**Terminating Tranche**") for any Receivable Interest, may, effective on the last day of the Terminating Tranche: (i) divide any such Receivable Interest into multiple Receivable Interests, (ii) combine any such Receivable Interest with one or more other Receivable Interests that have a Terminating Tranche ending on the same day as such Terminating Tranche or (iii) combine any such Receivable Interest with a new Receivable Interest to be purchased on the day such Terminating Tranche ends.

Section 4.4 Yield Rates. Seller may select the LIBO Rate, LMIR (in each of the foregoing cases, subject to Section 4.5 below) or the Alternate Base Rate for each Receivable Interest. Seller shall by 12:00 noon (New York time): (i) at least three (3) Business Days prior to the expiration of any Terminating Tranche with respect to which the LIBO Rate or LMIR is being requested as a new Yield Rate and (ii) at least one (1) Business Day prior to the expiration of any Terminating Tranche with respect to which the Alternate Base Rate is being requested as a new Yield Rate, give the Agent irrevocable notice of the new Yield Rate for such Terminating Tranche. Until Seller gives notice to the Agent of another Yield Rate, the initial Yield Rate for each Receivable Interest shall be the Alternate Base Rate (unless the Default Rate is then applicable).

Section 4.5 Suspension of the LIBO Rate or LMIR. If Purchaser notifies the Agent that it has determined that funding any Receivable Interest at a LIBO Rate or LMIR would violate any applicable law, rule, regulation, or directive of any governmental or regulatory authority, whether or not having the force of law, or that (i) deposits of a type and maturity appropriate to match-fund any Receivable Interest at such LIBO Rate or LMIR are not available or (ii) such LIBO Rate or LMIR does not accurately reflect the cost of acquiring or maintaining a Receivable Interest at such LIBO Rate or LMIR, then the Agent shall suspend the availability of such LIBO Rate or LMIR, as the case may be, and require Seller to select the Alternate Base Rate for any Receivable Interest accruing Yield at such rate.

Section 4.6 Default Rate. From and after the occurrence of an Amortization Event, all Receivable Interests shall accrue Yield at the Default Rate.

#### ARTICLE V.

#### REPRESENTATIONS AND WARRANTIES

Section 5.1 Representations and Warranties of the Seller Parties. Each Seller Party hereby represents and warrants to the Agent and Purchaser, as to itself, as of the Effective Date and as of the date of each Incremental Purchase and the date of each Reinvestment that:

(a) Organization; Powers. Such Seller Party (a) is duly organized, validly existing and in good standing or active status under the laws of the jurisdiction of its organization, (b) has all requisite power and authority to own its Property and to carry on its business as now conducted and as proposed to be conducted, (c) is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required, except where the failure so to qualify could not reasonably be expected to result in a Material Adverse Effect, and (d) has the power and authority to execute, deliver and perform its obligations under each of the Transaction Documents and each other agreement or instrument contemplated hereby to which it is or will be a party.

(b) Authorization. The execution, delivery and performance by such Seller Party of each of the Transaction Documents to which it is a party (a) have been duly authorized by all requisite corporate and, if required, stockholder action and (b) will not (i) violate (A) any provision of law, statute, rule or regulation, or of the certificate or articles of incorporation or other constitutive documents or by-laws of such Seller Party, (B) any order of any Governmental Authority or (C) any provision of any indenture, agreement or other instrument to which such Seller Party is a party or by which any of them or any of their Property is or may be bound, (ii) be in conflict with, result in a breach of or constitute (alone or with notice or lapse of time or both) a default under, or give rise to any right to accelerate or to require the prepayment, repurchase or redemption of any obligation under any such indenture, agreement or other instrument or (iii) result in the creation or imposition of any Adverse Claim upon or with respect

to any Property now owned or hereafter acquired by such Seller Party (other than any Adverse Claim created hereunder or under the other Transaction Documents).

(c) No Conflict. The execution and delivery by such Seller Party of this Agreement and each other Transaction Document to which it is a party, and the performance of its obligations hereunder and thereunder do not contravene or violate (i) its Organizational Documents, (ii) any law, rule or regulation applicable to it, (iii) any restrictions under any agreement, contract or instrument to which it is a party or by which it or any of its property is bound, or (iv) any order, writ, judgment, award, injunction or decree binding on or affecting it or its property, and do not result in the creation or imposition of any Adverse Claim on assets of such Seller Party or its Subsidiaries (except as created under the Transaction Documents) except, in any case, where such contravention or violation could not reasonably be expected to have a Material Adverse Effect; and no transaction contemplated hereby requires compliance with any bulk sales act or similar law.

(d) Governmental Approvals. Other than the filing of the financing statements required hereunder, no action, consent or approval of, registration or filing with or any other action by any Governmental Authority is or will be required in connection with the transactions contemplated hereby.

(e) Litigation. Except as set forth on Schedule 5.1(e), there are not any actions, suits or proceedings at law or in equity or by or before any Governmental Authority now pending or, to the knowledge of such Seller Party, threatened against or affecting such Seller Party or any of its Subsidiaries or any business, Property or rights of any such Person (i) that involve any Transaction Document or the transactions contemplated thereby or (ii) as to which there is a reasonable possibility of an adverse determination and that, if adversely determined, could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect

(f) Enforceability. This Agreement has been duly executed and delivered by such Seller Party and constitutes, and each other Transaction Document to which such Seller Party is a party when executed and delivered by the such Seller Party will constitute, a legal, valid and binding obligation of such Seller Party enforceable against such Seller Party in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws relating to or limiting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

(g) Accuracy of Information. No information, report, financial statement, exhibit or schedule furnished by or on behalf of such Seller Party to the Buyer or the Agent in connection with the negotiation of any Transaction Document or included therein or delivered pursuant thereto contained, contains or will contain any material misstatement of fact or omitted, omits or will omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were, are or will be made, not misleading as of the date such information is dated or certified; *provided* that to the extent any such information, report, financial statement, exhibit or schedule was based upon or constitutes a forecast or projection, such Seller Party represents only that it acted in good faith and utilized reasonable assumptions and due care in the preparation of such information, report, financial statement, exhibit or schedule.

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(h) Use of Proceeds. No portion of the proceeds of any purchase hereunder will be used for a purpose that violates, or would be inconsistent with, any law, rule or regulation applicable to such Seller Party including, without limitation, Regulation T, U or X of the Board of Governors of the Federal Reserve System.

(i) Good Title. Seller is the legal and beneficial owner of the Receivables and Related Security with respect thereto, free and clear of any Adverse Claim, except as created by the Transaction Documents. There have been duly filed all financing statements or other similar instruments or documents necessary under the UCC (or any comparable law) of all appropriate jurisdictions to perfect Seller's ownership interest in each Receivable, its Collections and the Related Security.

(j) Perfection. This Agreement is effective to create a valid security interest in favor of the Agent for the benefit of the Secured Parties in the Purchased Assets to secure payment of the Aggregate Unpaid, free and clear of any Adverse Claim except as created by the Transactions Documents. There have been duly filed all financing statements or other similar instruments or documents necessary under the UCC (or any comparable law) of all appropriate jurisdictions to perfect the Agent's (on behalf of the Secured Parties) security interest in the Purchased Assets. Such Seller Party's jurisdiction of organization is a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, record or registration system as a condition or result of such a security interest's obtaining priority over the rights of a lien creditor which respect to collateral.

(k) Places of Business and Locations of Records. The principal places of business and chief executive office of such Seller Party and the offices where it keeps all of its Records are located at the address(es) listed on Exhibit III or such other locations of which the Agent has been notified in accordance with Section 7.2(a) in jurisdictions where all action required by Section 13.3(a) has been taken and completed. Seller's Federal Employer Identification Number is correctly set forth on Exhibit III.

(l) Collections. The conditions and requirements set forth in Section 7.1(j) and Section 8.2 have at all times been satisfied and duly performed. The names, addresses and jurisdictions of organization of all Collection Banks, together with the account numbers of the Collection Accounts of Seller at each Collection Bank and the post office box number of each Lock-Box, are listed on Exhibit IV. Seller has not granted any Person, other than the Agent as contemplated by this Agreement, dominion and control of any Lock-Box or Collection Account, or the right to take dominion and control of any such Lock-Box or Collection Account at a future time or upon the occurrence of a future event.

(m) Material Adverse Effect. (i) The initial Servicer represents and warrants that since August 31, 2007, no event has occurred that would have a material adverse effect on the financial condition or operations of the initial Servicer and its Subsidiaries or the ability of the initial Servicer to perform its obligations under this Agreement, and (ii) Seller represents and warrants that since the date of this Agreement, no event has occurred that would have a material adverse effect on (A) the financial condition or operations of Seller, (B) the ability of Seller to perform its obligations under the Transaction Documents, or (C) the collectibility of the Receivables generally or any material portion of the Receivables.

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(n) Names. The name in which Seller has executed this Agreement is identical to the name of Seller as indicated on the public record of its state of organization which shows Seller to have been organized. In the past five (5) years, Seller has not used any corporate names, trade names or assumed names other than the name in which it has executed this Agreement.

(o) Ownership of Seller. Parent owns, directly or indirectly, 100% of the issued and outstanding Equity Interests of Seller, free and clear of any Adverse Claim. Such Equity Interests are validly issued, fully paid and nonassessable, and there are no options, warrants or other rights to acquire securities of Seller.

(p) Not an Investment Company. Such Seller Party is not an "investment company" within the meaning of the Investment Company Act of 1940, as amended, or any successor statute.

(q) Compliance with Law. Such Seller Party has complied with all applicable laws, rules, regulations, orders, writs, judgments, injunctions, decrees or awards to which it may be subject, except where the failure to so comply could not reasonably be expected to have a Material Adverse Effect. Each Receivable, together with the Contract related thereto, does not contravene any laws, rules or regulations applicable thereto (*including, without limitation*, laws, rules and regulations relating to truth in lending, fair credit billing, fair credit reporting, equal credit opportunity, fair debt collection practices and privacy), and no part of such Contract is in violation of any such law, rule or regulation, except where such contravention or violation could not reasonably be expected to have a Material Adverse Effect.

(r) Compliance with Credit and Collection Policy. Such Seller Party has complied in all material respects with the Credit and Collection Policy with regard to each Receivable and the related Contract, and has not made any material change to such Credit and Collection Policy, except such material change as to which the Agent has been notified in accordance with Section 7.1(a)(vii).

(s) Payments to Applicable Originator. With respect to each Receivable transferred to Seller under the Receivables Sale Agreement, Seller has given reasonably equivalent value to the applicable Originator in consideration therefor and such transfer was not made for or on account of an antecedent debt. No transfer by any Originator of any Receivable under the Receivables Sale Agreement is or may be voidable under any section of the Bankruptcy Reform Act of 1978 (11 U.S.C. §§ 101 *et seq.*), as amended.

(t) Enforceability of Contracts. Each Contract with respect to each Receivable is effective to create, and has created, a legal, valid and binding obligation of the related Obligor to pay the Outstanding Balance of the Receivable created thereunder and any accrued interest thereon, enforceable against the Obligor in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganization or other



similar laws relating to or limiting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

(u) Eligible Receivables. Each Receivable included in the Net Pool Balance as an Eligible Receivable on the date of any Monthly Report was an Eligible Receivable on such date.

(v) Purchase Limit and Maximum Receivable Interests. Immediately after giving effect to each Incremental Purchase hereunder, the Aggregate Invested Amount is less than or equal to the Purchase Limit and the aggregate of the Receivable Interests does not exceed 100%.

(w) Accounting. The manner in which such Seller Party accounts for the transactions contemplated by this Agreement and the Receivables Sale Agreement does not jeopardize the true sale analysis.

## ARTICLE VI.

### CONDITIONS OF PURCHASES

Section 6.1 Conditions Precedent to Initial Incremental Purchase. The initial Incremental Purchase of a Receivable Interest under this Agreement and of the Aggregate Unpays (as such term is defined in the Existing Agreement) pursuant to Section 13.13(b) is subject to the conditions precedent that (a) the Agent shall have received on or before the date of such Purchase those documents listed on Schedule A, (b) the Agent shall have received all fees and expenses required to be paid on such date pursuant to the terms of this Agreement and the Fee Letter, (c) Latham & Watkins LLP shall have received all of its outstanding legal fees and expenses, and (d) the date on which such initial Incremental Purchase is made shall be on or prior to March 10, 2009.

Section 6.2 Conditions Precedent to All Purchases and Reinvestments. Each Incremental Purchase and each Reinvestment shall be subject to the further conditions precedent that (a) in the case of each such Purchase: (i) the Servicer shall have delivered to the Agent on or prior to the date of such Purchase, in form and substance satisfactory to the Agent, all Monthly Reports as and when due under Section 8.5 and (ii) upon the Agent's request, the Servicer shall have delivered to the Agent at least three (3) Business Days prior to such Purchase an interim Monthly Report showing the amount of Eligible Receivables; (b) the Agent shall have received such other approvals, opinions or documents as it may reasonably request and (c) on each Purchase Date, the following statements shall be true (and acceptance of the proceeds of such Incremental Purchase or Reinvestment shall be deemed a representation and warranty by Seller that such statements are then true):

(i) the representations and warranties set forth in Section 5.1 are true and correct on and as of the date of such Incremental Purchase or Reinvestment as though made on and as of such Purchase Date;

(ii) no event has occurred and is continuing, or would result from such Incremental Purchase or Reinvestment, that will constitute an Amortization Event, and no event has occurred and is continuing, or would result from such Incremental Purchase or Reinvestment, that would constitute an Unmatured Amortization Event; and

(iii) the Aggregate Invested Amount does not exceed the Purchase Limit and the aggregate Receivable Interests do not exceed 100%.

It is expressly understood that each Reinvestment shall, unless otherwise directed by the Agent or Purchaser, occur automatically on each day that the Servicer shall receive any Collections without the requirement that any further action be taken on the part of any Person and notwithstanding the failure of Seller to satisfy any of the foregoing conditions precedent in respect of such Reinvestment. The failure of Seller to satisfy any of the foregoing conditions precedent in respect of any Reinvestment shall give rise to a right of the Agent, which right may be exercised at any time on demand of the Agent, to rescind the related purchase and direct Seller to pay to the Agent's Account, for the benefit of Purchaser, an amount equal to the Collections prior to the Facility Termination Date that shall have been applied to the affected Reinvestment.

## ARTICLE VII.

### COVENANTS

Section 7.1 Affirmative Covenants of the Seller Parties. Until the date on which the Aggregate Unpaid have been indefeasibly paid in full and this Agreement terminates in accordance with its terms, each Seller Party hereby covenants, as to itself, as set forth below:

(a) Financial Reporting. Seller Party will maintain, for itself and each of its Subsidiaries, a system of accounting established and administered in accordance with GAAP, and furnish or cause to be furnished to the Agent:

(i) Annual Reporting. Within 90 days after the end of each fiscal year of Parent: (A) Parent's balance sheet and related statements of income and cash flows showing the financial condition of Parent and its consolidated Subsidiaries as of the close of such fiscal year and the results of their operations during such year, all in reasonable detail and audited by PricewaterhouseCoopers LLP or other independent public accountants of recognized national standing and accompanied by an opinion of such accountants (which shall not be qualified in any material respect) to the effect that such consolidated financial statements fairly present in all material respects the financial condition and results of operations of Parent and its Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, setting forth in each case in comparative form the corresponding statements for the preceding fiscal year; and (B) comparable unaudited financial statements for Seller.

(ii) Quarterly Reporting. Within 45 days after the end of each of the first three fiscal quarters of each fiscal year of Parent: (A) Parent's consolidated balance sheet and related statements of income and cash flows showing the financial condition of Parent and its consolidated Subsidiaries as of the close of such fiscal quarter and the results of their operations during such fiscal quarter and the then elapsed portion of the fiscal year, all in reasonable detail and certified by one of its Financial Officers as fairly presenting in all material respects the financial condition and results of operations of

Parent and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments, setting forth in each case in comparative form the corresponding statements for the corresponding period in the preceding fiscal year, and (B) comparable unaudited financial statements for Seller.

(iii) Compliance Certificate. Together with the financial statements required hereunder, a compliance certificate in substantially the form of Exhibit V signed by a Financial Officer of such Seller Party and dated the date of such annual financial statement or such quarterly financial statement, as the case may be.

(iv) Shareholders Statements and Reports. Promptly upon the furnishing thereof to the shareholders of Parent, copies of all financial statements, reports and proxy statements so furnished.

(v) S.E.C. Filings. Promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed by Parent or any Subsidiary with the Securities and Exchange Commission, or any Governmental Authority succeeding to any or all of the functions of said Commission, or with any national securities exchange, or distributed to holders of its Indebtedness pursuant to the terms of the documentation governing such Indebtedness (or any trustee, agent or other representative therefor), as the case may be.

(vi) Copies of Notices. Promptly upon its receipt of any notice, request for consent, financial statements, certification, report or other communication under or in connection with any Transaction Document from any Person other than the Agent or Purchaser, copies of the same.

(vii) Change in Credit and Collection Policy. At least thirty (30) days prior to the effectiveness of any material change in or material amendment to the Credit and Collection Policy, a copy of the Credit and Collection Policy then in effect and a notice (A) indicating such proposed change or amendment, and (B) if such proposed change or amendment would be reasonably likely to adversely affect the collectibility of the Receivables or decrease the credit quality of any newly created Receivables, requesting the Agent's consent thereto.

(viii) Other Information. Promptly, from time to time, such other information, documents, records or reports relating to the Receivables originated by such Originator or the condition or operations, financial or otherwise, of such Originator as Buyer (or its assigns) may from time to time reasonably request in order to protect the interests of Buyer (and its assigns) under or as contemplated by this Agreement.

(b) Notices. Such Seller Party will notify the Agent in writing of any of the following promptly upon learning of the occurrence thereof, describing the same and, if applicable, the steps being taken with respect thereto:

(i) Amortization Events or Unmatured Amortization Events The occurrence of each Amortization Event and each Unmatured Amortization Event, by a statement of a Financial Officer of such Seller Party.

(ii) Material Adverse Effect. The occurrence of any event or condition that has had, or could reasonably be expected to have, a Material Adverse Effect.

(iii) Termination Date. The occurrence of the “*Termination Date*” under and as defined in the Receivables Sale Agreement.

(iv) Defaults Under Other Agreements. The occurrence of an event of default (as to which any notice period or cure period has expired without cure) under any other financing arrangement pursuant to which such Seller Party is a debtor or an obligor which, in the case of a Seller Party other than Seller, involves a line of credit or Indebtedness, in each case, of \$1 million or more.

(v) Notices under Receivables Sale Agreement. Copies of all notices delivered under the Receivables Sale Agreement.

(vi) Downgrade of Servicer. Downgrade in the rating of any Indebtedness of Servicer by S&P or Moody’s, setting forth the Indebtedness affected and the nature of such change.

(vii) ERISA.

(a) The occurrence or the reasonably expected occurrence of any ERISA Event that, when taken together with all other such ERISA Events, could reasonably be expected to result in a material liability.

(b) The filing or the written indication to Parent or the relevant ERISA Affiliate of the intent of the PBGC to file notice of a Lien in relation to any Plan or with regard to any of the Purchased Assets.

(viii) Change in Credit and Collection Policy. At least thirty (30) days prior to the effectiveness of any material change in or material amendment to the Credit and Collection Policy, a copy of the Credit and Collection Policy then in effect and a notice (A) indicating such change or amendment, and (B) if such proposed change or amendment would be reasonably likely to adversely affect the collectibility of the Receivables or decrease the credit quality of any newly created Receivables, requesting the Agent’s consent thereto.

(c) Compliance with Laws and Preservation of Corporate Existence. Such Seller Party will comply in all respects with all applicable laws, rules, regulations, orders, writs, judgments, injunctions, decrees or awards to which it may be subject, except where the failure to so comply could not reasonably be expected to have a Material Adverse Effect. Such Seller Party will preserve and maintain its corporate existence, rights, franchises and privileges in the jurisdiction of its incorporation, and qualify and remain qualified in good standing as a foreign corporation in each jurisdiction where its business is conducted, except where the failure to so preserve and maintain or qualify could not reasonably be expected to have a Material Adverse Effect.

(d) Audits. Seller Party will furnish to the Agent from time to time such information with respect to it and the Receivables as the Agent may reasonably request. Such Seller Party will, from time to time during regular business hours as requested by the Agent upon reasonable notice and at the sole cost of such Seller Party, permit the Agent, or its agents or representatives (and shall cause each Originator to permit the Agent or its agents or representatives): (i) to examine and make copies of and abstracts from all Records in the possession or under the control of such Person relating to the Purchased Assets, including, without limitation, the related Contracts, and (ii) to visit the offices and properties of such Person for the purpose of examining such materials described in clause (i) above, and to discuss matters relating to such Person's financial condition or the Purchased Assets or any Person's performance under any of the Transaction Documents or any Person's performance under the Contracts and, in each case, with any of the officers or employees of Seller or the Servicer having knowledge of such matters (each of the foregoing examinations and visits, a "**Review**"); **provided, however**, that, so long as no Amortization Event has occurred and is continuing, (A) the Seller Parties shall only be responsible for the costs and expenses of one (1) Review in any one calendar year, and (B) the Agent will not request more than four (4) Reviews in any one calendar year.

(e) Keeping and Marking of Records and Books.

(i) The Servicer will (and will cause each Originator to) maintain and implement administrative and operating procedures (including, without limitation, an ability to recreate records evidencing Receivables in the event of the destruction of the originals thereof), and keep and maintain all documents, books, records and other information reasonably necessary or advisable for the collection of all Receivables (including, without limitation, records adequate to permit the immediate identification of each new Receivable and all Collections of and adjustments to each existing Receivable). The Servicer will (and will cause each Originator to) give the Agent notice of any material change in the administrative and operating procedures referred to in the previous sentence.

(ii) Such Seller Party will (and will cause each Originator to): (A) on or prior to the Effective Date, mark its standard monthly accounts receivable aging reports regarding the Receivables with a legend, acceptable to the Agent, describing the Agent's security interest in the Purchased Assets and (B) upon the request of the Agent following the occurrence and during the continuance of an Amortization Event: (x) mark each Contract with a legend describing the Agent's security interest and (y) deliver to the Agent all Contracts (including, without limitation, all multiple originals of any such Contract constituting an instrument, a certificated security or chattel paper) relating to the Receivables.

(f) Compliance with Contracts and Credit and Collection Policy. Such Seller Party will (and will cause each Originator to) timely and fully (i) perform and comply with all provisions, covenants and other promises required to be observed by it under the Contracts related to the Receivables, and (ii) comply in all respects with the Credit and Collection Policy in regard to each Receivable and the related Contract.

(g) Performance and Enforcement of Receivables Sale Agreement. Seller will, and will require each Originator to, perform each of their respective obligations and undertakings under and pursuant to the Receivables Sale Agreement, will purchase Receivables thereunder in strict compliance with the terms thereof and will vigorously enforce the rights and remedies accorded to Seller under the Receivables Sale Agreement. Seller will take all actions to perfect and enforce its rights and interests (and the rights and interests of the Agent, as Seller's assignee) under the Receivables Sale Agreement as the Agent may from time to time reasonably request, including, without limitation, making claims to which it may be entitled under any indemnity, reimbursement or similar provision contained in the Receivables Sale Agreement.

(h) Ownership. Seller will (or will cause each Originator to) take all necessary action to (i) vest legal and equitable title to the Purchased Assets purchased under the Receivables Sale Agreement irrevocably in Seller, free and clear of any Adverse Claims (other than Adverse Claims in favor of the Agent, for the benefit of the Secured Parties) including, without limitation, the filing of all financing statements or other similar instruments or documents necessary under the UCC (or any comparable law) of all appropriate jurisdictions to perfect Seller's interest in such Purchased Assets and such other action to perfect, protect or more fully evidence the interest of Seller therein as the Agent may reasonably request, and (ii) establish and maintain, in favor of the Agent, for the benefit of the Secured Parties, a valid and perfected first priority security interest in all Purchased Assets, free and clear of any Adverse Claims, including, without limitation, the filing of all financing statements or other similar instruments or documents necessary under the UCC (or any comparable law) of all appropriate jurisdictions to perfect the Agent's (for the benefit of the Secured Parties) security interest in the Purchased Assets and such other action to perfect, protect or more fully evidence the interest of the Agent for the benefit of the Secured Parties as the Agent may reasonably request.

(i) Reliance. Seller acknowledges that the Agent and Purchaser are entering into the transactions contemplated by this Agreement in reliance upon Seller's identity as a legal entity that is separate from each Originator. Therefore, from and after the date of execution and delivery of this Agreement, Seller shall take all reasonable steps, including, without limitation, all steps that the Agent or Purchaser may from time to time reasonably request, to maintain Seller's identity as a separate legal entity and to make it manifest to third parties that Seller is an entity with assets and liabilities distinct from those of each Originator and any Affiliates thereof (other than Seller) and not just a division of any Originator or any such Affiliate. Without limiting the generality of the foregoing and in addition to the other covenants set forth herein, Seller will:

(A) conduct its own business in its own name and require that all full-time employees of Seller, if any, identify themselves as such and not as employees of any Originator (including, without limitation, by means of providing appropriate employees with business or identification cards identifying such employees as Seller's employees);

(B) compensate all employees, consultants and agents directly, from Seller's own funds, for services provided to Seller by such employees, consultants and agents and, to the extent any employee, consultant or agent of Seller is also an employee, consultant or agent of any Originator or any Affiliate thereof, allocate the compensation of such employee, consultant or agent between Seller and such Originator or such Affiliate, as applicable, on a basis that reflects the services rendered to Seller and such Originator or such Affiliate, as applicable;

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(C) clearly identify its offices (by signage or otherwise) as its offices and, if such office is located in the offices of any Originator, Seller shall lease such office at a fair market rent;

(D) have a separate telephone number, which will be answered only in its name and separate stationery and checks in its own name;

(E) conduct all transactions with each Originator and the Servicer (including, without limitation, any delegation of its obligations hereunder as Servicer) strictly on an arm's-length basis, allocate all overhead expenses (including, without limitation, telephone and other utility charges) for items shared between Seller and such Originator on the basis of actual use to the extent practicable and, to the extent such allocation is not practicable, on a basis reasonably related to actual use;

(F) at all times have a Board of Directors consisting of three members, at least one member of which is an Independent Director;

(G) observe all corporate formalities as a distinct entity, and ensure that all corporate actions relating to (A) the selection, maintenance or replacement of the Independent Director, (B) the dissolution or liquidation of Seller or (C) the initiation of, participation in, acquiescence in or consent to any bankruptcy, insolvency, reorganization or similar proceeding involving Seller, are duly authorized by unanimous vote of its Board of Directors (including the Independent Director);

(H) maintain Seller's books and records separate from those of each Originator and any Affiliate thereof and otherwise readily identifiable as its own assets rather than assets of any Originator or any Affiliate thereof;

(I) prepare its financial statements separately from those of each Originator and insure that any consolidated financial statements of any Originator or any Affiliate thereof that include Seller and that are filed with the Securities and Exchange Commission or any other governmental agency have notes clearly stating that Seller is a separate corporate entity and that its assets will be available first and foremost to satisfy the claims of the creditors of Seller;

(J) except as herein specifically otherwise provided, to the maximum extent within Seller's control, maintain the funds or other assets of Seller separate from, and not commingled with, those of any Originator or any Affiliate thereof and only maintain bank accounts or other depository accounts to which Seller alone is the account party, into which Seller alone makes deposits and from which Seller alone (or the Agent hereunder) has the power to make withdrawals;

(K) pay all of Seller's operating expenses from Seller's own assets (except for certain payments by any Originator or other Persons pursuant to allocation arrangements that comply with the requirements of this Section 7.1(i));

(L) operate its business and activities such that: it does not engage in any business or activity of any kind, or enter into any transaction or indenture, mortgage, instrument, agreement, contract, lease or other undertaking, other than the transactions contemplated and authorized by this Agreement and the Receivables Sale Agreement; and does not create, incur, guarantee, assume or suffer to exist any indebtedness or other liabilities, whether direct or contingent, other than (1) as a result of the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business, (2) the incurrence of obligations under this Agreement, (3) the incurrence of obligations, as expressly contemplated in the Receivables Sale Agreement, to make payment to the applicable Originator thereunder for the purchase of Receivables from such Originator under the Receivables Sale Agreement, and (4) the incurrence of operating expenses in the ordinary course of business of the type otherwise contemplated by this Agreement;

(M) maintain its corporate charter in conformity with this Agreement, such that it does not amend, restate, supplement or otherwise modify its Organizational Documents in any respect that would impair its ability to comply with the terms or provisions of any of the Transaction Documents, including, without limitation, Section 7.1(i) of this Agreement;

(N) maintain the effectiveness of, and continue to perform under the Receivables Sale Agreement and the Performance Undertaking, such that it does not amend, restate, supplement, cancel, terminate or otherwise modify the Receivables Sale Agreement or the Performance Undertaking, or give any consent, waiver, directive or approval thereunder or waive any default, action, omission or breach under the Receivables Sale Agreement or the Performance Undertaking or otherwise grant any indulgence thereunder, without (in each case) the prior written consent of the Agent;

(O) maintain its corporate separateness such that it does not merge or consolidate with or into, or convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions, and except as otherwise contemplated herein) all or substantially all of its assets (whether now owned or hereafter acquired) to, or acquire all or substantially all of the assets of, any Person, nor at any time create, have, acquire, maintain or hold any interest in any Subsidiary;

(P) maintain at all times the Required Capital Amount (as defined in the Receivables Sale Agreement) and refrain from making any dividend, distribution, redemption of capital stock or payment of any subordinated indebtedness which would cause the Required Capital Amount to cease to be so maintained; and

(Q) take such other actions as are necessary on its part to ensure that the facts and assumptions set forth in the opinion issued by Quarles & Brady LLP, as counsel for Seller, in connection with the closing or initial Purchase under the Existing Agreement and relating to substantive consolidation issues, and in the certificates accompanying such opinion, remain true and correct in all material respects at all times.

(j) Collections. Such Seller Party will cause (1) all proceeds from all Lock-Boxes to be directly deposited by a Collection Bank into a Collection Account and (2) each



Lock-Box and Collection Account to be subject at all times to a Collection Account Agreement that is in full force and effect. In the event any payments relating to the Purchased Assets are remitted directly to Seller or any Affiliate of Seller, Seller will remit (or will cause all such payments to be remitted) directly to a Collection Bank and deposited into a Collection Account within two (2) Business Days following receipt thereof, and, at all times prior to such remittance, Seller will itself hold or, if applicable, will cause such payments to be held in trust for the exclusive benefit of the Agent and Purchaser. Seller will maintain exclusive ownership, dominion and control (subject to the terms of this Agreement) of each Lock-Box and Collection Account and shall not grant the right to take dominion and control of any Lock-Box or Collection Account at a future time or upon the occurrence of a future event to any Person, except to the Agent as contemplated by this Agreement.

(k) Taxes. Such Seller Party will file all tax returns and reports required by law to be filed by it and will promptly pay all taxes and governmental charges at any time owing, except any such taxes which are not yet delinquent or are being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP shall have been set aside on its books. Seller will pay when due any taxes payable in connection with the Receivables, exclusive of taxes on or measured by income or gross receipts of the Agent or Purchaser.

(l) Payment to Applicable Originator. With respect to any Receivable purchased by Seller from any Originator, such sale shall be effected under, and in strict compliance with the terms of, the Receivables Sale Agreement, including, without limitation, the terms relating to the amount and timing of payments to be made to such Originator in respect of the purchase price for such Receivable.

Section 7.2 Negative Covenants of the Seller Parties. Until the date on which the Aggregate Unpaid have been indefeasibly paid in full and this Agreement terminates in accordance with its terms, each Seller Party hereby covenants, as to itself, that:

(a) Name Change, Offices and Records. Such Seller Party will not change its name, identity or structure (within the meaning of any applicable enactment of the UCC), relocate its chief executive office at any time while the location of its chief executive office is relevant to perfection of the Agent's security interest, for the benefit of the Secured Parties, in the Receivables, Related Security and Collections, or change any office where Records are kept unless it shall have: (i) given the Agent at least forty-five (45) days' prior written notice thereof and (ii) delivered to the Agent all financing statements, instruments and other documents requested by the Agent in connection with such change or relocation.

(b) Change in Payment Instructions to Obligors Except as may be required by the Agent pursuant to Section 8.2(b), such Seller Party will not add or terminate any bank as a Collection Bank, or make any change in the instructions to Obligors regarding payments to be made to any Lock-Box or Collection Account, unless the Agent shall have received, at least ten (10) days before the proposed effective date thereof, (i) written notice of such addition, termination or change and evidence reasonably satisfactory to the Agent that all Adverse Claims to such Lock-Box or Collection Account have been released and (ii) with respect to the addition of a Collection Bank or a Collection Account or Lock-Box, an executed Collection Account

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Agreement with respect to the new Collection Account or Lock-Box; *provided, however*, that the Servicer may make changes in instructions to Obligor regarding payments if such new instructions require such Obligor to make payments to another existing Collection Account.

(c) Modifications to Contracts and Credit and Collection Policy. Such Seller Party will not, and will not permit any Originator to, make any material change to the Credit and Collection Policy that could materially adversely affect the collectibility of the Receivables or decrease the credit quality of any newly created Receivables. Except as provided in Section 8.2(d), the Servicer will not, and will not permit any Originator to, extend, amend or otherwise modify the terms of any Receivable or any Contract related thereto other than in accordance with the Credit and Collection Policy.

(d) Sales, Liens. Seller will not sell, assign (by operation of law or otherwise) or otherwise dispose of, or grant any option with respect to, or create or suffer to exist any Adverse Claim upon (including, without limitation, the filing of any financing statement) or with respect to, any of the Purchased Assets, or assign any right to receive income with respect thereto (other than, in each case, the creation of a security interest therein in favor of the Agent as provided for herein), and Seller will defend the right, title and interest of the Secured Parties in, to and under any of the foregoing property, against all claims of third parties claiming through or under Seller or any Originator.

(e) Use of Proceeds. Seller will not use the proceeds of the Purchases for any purpose other than (i) paying for Receivables and Related Security under and in accordance with the Receivables Sale Agreement, including without limitation, making payments on the Subordinated Notes to the extent permitted thereunder and under the Receivables Sale Agreement, (ii) making Demand Advances to Parent at any time prior to the Facility Termination Date while it is acting as Servicer and no Amortization Event or Unmatured Amortization Event exists and is continuing, (iii) paying its ordinary and necessary operating expenses when and as due, and (iv) making Restricted Junior Payments to the extent permitted under this Agreement.

(f) Termination Date Determination. Seller will not designate the Termination Date (as defined in the Receivables Sale Agreement), or send any written notice to any Originator in respect thereof, without the prior written consent of the Agent, except with respect to the occurrence of such Termination Date arising pursuant to Section 5.1(d) of the Receivables Sale Agreement.

(g) Restricted Junior Payments. Seller will not make any Restricted Junior Payment if after giving effect thereto, Seller's Net Worth (as defined in the Receivables Sale Agreement) would be less than the Required Capital Amount (as defined in the Receivables Sale Agreement).

(h) Seller Indebtedness. Seller will not incur or permit to exist any Indebtedness or liability on account of deposits except: (i) the Aggregate Unpaid, (ii) the Subordinated Loans, and (iii) other current accounts payable arising in the ordinary course of business and not overdue.

(i) Prohibition on Additional Negative Pledges. No Seller Party will enter into or assume any agreement (other than this Agreement and the other Transaction Documents) prohibiting the creation or assumption of any Adverse Claim upon the Purchased Assets except as contemplated by the Transaction Documents, or otherwise prohibiting or restricting any transaction contemplated hereby or by the other Transaction Documents, and no Seller Party will enter into or assume any agreement creating any Adverse Claim upon the Subordinated Notes.

## ARTICLE VIII.

### ADMINISTRATION AND COLLECTION

#### Section 8.1 Designation of Servicer.

(a) The servicing, administration and collection of the Receivables shall be conducted by such Person (the "**Servicer**") so designated from time to time in accordance with this Section 8.1. Parent is hereby designated as, and hereby agrees to perform the duties and obligations of, the Servicer pursuant to the terms of this Agreement. The Agent may at any time following the occurrence and during the continuance of an Amortization Event, designate as Servicer any Person to succeed Parent or any successor Servicer.

(b) Parent may delegate, and Parent hereby advises the Agent and Purchaser that it has delegated, to the other Originators, as sub-servicers of the Servicer, certain of its duties and responsibilities as Servicer hereunder in respect of the Receivables originated by such other Originator. Without the prior written consent of the Agent and Purchaser, Parent shall not be permitted to delegate any of its duties or responsibilities as Servicer to any Person other than (i) the other Originators, and (ii) with respect to certain Defaulted Receivables, outside collection agencies in accordance with its customary practices (each other Originator and outside collection agency, when acting as such a delegate, a "**Permitted Sub-Servicer**"). No Permitted Sub-Servicer shall be permitted to further delegate to any other Person any of the duties or responsibilities of the Servicer delegated to it by Parent. If at any time the Agent shall designate as Servicer any Person other than Parent, all duties and responsibilities theretofore delegated by Parent to the other Originators may, at the discretion of the Agent, be terminated forthwith on notice given by the Agent to Parent and to Seller and the other Originators.

(c) Notwithstanding the foregoing subsection (b): (i) Parent shall be and remain primarily liable to the Agent and Purchaser for the full and prompt performance of all duties and responsibilities of the Servicer hereunder and (ii) the Agent and Purchaser shall be entitled to deal exclusively with Parent in matters relating to the discharge by the Servicer of its duties and responsibilities hereunder. The Agent and Purchaser shall not be required to give notice, demand or other communication to any Person other than Parent in order for communication to the Servicer and its sub-servicer or other delegate with respect thereto to be accomplished. Parent, at all times that it is the Servicer, shall be responsible for providing any sub-servicer or other delegate of the Servicer with any notice given to the Servicer under this Agreement.

#### Section 8.2 Duties of Servicer.

(a) The Servicer shall take or cause to be taken all such actions as may be necessary or advisable to collect each Receivable from time to time, all in accordance with applicable laws, rules and regulations, with reasonable care and diligence, and in accordance with the Credit and Collection Policy.

(b) The Servicer will instruct all Obligor to pay all Collections directly to a Lock-Box or Collection Account. The Servicer shall effect a Collection Account Agreement in a form reasonably acceptable to the Agent with each bank party to a Collection Account at any time. In the case of any remittances received in any Lock-Box or Collection Account that shall have been identified, to the satisfaction of the Servicer, to not constitute Collections or other proceeds of the Receivables or the Related Security, the Servicer shall promptly remit such items to the Person identified to it as being the owner of such remittances. From and after the date the Agent delivers to any Collection Bank a Collection Notice pursuant to Section 8.3, the Agent may request that the Servicer, and the Servicer thereupon promptly shall instruct all Obligor with respect to the Receivables, to remit all payments thereon to a new depository account specified by the Agent and, at all times thereafter, Seller and the Servicer shall not deposit or otherwise credit, and shall not permit any other Person to deposit or otherwise credit to such new depository account any cash or payment item other than Collections.

(c) The Servicer shall administer the Collections in accordance with the procedures described herein and in Article II. The Servicer shall set aside and hold in trust for the account of Seller and Purchaser their respective shares of the Collections in accordance with Article II. The Servicer shall, upon the request of the Agent, segregate, in a manner acceptable to the Agent, all cash, checks and other instruments received by it from time to time constituting Collections from the general funds of the Servicer or Seller prior to the remittance thereof in accordance with Article II. If the Servicer shall be required to segregate Collections pursuant to the preceding sentence, the Servicer shall segregate and deposit with a bank designated by the Agent such allocable share of Collections of Receivables set aside for Purchaser on the first Business Day following receipt by the Servicer of such Collections, duly endorsed or with duly executed instruments of transfer.

(d) The Servicer may, in accordance with the Credit and Collection Policy, extend the maturity of any Receivable or adjust the Outstanding Balance of any Receivable as the Servicer determines to be appropriate to maximize Collections thereof; *provided, however*, that such extension or adjustment shall not alter the status of such Receivable as a Delinquent Receivable or Defaulted Receivable or limit the rights of the Agent or Purchaser under this Agreement. Notwithstanding anything to the contrary contained herein, following the occurrence and during the continuance of an Amortization Event, the Agent shall have the absolute and unlimited right to direct the Servicer to commence or settle any legal action with respect to any Receivable or to foreclose upon or repossess any Related Security.

(e) The Servicer shall hold in trust for Seller and the Agent and Purchaser all Records that (i) evidence or relate to the Receivables, the related Contracts and Related Security or (ii) are otherwise necessary or desirable to collect the Receivables and shall, as soon as practicable upon demand of the Agent, deliver or make available to the Agent all such Records, at a place selected by the Agent. The Servicer shall, as soon as practicable following receipt thereof turn over to rightful owner or its designee any cash collections or other cash proceeds received with respect to Indebtedness not constituting Receivables. The Servicer shall, from time to time at the request of the Agent or Purchaser, furnish to Purchaser (promptly after any such request) a calculation of the amounts set aside for Purchaser pursuant to Article II.

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(f) Any payment by an Obligor in respect of any indebtedness owed by it to Originator or Seller shall, except as otherwise specified by such Obligor or otherwise required by contract or law and unless otherwise instructed by the Agent, be applied as a Collection of any Receivable of such Obligor (starting with the oldest such Receivable) to the extent of any amounts then due and payable thereunder before being applied to any other receivable or other obligation of such Obligor.

Section 8.3 Collection Notices. The Agent is authorized at any time to date and to deliver to the Collection Banks the Collection Notices. Seller hereby transfers to the Agent for the benefit of Purchaser the exclusive ownership and control of each Lock-Box and the Collection Accounts; provided however, that the Seller shall retain the right to direct the disposition of funds from each of the Collection Accounts until the Agent delivers the applicable Collection Notice. In case any authorized signatory of Seller whose signature appears on a Collection Account Agreement shall cease to have such authority before the delivery of such notice, such Collection Notice shall nevertheless be valid as if such authority had remained in force. Seller hereby authorizes the Agent, and agrees that the Agent shall be entitled (i) at any time after delivery of the Collection Notices, to endorse Seller's name on checks and other instruments representing Collections, (ii) at any time after the occurrence of an Amortization Event, to enforce the Receivables, the related Contracts and the Related Security, and (iii) at any time after the occurrence of an Amortization Event, to take such action as shall be necessary or desirable to cause all cash, checks and other instruments constituting Collections of Receivables to come into the possession of the Agent rather than Seller.

Section 8.4 Responsibilities of Seller. Anything herein to the contrary notwithstanding, the exercise by the Agent, on behalf of Purchaser, of the Agent's rights hereunder shall not release the Servicer, any Originator or Seller from any of their duties or obligations with respect to any Receivables or under the related Contracts. The Agent and Purchaser shall have no obligation or liability with respect to any Receivables or related Contracts, nor shall any of them be obligated to perform the obligations of Seller or any Originator thereunder.

Section 8.5 Monthly Reports. The Servicer shall prepare and forward to the Agent (i) on each Monthly Reporting Date, a Monthly Report and an electronic file of the data contained therein and (ii) at such times as the Agent shall request, a listing by Obligor of all Receivables together with an aging of such Receivables; ***provided, however,*** that if an Amortization Event exists and is continuing, the Agent may request that the Servicer deliver a Monthly Report more frequently than monthly.

Section 8.6 Servicing Fee. As compensation for the Servicer's servicing activities on their behalf, the Servicer shall be paid the Servicing Fee in arrears on each Settlement Date out of Collections.

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**ARTICLE IX.**

**AMORTIZATION EVENTS**

Section 9.1 Amortization Events. The occurrence of any one or more of the following events shall constitute an Amortization Event:

(a) Any Seller Party shall fail to make any payment or deposit required to be made by it under the Transaction Documents when due and, for any such payment or deposit which is not in respect of principal, such failure continues for 5 consecutive Business Days.

(b) Any representation, warranty, certification or statement made by any Seller Party in any Transaction Document to which it is a party or in any other document delivered pursuant thereto shall prove to have been incorrect when made or deemed made.

(c) Any Seller Party shall fail to perform or observe any covenant contained in Section 7.2 or 8.5 when due.

(d) Any Seller Party shall fail to perform or observe any other covenant or agreement under any Transaction Documents and such failure shall continue for thirty (30) consecutive Business Days.

(e) Failure of Seller to pay any Indebtedness (other than the Aggregate Unpaid) when due or the default by Seller in the performance of any term, provision or condition contained in any agreement under which any such Indebtedness was created or is governed, the effect of which is to cause, or to permit the holder or holders of such Indebtedness to cause, such Indebtedness to become due prior to its stated maturity; or any such Indebtedness of Seller shall be declared to be due and payable or required to be prepaid (other than by a regularly scheduled payment) prior to the date of maturity thereof.

(f) Parent or any Subsidiary (other than Seller) shall (i) fail to pay any principal or interest, regardless of amount, due in respect of any Indebtedness in a principal amount in excess of \$10,000,000, when and as the same shall become due and payable, or (ii) fail to observe or perform any other term, covenant, condition or agreement contained in any agreement or instrument evidencing or governing any such Indebtedness if the effect of any failure referred to in this clause (ii) is to cause, or to permit the holder or holders of such Indebtedness or a trustee on its or their behalf (with or without the giving of notice, the lapse of time or both) to cause, such Indebtedness to become due prior to its stated maturity.

(g) An Event of Bankruptcy shall occur with respect to any Seller Party.

(h) As at the end of any Calculation Period:

(i) the three-month rolling average Delinquency Ratio shall exceed 2.5%,

(ii) the three-month rolling average Default Trigger Ratio shall exceed 2.75%, or

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(iii) the three-month rolling average Dilution Ratio shall exceed 12.25%.

(i) A Change in Control shall occur.

(j) (i) One or more final judgments for the payment of money in an aggregate amount of \$10,750 or more shall be entered against Seller or (ii) one or more judgments for the payment of money in an aggregate amount in excess of \$10,000,000 shall be rendered against Parent, any Subsidiary of Parent (Other than Seller) or any combination thereof and the same shall remain undischarged for a period of 30 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to levy upon assets or properties of Parent or any Subsidiary to enforce any such judgment.

(k) The "**Termination Date**" under and as defined in the Receivables Sale Agreement shall occur under the Receivables Sale Agreement or any Originator shall for any reason cease to transfer, or cease to have the legal capacity to transfer, or otherwise be incapable of transferring Receivables to Seller under the Receivables Sale Agreement.

(l) This Agreement shall terminate in whole or in part (except in accordance with its terms), or shall cease to be effective or to be the legally valid, binding and enforceable obligation of Seller, or any Obligor shall directly or indirectly contest in any manner such effectiveness, validity, binding nature or enforceability, or the Agent for the benefit of Purchaser shall cease to have a valid and perfected first priority security interest in the Purchased Assets.

(m) On any Settlement Date, after giving effect to the turnover of Collections by the Servicer on such date and the application thereof to the Aggregate Unpays in accordance with this Agreement, the Aggregate Invested Amount shall exceed the Purchase Limit.

(n) The Performance Undertaking shall cease to be effective or to be the legally valid, binding and enforceable obligation of Performance Guarantor, or Performance Guarantor shall directly or indirectly contest in any manner such effectiveness, validity, binding nature or enforceability of its obligations thereunder.

(o) An ERISA Event shall have occurred that, when taken together with all other such ERISA Events, could reasonably be expected to result in liability of Parent and its ERISA Affiliates in an aggregate amount exceeding \$10,000,000.

(p) The Internal Revenue Service shall file notice of a lien pursuant to Section 6323 of the Tax Code with regard to any of the Purchased Assets and such lien shall not have been released within seven (7) days, or the PBGC shall, or shall indicate in writing to the Parent or the relevant ERISA Affiliate its intention to, file notice of a lien pursuant to Section 4068 of ERISA with regard to any Plan of the Purchased Assets.

(q) Any event shall occur which (i) materially and adversely impairs the ability of the Originators to originate Receivables of a credit quality that is at least equal to the credit quality of the Receivables sold or contributed to Seller on the date of this Agreement or (ii) has, or could be reasonably expected to have a Material Adverse Effect.

(r) The Net Pool Balance shall, on any date, be less than an amount equal to the sum of (i) the Aggregate Invested Amount plus (ii) the Required Reserve (after giving effect to any turnover of Collections by the Servicer on such date and the application thereof to the Aggregate Unpaid in accordance with this Agreement).

(s) The Performance Guarantor shall breach any of the covenants contained in Sections 6.19.1 or 6.19.2 of that certain Amended and Restated Credit Agreement dated as of December 22, 2004 (the "**Amended and Restated Credit Agreement**") among Actuant Corporation, the lenders from time to time party thereto, JPMorgan Chase Bank, N.A. (successor by merger to Bank One, NA (Illinois)), as Administrative Agent, Wachovia Bank, National Association and U.S. Bank, National Association, as Syndication Agents, LaSalle Bank National Association and M&I Marshall & Ilsley Bank, as Documentation Agents, and Bank of America, N.A. and Harris Trust and Savings Bank, as Documentation Agents, as amended and in effect on the date of this Agreement or as hereafter amended, modified or replaced pursuant to any written amendment or agreement to which the Agent hereunder gives its express written consent; provided, that so long as the Agent is a lender under the Amended and Restated Credit Agreement, its consent as lender to any written amendment, consent or other agreement amending, modifying or replacing Section 6.19.1 or Section 6.19.2 of the Amended and Restated Credit Agreement shall be deemed to be the express written consent of Purchaser and the Agent to such amendment, consent or other agreement hereunder. Notwithstanding the above, if the Amended and Restated Credit Agreement shall no longer be in effect and shall not have been amended, modified or replaced then such agreement shall be deemed to continue for purposes of this Clause 9.1(s).

#### Section 9.2 Remedies.

Upon the occurrence and during the continuation of an Amortization Event, the Agent may take any of the following actions: (i) replace the Person then acting as Servicer if the Agent has not already done so, (ii) declare the Facility Termination Date to have occurred, whereupon Reinvestments shall immediately terminate and the Facility Termination Date shall forthwith occur, all without demand, protest or further notice of any kind, all of which are hereby expressly waived by each Seller Party; **provided, however**, that upon the occurrence of an Event of Bankruptcy with respect to any Seller Party, the Facility Termination Date shall automatically occur, without demand, protest or any notice of any kind, all of which are hereby expressly waived by each Seller Party, (iii) deliver the Collection Notices to the Collection Banks, (iv) exercise all rights and remedies of a secured party upon default under the UCC and other applicable laws, and (v) notify Obligors of the Agent's security interest in the Receivables and other Purchased Assets. The aforementioned rights and remedies shall be without limitation, and shall be in addition to all other rights and remedies of the Agent and Purchaser otherwise available under any other provision of this Agreement, by operation of law, at equity or otherwise, all of which are hereby expressly preserved, including, without limitation, all rights and remedies provided under the UCC, all of which rights shall be cumulative.

### ARTICLE X.

#### INDEMNIFICATION



Section 10.1 Indemnities by the Seller Parties Without limiting any other rights that the Agent or Purchaser may have hereunder or under applicable law, (A) Seller hereby agrees to indemnify (and pay upon demand to) the Agent, Purchaser and each of the respective assigns, officers, directors, agents and employees of the foregoing (each, an “*Indemnified Party*”) from and against any and all damages, losses, claims, Other Taxes, Indemnified Taxes, liabilities, costs, expenses and for all other amounts payable, including reasonable attorneys’ fees (which attorneys may be employees of the Agent or another Indemnified Party) and disbursements (all of the foregoing being collectively referred to as “*Indemnified Amounts*”) awarded against or incurred by any of them arising out of or as a result of this Agreement or the acquisition, either directly or indirectly, by Purchaser of an interest in the Receivables, and (B) the Servicer hereby agrees to indemnify (and pay upon demand to) each Indemnified Party for Indemnified Amounts awarded against or incurred by any of them arising out of the Servicer’s activities as Servicer hereunder *excluding, however*, in all of the foregoing instances under the preceding clauses (A) and (B):

(a) Indemnified Amounts to the extent a final judgment of a court of competent jurisdiction holds that such Indemnified Amounts resulted from gross negligence or willful misconduct on the part of the Indemnified Party seeking indemnification;

(b) Indemnified Amounts to the extent the same includes losses in respect of Receivables that are uncollectible on account of the insolvency, bankruptcy or lack of creditworthiness of the related Obligor; or

(c) Excluded Taxes;

*provided, however*, that nothing contained in this sentence shall limit the liability of any Seller Party or limit the recourse of Purchaser to any Seller Party for amounts otherwise specifically provided to be paid by such Seller Party under the terms of this Agreement. Without limiting the generality of the foregoing indemnification, Seller shall indemnify the Agent and Purchaser for Indemnified Amounts (including, without limitation, losses in respect of uncollectible receivables, regardless of whether reimbursement therefor would constitute recourse to Seller or the Servicer) relating to or resulting from:

(i) any representation or warranty made by any Seller Party or any Originator (or any officers of any such Person) under or in connection with this Agreement, any other Transaction Document or any other information or report delivered by any such Person pursuant hereto or thereto, which shall have been false or incorrect when made or deemed made;

(ii) the failure by Seller, the Servicer or any Originator to comply with any applicable law, rule or regulation with respect to any Receivable or Contract related thereto, or the nonconformity of any Receivable or Contract included therein with any such applicable law, rule or regulation or any failure of any Originator to keep or perform any of its obligations, express or implied, with respect to any Contract;

(iii) any failure of Seller, the Servicer or any Originator to perform its duties, covenants or other obligations in accordance with the provisions of this Agreement or any other Transaction Document;

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(iv) any products liability, personal injury or damage suit, or other similar claim arising out of or in connection with merchandise, insurance or services that are the subject of any Contract or any Receivable;

(v) any dispute, claim, offset or defense (other than discharge in bankruptcy of the Obligor) of the Obligor to the payment of any Receivable (including, without limitation, a defense based on such Receivable or the related Contract not being a legal, valid and binding obligation of such Obligor enforceable against it in accordance with its terms), or any other claim resulting from the sale of the merchandise or service related to such Receivable or the furnishing or failure to furnish such merchandise or services;

(vi) the commingling of Collections of Receivables at any time with other funds;

(vii) any investigation, litigation or proceeding related to or arising from this Agreement or any other Transaction Document, the transactions contemplated hereby, the use of the proceeds of any Purchase, the Purchased Assets or any other investigation, litigation or proceeding relating to Seller, the Servicer or any Originator in which any Indemnified Party becomes involved as a result of any of the transactions contemplated hereby;

(viii) any inability to litigate any claim against any Obligor in respect of any Receivable as a result of such Obligor being immune from civil and commercial law and suit on the grounds of sovereignty or otherwise from any legal action, suit or proceeding;

(ix) any Amortization Event of the type described in Section 9.1(g);

(x) any failure of Seller to acquire and maintain legal and equitable title to, and ownership of any of the Purchased Assets from the applicable Originator, free and clear of any Adverse Claim (other than as created hereunder); or any failure of Seller to give reasonably equivalent value to any Originator under the Receivables Sale Agreement in consideration of the transfer by such Originator of any Receivable, or any attempt by any Person to void such transfer under statutory provisions or common law or equitable action;

(xi) any failure to vest and maintain vested in the Agent for the benefit of Purchaser, or to transfer to the Agent for the benefit of the Secured Parties, a valid first priority perfected security interests in the Purchased Assets, free and clear of any Adverse Claim (except as created by the Transaction Documents);

(xii) the failure to have filed, or any delay in filing, financing statements or other similar instruments or documents under the UCC of any applicable jurisdiction or other applicable laws with respect to any Purchased Assets, and the proceeds thereof, whether at the time of any Purchase or at any subsequent time;

(xiii) any action or omission by any Seller Party which reduces or impairs the rights of the Agent or Purchaser with respect to any Purchased Assets or the value of any Purchased Assets;

(xiv) any attempt by any Person to void any Purchase or the Agent's security interest in the Purchased Assets under statutory provisions or common law or equitable action; and

(xv) the failure of any Receivable included in the calculation of the Net Pool Balance as an Eligible Receivable to be an Eligible Receivable at the time so included.

Section 10.2 Increased Cost and Reduced Return. If after the date hereof, Purchaser shall be charged any fee, expense or increased cost on account of any Regulatory Change: (i) that subjects Purchaser to any Taxes, charge or withholding on or with respect to this Agreement or its obligations under this Agreement, or on or with respect to the Receivables, or changes the basis of taxation of payments to Purchaser of any amounts payable under this Agreement or any other Transaction Documents (except for changes in the rate of tax on the overall net income of Purchaser or taxes excluded by Section 10.1) or (ii) that imposes, modifies or deems applicable any reserve, assessment, insurance charge, special deposit or similar requirement against assets of, deposits with or for the account of Purchaser, or credit extended by Purchaser pursuant to this Agreement or (iii) that imposes any other condition the result of which is to increase the cost to Purchaser of performing, funding and/or maintaining its obligations under this Agreement, or to reduce the rate of return on Purchaser's capital as a consequence of its obligations under this Agreement (including, without limitation, by any participations therein), or to reduce the amount of any sum received or receivable by Purchaser under this Agreement (including, without limitation, by any participations therein) or to require any payment calculated by reference to the amount of interests or loans held or interest received by it (including, without limitation, by any participations therein), then, upon demand by the Agent, Seller shall pay to the Agent, for the benefit of Purchaser, such amounts charged to Purchaser or such amounts to otherwise compensate Purchaser for such increased cost or such reduction.

Section 10.3 Expenses. Seller shall pay to the Agent and Purchaser on demand all costs and out-of-pocket expenses in connection with the preparation, execution, delivery and administration of this Agreement, the transactions contemplated hereby and the other documents to be delivered hereunder, including without limitation, the cost of Purchaser's auditors auditing the books, records and procedures of Seller, reasonable fees and out-of-pocket expenses of legal counsel for Purchaser and the Agent (which such counsel may be employees of Purchaser or the Agent) with respect thereto and with respect to advising Purchaser and the Agent as to their respective rights and remedies under this Agreement. Seller shall pay to the Agent on demand any and all costs and expenses of the Agent and Purchaser, if any, including reasonable counsel fees and expenses in connection with the enforcement of this Agreement and the other documents delivered hereunder and in connection with any restructuring or workout of this Agreement or such documents, or the administration of this Agreement following an Amortization Event.

## ARTICLE XI.

### THE AGENT

Section 11.1 Authorization and Action. Purchaser, on behalf of itself and its assigns, hereby designates and appoints Wachovia to act as its agent under this Agreement and under each other Transaction Document, and authorizes the Agent to take such actions as agent on its behalf and to exercise such powers as are delegated to the Agent by the terms of this Agreement and the other Transaction Documents together with such powers as are reasonably incidental thereto, including, without limitation, the power to perfect all security interests granted under the Transaction Documents.

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**ARTICLE XII.**

**ASSIGNMENTS AND PARTICIPATIONS**

Section 12.1 Assignments and Participations by Purchaser: Each of the parties hereto, on behalf of its successors and assigns, hereby agrees and consents to the complete or partial sale by Purchaser of all or any portion of its rights under, interest in, title to and obligations under this Agreement to one or more banks or other entities (each an "Assignee"), regardless of whether such sale constitutes an assignment or the sale of a participation in such rights and obligations. The consent of Seller shall be required prior to an assignment becoming effective unless the Assignee is a Purchaser, an Affiliate of a Purchaser or an Approved Fund, provided that the consent of the Purchaser shall not be required if an Amortization Event has occurred and is continuing. The consent of the Agent shall be required for assignments prior to an assignment becoming effective. Any consent required under this Section 12.1 shall not be unreasonably withheld or delayed. Upon (i) delivery to the Agent of an assignment agreement, in form and substance acceptable to Agent together with any consents required by this section, and (ii) payment of a \$3,500 fee to the Agent for processing such assignment (unless such fee is waived by the Agent), such assignment shall become effective on the effective date specified in such assignment. On and after the effective date for such assignment, such Assignee shall for all purposes be a Purchaser party to this Agreement and any other Transaction Document executed by or on behalf of the Purchaser and shall have all the rights and obligations of a Purchaser under the Transaction Documents, to the same extent as if it were an original party thereto. In the case of an assignment covering all of the assigning Purchaser's rights and obligations under this Agreement, such Purchaser shall cease to be a Purchaser hereunder but shall continue to be entitled to the benefits of, and subject to, those provisions of this Agreement and the other Transaction Documents which survive payment of the Recourse Obligations and termination of the applicable agreement.

Section 12.2 Prohibition on Assignments by Seller Parties: No Seller Party may assign any of its rights or obligations under this Agreement without the prior written consent of the Agent and Purchaser.

**ARTICLE XIII.**

**MISCELLANEOUS**

Section 13.1 Waivers and Amendments.

(a) No failure or delay on the part of the Agent or Purchaser in exercising any power, right or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or remedy preclude any other further exercise thereof or the exercise of any other power, right or remedy. The rights and remedies herein provided shall be cumulative and nonexclusive of any rights or remedies provided by law. Any waiver of this Agreement shall be effective only in the specific instance and for the specific purpose for which given.

(b) No provision of this Agreement may be amended, supplemented, modified or waived except in writing signed by Seller, Servicer, Purchaser and Agent.

Section 13.2 Notices. Except as provided in this Section 13.2, all communications and notices provided for hereunder shall be in writing (including bank wire, teletype or electronic facsimile transmission or similar writing) and shall be given to the other parties hereto at their respective addresses or teletype numbers set forth on the signature pages hereof or at such other address or teletype number as such Person may hereafter specify for the purpose of notice to each of the other parties hereto. Each such notice or other communication shall be effective (i) if given by teletype, upon the receipt thereof, (ii) if given by mail, three (3) Business Days after the time such communication is deposited in the mail with first class postage prepaid or (iii) if given by any other means, when received at the address specified in this Section 13.2. Seller hereby authorizes the Agent to effect Purchases and Interest Period and Yield Rate selections based on telephonic notices made by any Person whom the Agent in good faith believes to be acting on behalf of Seller. The Seller Parties agree to deliver promptly to the Agent a written confirmation of each telephonic notice signed by a Financial Officer of a Seller Party; **provided, however**, the absence of such confirmation shall not affect the validity of such notice. If the written confirmation differs from the action taken by the Agent, the records of the Agent shall govern absent manifest error.

Section 13.3 Protection of Agent's Security Interest

(a) Seller agrees that from time to time, at its expense, it will promptly execute and deliver all instruments and documents, and take all actions, that may be necessary or desirable, or that the Agent may request, to perfect, protect or more fully evidence the Agent's security interest in the Purchased Assets, or to enable the Agent or Purchaser to exercise and enforce their rights and remedies hereunder. At any time, the Agent may, or the Agent may direct Seller or the Servicer to, notify the Obligors of Receivables, at Seller's expense, of the ownership or security interests of Purchaser under this Agreement and may also direct that payments of all amounts due or that become due under any or all Receivables be made directly to the Agent or its designee. Seller or the Servicer (as applicable) shall, at the Agent's request, withhold the identities of the Agent and Purchaser in any such notification.

(b) If any Seller Party fails to perform any of its obligations hereunder, the Agent or Purchaser may (but shall not be required to) perform, or cause performance of, such obligations, and the Agent's or Purchaser's costs and expenses incurred in connection therewith shall be payable by Seller as provided in Section 10.3. Each Seller Party irrevocably authorizes the Agent at any time and from time to time in the sole discretion of the Agent, and appoints the Agent as its attorney-in-fact, to act on behalf of such Seller Party (i) to execute on behalf of Seller as debtor and to file financing statements necessary or desirable in the Agent's sole discretion to perfect and to maintain the perfection and priority of the interest of Purchaser in the Receivables and (ii) to file a carbon, photographic or other reproduction of this Agreement or

any financing statement with respect to the Receivables as a financing statement in such offices as the Agent in its sole discretion deems necessary or desirable to perfect and to maintain the perfection and priority of the Agent's security interest in the Purchased Assets, for the benefit of the Secured Parties. This appointment is coupled with an interest and is irrevocable. Each of the Seller Parties (A) hereby authorizes the Agent to file financing statements and other filing or recording documents with respect to the Receivables and Related Security (including any amendments thereto, or continuation or termination statements thereof), without the signature or other authorization of such Seller Party, in such form and in such offices as the Agent reasonably determines appropriate to perfect or maintain the perfection of the security interest of the Agent hereunder, (B) acknowledges and agrees that it is not authorized to, and will not, file financing statements or other filing or recording documents with respect to the Receivables or Related Security (including any amendments thereto, or continuation or termination statements thereof), without the express prior written approval by the Agent, consenting to the form and substance of such filing or recording document, and (C) approves, authorizes and ratifies any filings or recordings made by or on behalf of the Agent in connection with the perfection of the security interests in favor of Seller or the Agent.

Section 13.4 Confidentiality.

(a) Each of the Seller Parties shall maintain and shall cause each of its employees and officers to maintain the confidentiality of this Agreement and the other confidential or proprietary information with respect to the Agent and Purchaser and their respective businesses obtained by it or them in connection with the structuring, negotiating and execution of the transactions contemplated herein, except that such Seller Party and its officers and employees may disclose such information to such Seller Party's external accountants and attorneys and as required by any applicable law or order of any judicial or administrative proceeding.

(b) Anything herein to the contrary notwithstanding, each Seller Party hereby consents to the disclosure of any nonpublic information with respect to it (i) to the Agent or Purchaser by each other, (ii) by the Agent or Purchaser to any prospective or actual assignee or participant of any of them and (iii) by the Agent and Purchaser to their respective employees, officers, directors, outside accountants, attorneys and other advisors, **provided that** each such Person is informed of the confidential nature of such information and agrees to keep such information confidential. In addition, Purchaser and the Agent may disclose any such nonpublic information pursuant to any law, rule, regulation, direction, request or order of any judicial, administrative or regulatory authority or proceedings (whether or not having the force or effect of law).

Section 13.5 [Intentionally Deleted].

Section 13.6 Limitation of Liability. Except with respect to any claim arising out of the willful misconduct or gross negligence of Purchaser or the Agent, no claim may be made by any Seller Party or any other Person against Purchaser, the Agent or their respective Affiliates, directors, officers, employees, attorneys or agents for any special, indirect, consequential or punitive damages in respect of any claim for breach of contract or any other theory of liability arising out of or related to the transactions contemplated by this Agreement, or any act, omission or event occurring in connection therewith; and each Seller Party hereby waives, releases, and agrees not to sue upon any claim for any such damages, whether or not accrued and whether or not known or suspected to exist in its favor.

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Section 13.7 CHOICE OF LAW. THIS AGREEMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS, WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAWS THEREOF OTHER THAN SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW (EXCEPT IN THE CASE OF THE OTHER TRANSACTION DOCUMENTS, TO THE EXTENT OTHERWISE EXPRESSLY STATED THEREIN) AND EXCEPT TO THE EXTENT THAT THE PERFECTION OF THE OWNERSHIP INTEREST OF SELLER OR THE SECURITY INTEREST OF THE AGENT, FOR THE BENEFIT OF THE SECURED PARTIES, IN ANY OF THE COLLATERAL IS GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF ILLINOIS.

Section 13.8 CONSENT TO JURISDICTION. EACH PARTY TO THIS AGREEMENT HEREBY IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR ILLINOIS STATE COURT SITTING IN CHICAGO, ILLINOIS, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY DOCUMENT EXECUTED BY SUCH PERSON PURSUANT TO THIS AGREEMENT, AND EACH SUCH PARTY HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH COURT AND IRREVOCABLY WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH A COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM. NOTHING HEREIN SHALL LIMIT THE RIGHT OF THE AGENT OR ANY PURCHASER TO BRING PROCEEDINGS AGAINST ANY SELLER PARTY IN THE COURTS OF ANY OTHER JURISDICTION. ANY JUDICIAL PROCEEDING BY ANY SELLER PARTY AGAINST THE AGENT OR ANY PURCHASER OR ANY AFFILIATE OF THE AGENT OR ANY PURCHASER INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS AGREEMENT OR ANY DOCUMENT EXECUTED BY SUCH SELLER PARTY PURSUANT TO THIS AGREEMENT SHALL BE BROUGHT ONLY IN A COURT IN CHICAGO, ILLINOIS.

Section 13.9 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS AGREEMENT, ANY DOCUMENT EXECUTED BY ANY SELLER PARTY PURSUANT TO THIS AGREEMENT OR THE RELATIONSHIP ESTABLISHED HEREUNDER OR THEREUNDER.

Section 13.10 Integration; Binding Effect; Survival of Terms.

(a) This Agreement and each other Transaction Document contain the final and complete integration of all prior expressions by the parties hereto with respect to the subject matter hereof and shall constitute the entire agreement among the parties hereto with respect to the subject matter hereof superseding all prior oral or written understandings.

(b) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns (including any trustee in bankruptcy). This Agreement shall create and constitute the continuing obligations of the parties hereto in accordance with its terms and shall remain in full force and effect until terminated in accordance with its terms; **provided, however**, that the rights and remedies with respect to (i) any breach of any representation and warranty made by any Seller Party pursuant to Article V, (ii) the indemnification and payment provisions of Article X, and Sections 13.4 and 13.5 shall be continuing and shall survive any termination of this Agreement.

Section 13.11 Counterparts; Severability; Section References. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same Agreement. Delivery of an executed counterpart of a signature page to this Agreement by telecopier shall be effective as delivery of a manually executed counterpart of a signature page to this Agreement. Any provisions of this Agreement which are prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Unless otherwise expressly indicated, all references herein to "**Article**," "**Section**," "**Schedule**" or "**Exhibit**" shall mean articles and sections of, and schedules and exhibits to, this Agreement.

Section 13.12 Characterization.

(a) It is the intention of the parties hereto that each Purchase hereunder shall constitute and be treated as an absolute and irrevocable sale, which Purchase shall provide the Purchaser with the full benefits of ownership of the applicable Receivable Interest. Except as specifically provided in this Agreement, each sale of a Receivable Interest hereunder is made without recourse to Seller; **provided, however**, that (i) Seller shall be liable to Purchaser and the Agent for all representations, warranties, covenants and indemnities made by Seller pursuant to the terms of this Agreement, and (ii) such sale does not constitute and is not intended to result in an assumption by Purchaser or the Agent or any assignee thereof of any obligation of Seller or any Originator or any other person arising in connection with the Receivables, the Related Security, or the related Contracts, or any other obligations of Seller or any Originator.

(b) In addition to any ownership interest which the Agent or Purchaser may from time to time acquire pursuant hereto, Seller hereby grants to the Agent for the ratable benefit of Purchaser a valid and perfected security interest in all of Seller's right, title and interest in, to and under all Receivables now existing or hereafter arising, the Collections, each Lock-Box, each Collection Account, all Related Security, all other rights and payments relating to such Receivables, and all proceeds of any thereof prior to all other liens on and security interests therein to secure the prompt and complete payment of the Aggregate Unpaid. The Agent, on behalf of Purchaser, shall have, in addition to the rights and remedies that it may have under this Agreement, all other rights and remedies provided to a secured creditor under the UCC and other applicable law, which rights and remedies shall be cumulative.



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Section 13.13 Transactions on the Effective Date.

The parties hereto agree that, on the Effective Date, the following transactions shall be deemed to occur automatically, without further action by any party hereto:

(a) the “Existing Agreement” shall be deemed to be amended and restated in its entirety in the form of this Agreement;

(b) all “Aggregate Unpays” (as defined in the Existing Agreement, the “*Existing Obligations*”) outstanding on the Effective Date shall, to the extent not paid on the Effective Date, be deemed to be Aggregate Unpays outstanding hereunder;

(c) the security interests created hereunder in favor of the Agent for the benefit of Purchaser, and securing payment of the Existing Obligations, as amended and restated on the Effective Date, shall remain in full force and effect with respect to the Aggregate Unpays and are hereby reaffirmed; and

(d) all references in the other Transaction Documents to the Existing Credit Agreement shall be deemed to refer without further amendment to this Agreement.

Section 13.14 Termination. To the extent that the conditions precedent to the initial Incremental Purchase set forth in Section 6.1 have not been satisfied or waived (in Agent’s sole discretion) on or prior to the date that is one Business Day prior to the Amortization Date (as defined in the Existing Agreement), then this Agreement shall terminate and be of no further force or effect and neither Purchaser nor Agent shall have any commitments or obligations hereunder and the terms of the Existing Agreement shall remain in effect and shall not be amended and restated hereby.

<signature pages follow>

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed and delivered by their duly authorized officers or attorneys-in-fact as of the date hereof.

ACTUANT RECEIVABLES CORPORATION

By: /s/ Patrick C. Dorn  
Name: Patrick C. Dorn  
Title: President

**Address:** 3993 Howard Hughes Pkwy.  
Suite 100  
Las Vegas, Nevada 89109

Attn: Pat Dorn

Phone: (702) 691-2210  
Fax: (702) 691-2236

ACTUANT CORPORATION

By: /s/ Terry M. Braatz  
Name: Terry M. Braatz  
Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007

Attn: Terry M. Braatz

Phone: (262) 373-7437

Fax: (262) 790-6820

[Signature Page to the A/R Receivables Purchase Agreement]

By: /s/ Michael J. Landry  
Name: Michael J. Landry  
Title: Vice President

***Address:***

Wachovia Bank, National Association  
171 17th Street, N.W., 4th Floor  
Mail Stop GA 4524  
Atlanta, GA 30363

Attention: Michael J. Landry, Asset-Backed Finance  
Facsimile: (404) 214-5481

[Signature Page to the A/R Receivables Purchase Agreement]

**EXHIBIT I**  
**DEFINITIONS**

*As used in this Agreement, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):*

**“Adjusted Dilution Ratio”** means, at any time, the rolling average of the sum of the Contractual Dilution Ratio plus the Non-Contractual Dilution Ratio for the 12 Calculation Periods then most recently ended.

**“Adverse Claim”** means a lien, security interest, charge or encumbrance, or other right or claim in, of or on any Person’s assets or properties in favor of any other Person.

**“Affiliate”** means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under direct or indirect common control with, such Person or any Subsidiary of such Person. A Person shall be deemed to control another Person if the controlling Person owns 5% or more of any class of voting securities of the controlled Person or possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of the controlled Person, whether through ownership of stock, by contract or otherwise.

**“Agent”** has the meaning set forth in the preamble to this Agreement.

**“Agent’s Account”** means account #8735-098787 at Wachovia Bank, National Association, ABA #053100494.

**“Aggregate Invested Amount”** means, on any date of determination, the aggregate Invested Amount of all Receivable Interests outstanding on such date.

**“Aggregate Reduction”** has the meaning specified in Section 1.3.

**“Aggregate Unpaid”** means, at any time, an amount equal to the sum of (i) the Aggregate Invested Amount, plus (ii) all Recourse Obligations (whether due or accrued) at such time.

**“Agreement”** means this Amended and Restated Receivables Purchase Agreement, as it may be amended or modified and in effect from time to time.

**“Alternate Base Rate”** means for any day, the rate *per annum* equal to the higher as of such day of (i) the Prime Rate, or (ii) one-half of one percent (0.50%) above the Federal Funds Rate. For purposes of determining the Alternate Base Rate for any day, changes in the Prime Rate or the Federal Funds Rate shall be effective on the date of each such change.

**“Amortization Date”** means the earliest to occur of (i) September 8, 2009, (ii) the day on which any of the conditions precedent set forth in Section 6.2 are not satisfied, (iii) the Business Day immediately prior to the occurrence of an Event of Bankruptcy with respect to any Seller Party, (iv) the Business Day specified in a written notice from the Agent following the occurrence and during the continuance of any other Amortization Event, and (v) the date which is not less than 10 Business Days after the Agent’s receipt of written notice from Seller that it wishes to terminate the facility evidenced by this Agreement.

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**“Amortization Event”** has the meaning specified in Article IX.

**“Approved Fund”** means any Fund that is administered or managed by (a) a Purchaser, (b) an Affiliate of a Purchaser or (c) an entity or an Affiliate of an entity that administers or manages a Purchaser.

**“Broken Funding Costs”** means for any Receivable Interest: (i) which is accruing Yield at LMIR and which has its Invested Amount reduced without compliance by Seller with the notice requirements hereunder, (ii) which is accruing Yield at a LIBO Rate and which has its Invested Amount reduced on any day other than the last day of the applicable Interest Period or (iii) which is accruing Yield either at LMIR or a LIBO Rate and which does not become subject to an Aggregate Reduction following the delivery of any Reduction Notice; an amount equal to the excess, if any, of (A) the Yield that would have accrued during the remainder of the Interest Periods determined by the Agent to relate to such Receivable Interest subsequent to the date of such reduction (or in respect of clause (ii) above, the date such Aggregate Reduction was designated to occur pursuant to the Reduction Notice) of the Invested Amount of such Receivable Interest if such reduction had not occurred or such Reduction Notice had not been delivered, over (B) the sum of (x) to the extent all or a portion of such Invested Amount is allocated to another Receivable Interest, the amount of Yield actually accrued during the remainder of such period on such Invested Amount for the new Receivable Interest, and (y) to the extent such Invested Amount is not allocated to another Receivable Interest, the income, if any, actually received during the remainder of such period by the holder of such Receivable Interest from investing the portion of such Invested Amount not so allocated. All Broken Funding Costs shall be due and payable hereunder upon demand.

**“Business Day”** means any day on which banks are not authorized or required to close in New York, New York or Atlanta, Georgia, and The Depository Trust Company of New York is open for business, and, if the applicable Business Day relates to any computation or payment to be made with respect to the LIBO Rate or LMIR, any day on which dealings in dollar deposits are carried on in the London interbank market.

**“Calculation Period”** means a fiscal month.

**“Collection Account”** means each concentration account, depository account, lock-box account or similar account in which any Collections are collected or deposited and which is listed on Exhibit IV.

**“Collection Account Agreement”** means an agreement substantially in a form reasonably acceptable to the Agent among an Originator, Seller, the Agent and a Collection Bank giving the Agent “control” (as defined in the UCC) over a Collection Account.

**“Collection Bank”** means, at any time, any of the banks holding one or more Collection Accounts.

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**“Collection Notice”** means a notice, in substantially the form attached to a Collection Account Agreement from the Agent to a Collection Bank terminating the Seller’s (and, as applicable, the Servicer’s and the applicable Originator’s) access to a Collection Account.

**“Collections”** means, with respect to any Receivable, all cash collections and other cash proceeds in respect of such Receivable, including, without limitation, all Finance Charges or other related amounts accruing in respect thereof and all cash proceeds of Related Security with respect to such Receivable.

**“Contingent Obligation”** of a Person means any agreement, undertaking or arrangement by which such Person assumes, guarantees, endorses, contingently agrees to purchase or provide funds for the payment of, or otherwise becomes or is contingently liable upon, the obligation or liability of any other Person, or agrees to maintain the net worth or working capital or other financial condition of any other Person, or otherwise assures any creditor of such other Person against loss, including, without limitation, any comfort letter, operating agreement, take-or-pay contract or application for a letter of credit.

**“Contract”** means, with respect to any Receivable, any and all instruments, agreements, invoices or other writings pursuant to which such Receivable arises or which evidences such Receivable including, without limitation, all “contracts” as, when and if such term is defined in the UCC, of the applicable Originator (or Seller, as its assignee), and in any event, shall include, without limitation, all sale, service, performance and equipment or property lease contracts, agreements and grants (whether written or oral, or third party or intercompany), and any other documents (whether written or oral) between the applicable Originator and third parties, and all assignments, amendments, restatements, supplements, extensions, renewals, replacements or modifications thereof.

**“Contractual Dilution”** means, with respect to any Receivable, any reduction in the Outstanding Balance of such Receivable due to a quantity discount, discount for prompt payment or similar incentive, in each of the foregoing cases, which discount is readily discernable and quantifiable from the face of the invoice evidencing such Receivable.

**“Contractual Dilution Ratio”** means, as of any Cut-Off Date, a ratio (expressed as a percentage), computed by dividing (i) the total amount of decreases in Outstanding Balances due to Contractual Dilutions during the Calculation Period ending on such Cut-Off Date, by (ii) the aggregate sales generated by the Originators during the Calculation Period prior to the Calculation Period ending on such Cut-Off Date.

**“Credit and Collection Policy”** means Seller’s credit and collection policies and practices relating to Contracts and Receivables existing on the Effective Date and summarized in Exhibit VII hereto, as modified from time to time in accordance with this Agreement.

**“Cut-Off Date”** means the last day of a Calculation Period.

**“Days Sales Outstanding”** means, as of any day, an amount equal to the product of (x) 91, multiplied by (y) the amount obtained by dividing (i) the aggregate outstanding balance of Receivables as of the most recent Cut-Off Date, by (ii) the aggregate amount of Receivables created during the three (3) Calculation Periods including and immediately preceding such Cut-Off Date.

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**“Deemed Collections”** means Collections deemed received by Seller under Section 1.4(a).

**“Default Horizon Ratio”** means, as of any Cut-Off Date, the ratio (expressed as a decimal) computed by dividing (i) the aggregate sales generated by the Originators during the 5 Calculation Periods ending on such Cut-Off Date, by (ii) the Net Pool Balance as of such Cut-Off Date.

**“Default Rate”** means a rate per annum equal to the sum of (i) the Alternate Base Rate plus (ii) 2.00%, changing when and as the Alternate Base Rate changes.

**“Default Ratio”** means, as of any Cut-Off Date, the ratio (expressed as a percentage) computed by dividing (x) the total amount of Receivables which became Defaulted Receivables during the Calculation Period that includes such Cut-Off Date, by (y) the aggregate sales generated by the Originators during the Calculation Period occurring 4 months prior to the Calculation Period ending on such Cut-Off Date.

**“Default Trigger Ratio”** means, as of any Cut-Off Date, the ratio (expressed as a percentage) computed by dividing (x) the total Outstanding Balance of all Defaulted Receivables as of such date, by (y) the total Outstanding Balance of all Receivables as of such date.

**“Defaulted Receivable”** means a Receivable: (i) as to which the Obligor thereof has suffered an Event of Bankruptcy; (ii) which, consistent with the Credit and Collection Policy, would be written off Seller’s books as uncollectible; or (iii) as to which any payment, or part thereof, remains unpaid for 91 days or more from the original due date for such payment.

**“Delinquency Ratio”** means, at any time, a percentage equal to (i) the aggregate Outstanding Balance of all Receivables that were Delinquent Receivables at such time divided by (ii) the aggregate Outstanding Balance of all Receivables at such time.

**“Delinquent Receivable”** means a Receivable as to which any payment, or part thereof, remains unpaid for 61-90 days from the original due date for such payment.

**“Demand Advance”** means any advance made by Seller to Parent at any time while it is acting as the Servicer, which advance (a) is payable upon demand, (b) is not evidenced by an instrument, chattel paper or a certificated security, (c) bears interest at a market rate determined by Seller and the Servicer from time to time, (d) is not subordinated to any other Indebtedness or obligation of the Servicer, and (e) may not be offset by Parent against amounts due and owing from Seller to it under its Subordinated Note; **provided, however**, that no Demand Advance may be made after the Facility Termination Date or on any date prior to the Facility Termination Date on which an Amortization Event or an Unmatured Amortization Event exists and is continuing.

**“Dilution”** means the amount of any reduction or cancellation of the Outstanding Balance of a Receivable as described in Section 1.4(a).

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**“Dilution Horizon Ratio”** means, as of any Cut-off Date, a ratio (expressed as a decimal), computed by dividing (i) the aggregate sales generated by the Originators during the 2 Calculation Periods ending on such Cut-Off Date, by (ii) the Net Pool Balance as of such Cut-Off Date.

**“Dilution Ratio”** means, as of any Cut-Off Date, a ratio (expressed as a percentage), computed by adding the Contractual Dilution Ratio and the Non-Contractual Dilution Ratio as of such Cut-Off Date.

**“Dilution Reserve”** means, for any Calculation Period, the product (expressed as a percentage) of:

(a) the sum of (i) two (2) times the Adjusted Dilution Ratio as of the immediately preceding Cut-Off Date, *plus* (ii) the Dilution Volatility Component as of the immediately preceding Cut-Off Date, *times*

(b) the Dilution Horizon Ratio as of the immediately preceding Cut-Off Date.

**“Dilution Volatility Component”** means the product (expressed as a percentage) of (i) the difference between (a) the highest three (3)-month rolling average Non-Contractual Dilution Ratio over the past 12 Calculation Periods and (b) the Adjusted Dilution Ratio, and (ii) a fraction, the numerator of which is equal to the amount calculated in (i)(a) of this definition and the denominator of which is equal to the amount calculated in (i)(b) of this definition.

**“Effective Date”** means the date on which the conditions precedent to the initial Incremental Purchase are satisfied in accordance with Section 6.1 herein.

**“Eligible Assignee”** means a commercial bank having a combined capital and surplus of at least \$250,000,000 with a rating of its (or its parent holding company’s) short-term securities equal to or higher than (i) A-1 by S&P and (ii) P-1 by Moody’s.

**“Eligible Receivable”** means, at any time, a Receivable:

(i) the Obligor of which (a) is not an Affiliate of any of the parties hereto; (b) is not a government or a governmental subdivision or agency; and (c) if a natural person, is a resident of the United States or, if a corporation or other business organization, is organized under the laws of the United States or any political subdivision thereof and has its chief executive office in the United States; **provided, however**, that Receivables with an aggregate Outstanding Balance of up to 3% of total Receivables that meet all other requirements of this definition except those set forth in clause (i)(c) may be counted as “Eligible Receivables”;

(ii) which was not a Defaulted Receivable on the date on which it was acquired by Seller from the applicable Originator,

(iii) which by its terms is due and payable within 60 days of the original billing date therefor and has not had its payment terms extended more than once; **provided, however**, that if such Receivable is a Trade Show Receivable, up to 2% of total Eligible Receivables may consist of Trade Show Receivables which, by their terms, are due and payable within 180 days of the original billing date therefor and have not have their payment terms extended more than once;



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- (iv) which is an “account” within the meaning of Article 9 of the UCC of all applicable jurisdictions,
- (v) which is denominated and payable only in United States dollars in the United States or Canada (except for the provinces of New Foundland and Quebec),
- (vi) which arises under a Contract which, together with such Receivable, is in full force and effect and constitutes the legal, valid and binding obligation of the related Obligor enforceable against such Obligor in accordance with its terms,
- (vii) which arises under a Contract which (A) does not require the Obligor under such Contract to consent to the transfer, sale, pledge or assignment of the rights and duties of the applicable Originator or any of its assignees under such Contract and (B) does not contain a confidentiality provision that purports to restrict the ability of Purchaser to exercise its rights under this Agreement, including, without limitation, its right to review the Contract,
- (viii) which arises under a Contract that contains an obligation to pay a specified sum of money, contingent only upon the sale of goods or the provision of services by the applicable Originator,
- (ix) which, together with the Contract related thereto, does not contravene any law, rule or regulation applicable thereto (including, without limitation, any law, rule and regulation relating to truth in lending, fair credit billing, fair credit reporting, equal credit opportunity, fair debt collection practices and privacy) and with respect to which no part of the Contract related thereto is in violation of any such law, rule or regulation,
- (x) which satisfies all applicable requirements of the Credit and Collection Policy,
- (xi) which was generated in the ordinary course of the applicable Originator’s business,
- (xii) which arises solely from the sale of goods or the provision of services to the related Obligor by the applicable Originator, and not by any other Person (in whole or in part),
- (xiii) which is not subject to any dispute, counterclaim, right of rescission, set-off, counterclaim or any other defense (including defenses arising out of violations of usury laws) of the applicable Obligor against the applicable Originator or any other Adverse Claim, and the Obligor thereon holds no right as against such Originator to cause such Originator to repurchase the goods or merchandise the sale of which shall have given rise to such Receivable (except with respect to sale discounts effected pursuant to the Contract, or defective goods returned in accordance with the terms of the Contract); *provided, however*, that if such dispute, offset, counterclaim or defense affects only a portion of the Outstanding Balance of such Receivable, then such Receivable may be deemed an Eligible Receivable to the extent of the portion of such Outstanding Balance which is not so affected, and

*provided, further*, that Receivables of any Obligor which has any accounts payable by the applicable Originator or by a wholly-owned Subsidiary of such Originator (thus giving rise to a potential offset against such Receivables) may be treated as Eligible Receivables to the extent that the Obligor of such Receivables has agreed pursuant to a written agreement in form and substance satisfactory to the Agent, that such Receivables shall not be subject to such offset,

(xiv) as to which the applicable Originator has satisfied and fully performed all obligations on its part with respect to such Receivable required to be fulfilled by it, and no further action is required to be performed by any Person with respect thereto other than payment thereon by the applicable Obligor,

(xv) as to which each of the representations and warranties contained in Sections 5.1(g), (i), (j), (r), (s), (t) and (u) is true and correct, and

(xvi) all right, title and interest to and in which has been validly transferred by the applicable Originator directly to Seller under and in accordance with the Receivables Sale Agreement, and Seller has good and marketable title thereto free and clear of any Adverse Claim.

**“Excluded Taxes”** means “Excluded Taxes” under and as defined in the Receivables Sale Agreement *to the extent that* such taxes are consistent with the transactions under this Agreement being treated, for tax purposes, as though the Agent and the Purchasers made a loan to Seller secured by the Receivables and Related Security.

**“Facility Account”** means Seller’s account no. 10-87832 at Bank One, NA, in Chicago, Illinois, ABA No. 071000013.

**“Facility Termination Date”** means the earlier of (i) the Liquidity Termination Date and (ii) the Amortization Date.

**“Federal Bankruptcy Code”** means Title 11 of the United States Code entitled “Bankruptcy,” as amended and any successor statute thereto.

**“Federal Funds Effective Rate”** means, for any period, a fluctuating interest rate *per annum* for each day during such period equal to (i) the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published for such day (or, if such day is not a Business Day, for the preceding Business Day) by the Federal Reserve Bank of New York in the Composite Closing Quotations for U.S. Government Securities; or (ii) if such rate is not so published for any day which is a Business Day, the average of the quotations at approximately 11:30 a.m. (New York time) for such day on such transactions received by the Agent from three federal funds brokers of recognized standing selected by it.

**“Fee Letter”** means that certain Thirteenth Amended and Restated Fee Letter dated as of the Effective Date among Seller, Parent and the Agent, as it may be amended, restated or otherwise modified and in effect from time to time.

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**“Final Payout Date”** means the date on which all Aggregate Unpays have been paid in full and the Purchase Limit has been reduced to zero.

**“Fund”** means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business.

**“Incremental Purchase”** means a purchase of one or more Receivable Interests which increases the total outstanding Aggregate Invested Amount hereunder.

**“Indebtedness”** of a Person means such Person’s (i) obligations for borrowed money, (ii) obligations representing the deferred purchase price of property or services (other than accounts payable arising in the ordinary course of such Person’s business payable on terms customary in the trade), (iii) obligations, whether or not assumed, secured by liens or payable out of the proceeds or production from property now or hereafter owned or acquired by such Person, (iv) obligations which are evidenced by notes, acceptances, or other instruments, (v) capitalized lease obligations, (vi) net liabilities under interest rate swap, exchange or cap agreements, (vii) Contingent Obligations and (viii) liabilities in respect of unfunded vested benefits under plans covered by Title IV of ERISA.

**“Indemnified Amounts”** has the meaning specified in Section 10.1.

**“Indemnified Party”** has the meaning specified in Section 10.1.

**“Indemnified Taxes”** means Taxes other than Excluded Taxes.

**“Independent Director”** shall mean a member of the Board of Directors of Seller who is not at such time, and has not been at any time during the preceding five (5) years: (A) a director, officer, employee or affiliate of Performance Guarantor, any Originator or any of their respective Subsidiaries or Affiliates (other than Seller), or (B) the beneficial owner (at the time of such individual’s appointment as an Independent Director or at any time thereafter while serving as an Independent Director) of any of the outstanding common shares of Seller, any Originator, or any of their respective Subsidiaries or Affiliates, having general voting rights.

**“Interest Period”** means, with respect to any Receivable Interest:

(a) if Yield for such Receivable Interest is calculated on the basis of the LIBO Rate, a period of one, two, three or six months, or such other period as may be mutually agreeable to the Agent and Seller, commencing on a Business Day selected by Seller or the Agent pursuant to this Agreement. Such Interest Period shall end on the day in the applicable succeeding calendar month which corresponds numerically to the beginning day of such Interest Period, **provided, however**, that if there is no such numerically corresponding day in such succeeding month, such Interest Period shall end on the last Business Day of such succeeding month;

(b) if Yield for such Receivable Interest is calculated on the basis of LMIR, initially, a period commencing on a Business Day selected by Seller and agreed to by the Agent and ending on the last day of the calendar month in which such Business Day falls, and thereafter, each calendar month while such Receivable Interest remains funded at LMIR; or

(c) if Yield for such Receivable Interest is calculated on the basis of the Alternate Base Rate, a period commencing on a Business Day selected by Seller and agreed to by the Agent, *provided that* no such period shall exceed one month.

If any Interest Period would end on a day which is not a Business Day, such Interest Period shall end on the next succeeding Business Day, *provided, however*, that in the case of Interest Periods corresponding to the LIBO Rate, if such next succeeding Business Day falls in a new month, such Interest Period shall end on the immediately preceding Business Day. In the case of any Interest Period which commences before the Facility Termination Date and would otherwise end on a date occurring after the Facility Termination Date, such Interest Period shall end on the Facility Termination Date. The duration of each Interest Period which commences after the Facility Termination Date shall be of such duration as selected by the Agent.

**“Invested Amount”** of any Receivable Interest means, at any time, (A) the Purchase Price of such Receivable Interest, minus (B) the sum of the aggregate amount of Collections and other payments received by the Agent which in each case are applied to reduce such Invested Amount in accordance with the terms and conditions of this Agreement; *provided that* such Invested Amount shall be restored (in accordance with Section 2.5) in the amount of any Collections or other payments so received and applied if at any time the distribution of such Collections or payments are rescinded, returned or refunded for any reason.

**“LIBOR Market Index Rate”** means, for any day, the one-month Eurodollar Rate for U.S. dollar deposits as reported on the Reuters Screen LIBOR01 Page or any other page that may replace such page from time to time for the purpose of displaying offered rates of leading banks for London interbank deposits in United States dollars, as of 11:00 a.m. (London time) on such date, or if such day is not a Business Day, then the immediately preceding Business Day (or if not so reported, then as determined by the Agent from another recognized source for interbank quotation), in each case, changing when and as such rate changes.

**“LIBO Rate”** means, for any Interest Period, the rate per annum determined on the basis of the offered rate for deposits in U.S. dollars of amounts equal or comparable to the Invested Amount offered for a term comparable to such Interest Period, which rates appear on a Reuters Screen LIBOR01 Page effective as of 11:00 A.M., London time, two Business Days prior to the first day of such Interest Period, *provided that* if no such offered rates appear on such page, the LIBO Rate for such Interest Period will be the arithmetic average (rounded upwards, if necessary, to the next higher 1/100th of 1%) of rates quoted by not less than two major banks in New York, New York, selected by the Agent, at approximately 10:00 a.m. (New York time), two Business Days prior to the first day of such Interest Period, for deposits in U.S. dollars offered by leading European banks for a period comparable to such Interest Period in an amount comparable to the Invested Amount, divided by one minus the maximum aggregate reserve requirement (including all basic, supplemental, marginal or other reserves) which is imposed against the Agent in respect of Eurocurrency liabilities, as defined in Regulation D of the Board of Governors of the Federal Reserve System as in effect from time to time (expressed as a decimal), applicable to such Interest Period. The LIBO Rate shall be rounded, if necessary, to the next higher 1/16 of 1%.

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“**LMIR**” means, on any date of determination, a rate per annum equal to the LIBOR Market Index Rate.

“**Lock-Box**” means each locked postal box with respect to which a bank who has executed a Collection Account Agreement has been granted exclusive access for the purpose of retrieving and processing payments made on the Receivables and which is listed on Exhibit IV.

“**Loss Reserve**” means, for any Calculation Period, the product (expressed as a percentage) of (a) 2.0, times (b) the highest three-month rolling average Default Ratio during the 12 Calculation Periods ending on the immediately preceding Cut-Off Date, times (c) the Default Horizon Ratio as of the immediately preceding Cut-Off Date.

“**Material Adverse Effect**” means a material adverse effect on (i) the financial condition or operations of any Seller Party and its Subsidiaries taken as a whole, (ii) the ability of any Seller Party to perform its obligations under this Agreement or the Performance Guarantor to perform its obligations under the Performance Undertaking, (iii) the legality, validity or enforceability of this Agreement or any other Transaction Document, (iv) the Agent’s security interest, for the benefit of the Secured Parties, in the Receivables generally or in any significant portion of the Receivables, the Related Security or the Collections with respect thereto, or (v) the collectibility of the Receivables generally or of any material portion of the Receivables.

“**Monthly Report**” means a report, in substantially the form of Exhibit VIII hereto (appropriately completed), furnished by the Servicer to the Agent pursuant to Section 8.5.

“**Monthly Reporting Date**” means the 17<sup>th</sup> day of each month after the date of this Agreement (or if any such day is not a Business Day, the next succeeding Business Day thereafter) or such other days of any month as Agent may request in connection with Section 8.5 hereof.

“**Moody’s**” means Moody’s Investors Service, Inc.

“**Net Pool Balance**” means, at any time, the aggregate Outstanding Balance of all Eligible Receivables at such time reduced by (a) the aggregate amount by which the Outstanding Balance of all Eligible Receivables of each Obligor and its Affiliates exceeds the Obligor Concentration Limit for such Obligor, and (b) the total amount of Contractual Dilutions during the Calculation Period then most recently ended.

“**Non-Contractual Dilution**” means a Dilution which does not constitute a Contractual Dilution.

“**Non-Contractual Dilution Ratio**” means, as of any Cut-Off Date, a ratio (expressed as a percentage), computed by dividing (i) the total amount of decreases in Outstanding Balances due to Non-Contractual Dilutions during the Calculation Period ending on such Cut-Off Date, by (ii) the aggregate sales generated by the Originators during the two (2) Calculation Periods prior to the Calculation Period ending on such Cut-Off Date.

**“Obligor”** means a Person obligated to make payments pursuant to a Contract.

**“Obligor Concentration Limit”** means, at any time, in relation to the aggregate Outstanding Balance of Receivables owed by any single Obligor and its Affiliates (if any), the applicable concentration limit shall be determined as follows for Obligor who have short term unsecured debt ratings currently assigned to them by S&P and Moody’s (or in the absence thereof, the equivalent long term unsecured senior debt ratings), the applicable concentration limit shall be determined according to the following table:

S&P Rating	Moody’s Rating	Allowable % of Eligible Receivables
A-1+	P-1	10%
A-1	P-1	8%
A-2	P-2	6%
A-3	P-3	3.5%
Below A-3 or Not Rated by either S&P or Moody’s	Below P-3 or Not Rated by either S&P or Moody’s	3.5%

; **provided, however**, that (a) if any Obligor has a split rating, the applicable rating will be the lower of the two, (b) if any Obligor is not rated by either S&P or Moody’s, the applicable Obligor Concentration Limit shall be the one set forth in the last line of the table above, and (c) may be subject to an increase in the percentage set forth in clause (a) (i) of the definition of **“Required Reserve,”** upon Seller’s request from time to time, the Agent may agree to a higher percentage of Eligible Receivables for a particular Obligor and its Affiliates (each such higher percentage, a **“Special Concentration Limit”**), it being understood that any Special Concentration Limit may be cancelled by the Agent upon not less than five (5) Business Days’ written notice to the Seller Parties.

**“Originator”** means each of Parent, GB Tools and Supplies, Inc., a Wisconsin corporation, Versa Technologies, Inc., a Delaware corporation, Kwikke Products Company, LLC, a Delaware limited liability company, Nielson Hardware Corp., a Connecticut corporation, B.W. Elliott Manufacturing Co., LLC, a New York limited liability company, Acme Electric Corporation, a New York corporation, Atlantic Guest, Inc., a Delaware corporation, Hydratight Operations, Inc. (formerly Hydratight Sweeney, Inc.), a Delaware corporation, Hydratight, Inc. (formerly Hydratight Sweeney Products Corporation), a Delaware corporation, D.L. Ricci Corp., a Minnesota corporation, Precision Sure-Lock, Inc., a Delaware corporation, Key Components, LLC, a Delaware limited liability company, Maxima Technologies & Systems, LLC, a Delaware limited liability company, Actown Electrocoil, Inc., a Delaware corporation, BH Electronics, Inc., a Tennessee corporation and Templeton, Kenly & Co., Inc., an Illinois corporation, in its capacity as a seller under the Receivables Sale Agreement.

**“Outstanding Balance”** of any Receivable at any time means the then outstanding principal balance thereof.

**“Parent”** has the meaning set forth in the preamble to this Agreement.

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**“Performance Guarantor”** means Parent.

**“Performance Undertaking”** means that certain Amended and Restated Performance Undertaking, dated as of the Effective Date by Performance Guarantor in favor of Seller, in form and substance acceptable to Agent, as the same may be amended, restated or otherwise modified from time to time.

**“Permitted Sub-Servicer”** has the meaning set forth in Section 8.1(b).

**“Person”** means an individual, partnership, corporation (including a business trust), limited liability company, joint stock company, trust, unincorporated association, joint venture or other entity, or a government or any political subdivision or agency thereof.

**“Prime Rate”** means a rate *per annum* equal to the prime rate of interest announced from time to time by Wachovia (which is not necessarily the lowest rate charged to any customer), changing when and as said prime rate changes.

**“Proposed Reduction Date”** has the meaning set forth in Section 1.3.

**“Purchase”** means an Incremental Purchase or a Reinvestment.

**“Purchase Date”** means each Business Day on which a Purchase is made hereunder.

**“Purchase Limit”** means \$75,000,000.

**“Purchase Notice”** has the meaning set forth in Section 1.2.

**“Purchase Price”** means, with respect to any Incremental Purchase of a Receivable Interest, the amount paid to Seller for such Receivable Interest which shall not exceed the least of (i) the amount requested by Seller in the applicable Purchase Notice, (ii) the unused portion of the Purchase Limit on the applicable purchase date and (iii) the excess, if any, of the Net Pool Balance (less the Required Reserve) on the applicable purchase date over the aggregate outstanding amount of Aggregate Invested Amount determined as of the date of the most recent Monthly Report, taking into account such proposed Incremental Purchase.

**“Purchased Assets”** means all of Seller’s right, title and interest, whether now owned and existing or hereafter arising in and to all of the Receivables, the Related Security, the Collections and all proceeds of the foregoing.

**“Purchaser”** has the meaning set forth in the preamble to this Agreement.

**“Purchaser’s Portion”** means, on any date of determination, the sum of the percentages represented by the Receivable Interests.

**“Receivable”** means any “Receivable” (under and as defined in the Receivables Sale Agreement) in which the Seller now has or hereafter acquires any right or interest.

**“Receivable Interest”** means, at any time, an undivided percentage ownership interest (computed as set forth below) associated with a designated amount of Invested Amount, selected pursuant to the terms and conditions hereof in (i) each Receivable arising prior to the time of the most recent computation or recomputation of such undivided interest, (ii) all Related Security with respect to each such Receivable, and (iii) all Collections with respect to, and other proceeds of, each such Receivable. Each such undivided percentage interest shall equal:

$$\frac{IA + RR}{NPB}$$

**where:**

IA = the Invested Amount of such Receivable Interest.

NPB = the Net Pool Balance.

RR = the Required Reserve.

Such undivided percentage ownership interest shall be initially computed on its date of purchase. Thereafter, until the Facility Termination Date, each Receivable Interest shall be automatically recomputed (or deemed to be recomputed) on each day prior to the Facility Termination Date. The variable percentage represented by any Receivable Interest as computed (or deemed recomputed) as of the close of the business day immediately preceding the Facility Termination Date shall remain constant at all times thereafter.

**“Receivables Sale Agreement”** means that certain Receivables Sale Agreement, dated as of May 30, 2001, among the Originators and Seller, as the same may be amended, restated or otherwise modified from time to time.

**“Records”** has the meaning specified in the Receivables Sale Agreement.

**“Recourse Obligations”** has the meaning set forth in Section 2.1.

**“Reduction Notice”** has the meaning set forth in Section 1.3.

**“Regulatory Change”** means any change after the date of this Agreement in United States (federal, state or municipal) or foreign laws, rules, regulations (including Regulation D), policy or accounting principles or the adoption or making after such date of any interpretations, directives or requests applying to a class of banks (including Purchaser) of or under any United States (federal, state or municipal) or foreign laws, rules, regulations policy, guideline or directive (whether or not having the force of law) or change in the interpretation or administration thereof or accounting principles by any court, governmental or monetary authority or central bank, or accounting board or authority (whether or not part of government) charged with the establishment, interpretation or administration thereof.

**“Reinvestment”** has the meaning set forth in Section 2.2.

**“Related Security”** means, with respect to any Receivable, all of Seller’s right, title and interest in, to and under:



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- (i) all "Related Security" (under and as defined in the Receivables Sale Agreement) in which the Seller now has or hereafter acquires any right or interest,
  - (ii) the Receivables Sale Agreement and the Performance Undertaking,
  - (iii) the Demand Advances, and
  - (iv) all proceeds of any of the foregoing.

**"Required Notice Period"** means two (2) Business Days.

**"Required Reserve"** means, on any day during a Calculation Period, the product of (a) the greater of (i) the Required Reserve Factor Floor and (ii) the sum of the Loss Reserve, the Yield Reserve, the Dilution Reserve and the Servicing Reserve, times (b) the Net Pool Balance as of the Cut-Off Date immediately preceding such Calculation Period.

**"Required Reserve Factor Floor"** means, for any Calculation Period, the sum (expressed as a percentage) of (a) 14% plus (b) the product of the Adjusted Dilution Ratio and the Dilution Horizon Ratio, in each case, as of the immediately preceding Cut-Off Date.

**"Restricted Junior Payment"** means (i) any dividend or other distribution, direct or indirect, on account of any shares of any class of capital stock of Seller now or hereafter outstanding, except a dividend payable solely in shares of that class of stock or in any junior class of stock of Seller, (ii) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any shares of any class of capital stock of Seller now or hereafter outstanding, (iii) any payment or prepayment of principal of, premium, if any, or interest, fees or other charges on or with respect to, and any redemption, purchase, retirement, defeasance, sinking fund or similar payment and any claim for rescission with respect to the Subordinated Loans (as defined in the Receivables Sale Agreement), (iv) any payment made to redeem, purchase, repurchase or retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of capital stock of Seller now or hereafter outstanding, and (v) any payment of management fees by Seller (except for reasonable management fees to any Originator or its Affiliates in reimbursement of actual management services performed).

**"S&P"** means Standard and Poor's Ratings Services, a division of The McGraw Hill Companies, Inc.

**"Secured Parties"** means the Indemnified Parties.

**"Seller"** has the meaning set forth in the preamble to this Agreement.

**"Seller Parties"** means, collectively, Seller and, so long as it is acting as Servicer and/or Performance Guarantor, Parent.

**"Servicer"** means at any time the Person (which may be the Agent) then authorized pursuant to Article VIII to service, administer and collect Receivables.

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**“Servicing Fee”** means, for each day in a Calculation Period:

(a) an amount equal to (i) the Servicing Fee Rate (or, at any time while Parent or one of its Affiliates is the Servicer, such lesser percentage as may be agreed between Seller and the Servicer on an arms’ length basis based on then prevailing market terms for similar services), *times* (ii) the aggregate Outstanding Balance of all Receivables at the close of business on the Cut-Off Date immediately preceding such Calculation Period, *times* (iii) 1/360; or

(b) on and after the Servicer’s reasonable request made at any time when Parent or one of its Affiliates is no longer acting as Servicer hereunder, an alternative amount specified by the successor Servicer not exceeding (i) 110% of such Servicer’s reasonable costs and expenses of performing its obligations under this Agreement during the preceding Calculation Period, *divided by* (ii) the number of days in the current Calculation Period.

**“Servicing Fee Rate”** means 1.0% per annum.

**“Servicing Reserve”** means, for any Calculation Period, the product (expressed as a percentage) of (a) the Servicing Fee Rate, *times* (b) a fraction, the numerator of which is the highest Days Sales Outstanding for the most recent 12 Calculation Periods and the denominator of which is 360.

**“Settlement Date”** means (A) the 2<sup>nd</sup> Business Day after each Monthly Reporting Date, and (B) the last day of the relevant Interest Period in respect of each Receivable Interest.

**“Settlement Period”** means, with respect to any Receivable Interest, its entire Interest Period.

**“Subsidiary”** of a Person means (i) any corporation more than 50% of the outstanding securities having ordinary voting power of which shall at the time be owned or controlled, directly or indirectly, by such Person or by one or more of its Subsidiaries or by such Person and one or more of its Subsidiaries, or (ii) any partnership, association, limited liability company, joint venture or similar business organization more than 50% of the ownership interests having ordinary voting power of which shall at the time be so owned or controlled.

**“Taxes”** means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings imposed by any Governmental Authority.

**“Terminating Tranche”** has the meaning set forth in Section 4.3(b).

**“Trade Show Receivable”** means any Receivable created as a result of participation in a trade show within the 45 days prior to the creation thereof.

**“Transaction Documents”** means, collectively, this Agreement, each Purchase Notice, the Receivables Sale Agreement, each Collection Account Agreement, the Performance Undertaking, the Fee Letter, each Subordinated Note (as defined in the Receivables Sale Agreement) and all other instruments, documents and agreements executed and delivered in connection herewith.

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**“UCC”** means the Uniform Commercial Code as from time to time in effect in the specified jurisdiction.

**“Unmatured Amortization Event”** means an event which, with the passage of time or the giving of notice, or both, would constitute an Amortization Event.

**“Wachovia”** means Wachovia Bank, National Association in its individual capacity and its successors.

**“Yield”** means for each Interest Period relating to a Receivable Interest, an amount equal to the product of the applicable Yield Rate for such Receivable Interest multiplied by the Invested Amount of such Receivable Interest for each day elapsed during such Interest Period, annualized on a 360 day basis.

**“Yield Rate”** means, with respect to each Receivable Interest, the LIBO Rate, LMIR, the Alternate Base Rate or the Default Rate, as applicable.

**“Yield Reserve”** means, for any Calculation Period, the product (expressed as a percentage) of (i) 1.5 times (ii) the Alternate Base Rate as of the immediately preceding Cut-Off Date times (iii) a fraction the numerator of which is the highest Days Sales Outstanding for the most recent 12 Calculation Periods and the denominator of which is 360.

*All accounting terms not specifically defined herein shall be construed in accordance with GAAP. All terms used in Article 9 of the UCC in the State of Illinois, and not specifically defined herein, are used herein as defined in such Article 9.*

**EXHIBIT II**  
**FORM OF PURCHASE NOTICE**

—  
**ACTUANT RECEIVABLES CORPORATION**

**PURCHASE NOTICE**  
dated \_\_\_\_\_, 20\_\_  
for Purchase on \_\_\_\_\_, 20\_\_

Wachovia Bank, National Association, as Agent  
171 17<sup>th</sup> Street, N.W., 4<sup>th</sup> Floor  
Mail Stop GA 4524  
Atlanta, GA 30363

Attention: Michael J. Landry, Asset-Backed Finance, Fax No. (404) 214-5481

Ladies and Gentlemen:

Reference is made to the Amended and Restated Receivables Purchase Agreement dated as of September 10, 2008 (effective as of [March 10, 2009]) (as amended, supplemented or otherwise modified from time to time, the "*Receivables Purchase Agreement*") among Actuant Receivables Corporation (the "*Seller*"), Actuant Corporation, as initial Servicer, and Wachovia Bank National Association, as Agent and Purchaser. Capitalized terms defined in the Receivables Purchase Agreement are used herein with the same meanings.

1. The [Servicer, on behalf of the] Seller hereby certifies, represents and warrants to the Agent and Purchaser that on and as of the Purchase Date (as hereinafter defined):
  - (a) all applicable conditions precedent set forth in Article VI of the Receivables Purchase Agreement have been satisfied;
  - (b) each of its representations and warranties contained in Section 5.1 of the Receivables Purchase Agreement will be true and correct, in all material respects, as if made on and as of the Purchase Date;
  - (c) no event will have occurred and is continuing, or would result from the requested Purchase, that constitutes an Amortization Event or Unmatured Amortization Event;
  - (d) the Facility Termination Date has not occurred; and
  - (e) after giving effect to the Purchase requested below, the Aggregate Invested Amount will not exceed the Purchase Limit and the aggregate Receivable Interests will not exceed 100%.

2. The [Servicer, on behalf of the] Seller hereby requests that Purchaser make a Purchase on \_\_\_\_\_, 20\_\_ (the "**Purchase Date**") as follows:

(a) Purchase Price: \$ \_\_\_\_\_

(b) [Servicer on behalf of the] Seller requests that the Invested Amount (which will initially accrue Yield at the Alternate Base Rate) begin to accrued Yield at a [LIBO Rate for a Interest Period of \_\_\_\_\_ months] [LMIR until \_\_\_\_\_, 20\_\_] on the third Business Day after the Purchase Date].

3. Please disburse the proceeds of the Purchase as follows:

[Apply \$ \_\_\_\_\_ to payment of Aggregate Unpaid due on the Purchase Date]. [Wire transfer \$ \_\_\_\_\_ to account no. \_\_\_\_\_ at \_\_\_\_\_ Bank, in [city, state], ABA No. \_\_\_\_\_, Reference: \_\_\_\_\_].

**IN WITNESS WHEREOF**, the [Servicer, on behalf of the] Seller has caused this Purchase Request to be executed and delivered as of this \_\_\_\_\_ day of \_\_\_\_\_,

[Actuant Corporation, as Servicer, on behalf of:] Actuant Receivables  
Corporation, as Seller

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT III**

**PLACES OF BUSINESS OF THE SELLER PARTIES; LOCATIONS OF RECORDS;  
FEDERAL EMPLOYER IDENTIFICATION NUMBERS**

***Chief Executive Office:***

**Seller:**

3993 Howard Hughes Parkway  
Suite 100  
Las Vegas, Nevada 89109

**Servicer:**

6100 North Baker Road  
Glendale, WI 53209

***Locations of Records:***

3993 Howard Hughes Parkway  
Suite 100  
Las Vegas, Nevada 89109  
6100 North Baker Road  
Glendale, WI 53209

***Legal, Trade and Assumed Names for Each Seller Party:***

Actuant Corporation:	Applied Power Inc. (1/11/01)
Actuant Receivables Corporation:	n/a



EXHIBIT V

[FORM OF] COMPLIANCE CERTIFICATE

To: Wachovia Bank, National Association, as Agent

This Compliance Certificate is furnished pursuant to that certain Amended and Restated Receivables Purchase Agreement dated as of September 10, 2008 (effective as of [March 10, 2009]) among Actuant Receivables Corporation (the "**Seller**"), Actuant Corporation (the "**Servicer**"), and Wachovia Bank, National Association, as Agent and Purchaser (the "**Agreement**").

**THE UNDERSIGNED HEREBY CERTIFIES THAT:**

1. I am the duly elected \_\_\_\_\_ of Seller.
2. I have reviewed the terms of the Agreement and I have made, or have caused to be made under my supervision, a detailed review of the transactions and conditions of Seller and its Subsidiaries during the accounting period covered by the attached financial statements.
3. The examinations described in paragraph 2 did not disclose, and I have no knowledge of, the existence of any condition or event which constitutes an Amortization Event or Unmatured Amortization Event, as each such term is defined under the Agreement, during or at the end of the accounting period covered by the attached financial statements or as of the date of this Certificate[, except as set forth in paragraph 5 below].
4. Schedule I attached hereto sets forth financial data and computations evidencing the compliance with certain covenants of the Agreement, all of which data and computations are true, complete and correct.
5. Described below are the exceptions, if any, to paragraph 3 by listing, in detail, the nature of the condition or event, the period during which it has existed and the action which Seller has taken, is taking, or proposes to take with respect to each such condition or event: \_\_\_\_\_].



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The foregoing certifications, together with the computations set forth in Schedule I hereto and the financial statements delivered with this Certificate in support hereof, are made and delivered as of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Name:  
Title:

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**SCHEDULE I TO COMPLIANCE CERTIFICATE**

A. Schedule of Compliance as of [Date] with Sections \_\_\_\_\_ of the Agreement. Unless otherwise defined herein, the terms used in this Compliance Certificate have the meanings ascribed thereto in the Agreement.

This schedule relates to the month ended: \_\_\_\_\_

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**EXHIBIT VI**

**[FORM OF] COLLECTION ACCOUNT AGREEMENT**

[Intentionally Deleted]

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**EXHIBIT VII**

**CREDIT AND COLLECTION POLICY**

See Exhibit V to Receivables Sale Agreement

**EXHIBIT VIII  
FORM OF MONTHLY REPORT**

**Actuant Receivable Corporation Monthly Report  
For the Month Ended: \_\_\_\_\_  
(Page 1)  
(\$ in Thousands)**

**BORROWING AVAILABILITY:**

**I. Portfolio Information**

1. Beginning of Month Balance: (Total A/R Outstanding)
2. Gross Sales (Domestic & Foreign):
3. Deduct:
  - a. Total Collections:
  - b. Dilution (Total)
  - c. Write Offs
- Add:
  - d. Recoveries
4.
  - a. Calculated Ending A/R Balance [(1) + (2) - (3 a,b,c)+(3d)]:
  - b. Reported Ending A/R Balance
  - c. Difference (If any)
5. Deduct:
  - a. Delinquent & Defaulted Receivables —
  - b. Foreign Receivables: —
  - c. Other Receivables not Considered Eligible —
  - d. Dilutive credits ineligible for funding —
  - e. Total Ineligibles —
6. Eligible Receivables [(4 b) - (5.c.)]:
7. Deduct: Excess Concentration:
8. Net Pool Balance [(6) -(7)]:

9.	<u>Aging Schedule:</u>	<u>Current Month</u>	<u>%</u>	<u>One Month Prior</u>	<u>Two Months Prior</u>	<u>Three Months Prior</u>
a.	Current	—	—	—	—	—
b.	1-30 Days Past Due	—	—	—	—	—
c.	31-60 Days Past Due	—	—	—	—	—
d.	61-90 Days Past Due	—	—	—	—	—
e.	91-120 Days Past Due	—	—	—	—	—
f.	121+ Days Past Due	—	—	—	—	—
g.	Total:	—	—	—	—	—

Actuant Receivable Corporation Monthly Report

For the Month Ended: \_\_\_\_\_

(Page 2)

(\$ in Thousands)

II. Calculations Reflecting Current Activity

- 10. Aggregate Invested Amount Outstanding
- 11. Required Reserve %
- 12. Required Reserve [(8) x (11)]:

\$0

III. Compliance

- 13. Asset Interest [(10) + (12) / (8)] < 100% :
  
- 14. 3M Avg. Delinquency Ratio <2.90%
  - Current Mo. Delinquency Ratio
  - 1 Mo. Prior Delinquency Ratio
  - 2 Mo. Prior Delinquency Ratio
  
- 15. 3M Avg. Default Trigger Ratio <9.75%
  - Current Mo. Default Trigger Ratio
  - 1 Mo. Prior Default Trigger Ratio
  - 2 Mo. Prior Default Trigger Ratio
  
- 16. 3M Avg. Dilution Ratio <7.10%
  - Current Mo. Dilution Ratio
  - 1 Mo. Prior Dilution Ratio
  - 2 Mo. Prior Dilution Ratio
  
- 17. Facility Limit [(12)<= \$65,000,000]
  
- 18. Minimum Required Capital Amount

In Compliance

**Actuant Receivable Corporation Monthly Report**

**For the Month Ended: \_\_\_\_\_**

**(Page 3)**

**(\$ in Thousands)**

IV. Excess Concentration: (Calculation)

Eligible Receivables		#VALUE!	
Allowable Percentage	Max. Allowable Balance)		Credit Rating
	3.5%	\$0	NR/NR
	3.5%	\$0	A3/P3
	6.0%	\$0	A2/P2
	8.0%	\$0	A1/P1
	10.0%	\$0	A1+/P1

	<b>LARGEST OBLIGORS</b>	<b>SHORT-TERM DEBT RATING</b>	<b>ALLOWABLE PERCENTAGE</b>	<b>TOTAL RECEIVABLES</b>	<b>ALLOWABLE RECEIVABLES</b>	<b>EXCESS RECEIVABLES</b>
1	Lowes	NR/NR	0.00%	\$0	\$0	\$0
2	Home Depot	NR/NR	0.00%	\$0	\$0	\$0
3	Ace Hardware	NR/NR	0.00%	\$0	\$0	\$0
4	EDN	NR/NR	0.00%	\$0	\$0	\$0
5	CSK Auto	NR/NR	0.00%	\$0	\$0	\$0
6	TruServe	NR/NR	0.00%	\$0	\$0	\$0
7	Advance Auto	NR/NR	0.00%	\$0	\$0	\$0
8	West Marine Products	NR/NR	0.00%	\$0	\$0	\$0
9	WW Grainger	NR/NR	0.00%	\$0	\$0	\$0
10	Fleetwood	NR/NR	0.00%	\$0	\$0	\$0
11	Sears	NR/NR	0.00%	\$0	\$0	\$0
12	Orchard	NR/NR	0.00%	\$0	\$0	\$0
13	0	NR/NR	0.00%	\$0	\$0	\$0
	<b>Total</b>			<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

The undersigned hereby represents and warrants that the foregoing is a true and accurate accounting with respect to outstanding Receivables as of \_\_\_\_\_ accordance with the Amended and Restated Receivables Purchase Agreement dated September 10, 2008 (effective as of [March 10, 2009]) and that all representations and warranties related to such Agreement are restated and reaffirmed.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

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**EXHIBIT IX**

**[FORM OF PERFORMANCE UNDERTAKING]**



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**SCHEDULE A**

**DOCUMENTS TO BE DELIVERED TO THE AGENT**

**ON OR PRIOR TO THE EFFECTIVE DATE**

1. Amendment No. 19 to the Receivables Purchase Agreement, duly executed by the parties thereto.
2. Amended and Restated Receivables Purchase Agreement, duly executed by the parties thereto.
3. A certificate of each Seller Party's Secretary certifying:
  - (a) A copy of the Resolutions of the Board of Directors of such Seller Party, authorizing its execution, delivery and performance of the Amended and Restated Receivables Purchase Agreement and the other documents to be delivered by it thereunder;
  - (b) A copy of the Organizational Documents of such Seller Party (also certified, to the extent that such documents are filed with any governmental authority, by the Secretary of State of the jurisdiction of organization of such Seller Party on or within thirty (30) days prior to closing);
  - (c) Good Standing Certificates for such Seller Party issued by the Secretaries of State of its state of incorporation and each jurisdiction where it has material operations; and
  - (d) The names and signatures of the officers authorized on its behalf to execute the Amended and Restated Receivables Purchase Agreement and any other documents to be delivered by it thereunder.
4. State and federal tax lien, judgment lien and UCC lien searches against Seller Parties.
5. Officer's Certificate of Seller as to the absence of any Amortization Event or any Unmatured Amortization Event.
6. A favorable Corporate/UCC opinion of legal counsel for the Seller Parties reasonably acceptable to the Agent.
7. A Compliance Certificate.
8. The Fee Letter.
9. A Monthly Report for the Monthly Reporting Date then most recently ended.

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10. Reaffirmation of Performance Undertaking.

11. Amendment No. 10 to the Receivables Sale Agreement.

**AMENDMENT #1 TO AMENDED AND RESTATED RECEIVABLES  
PURCHASE AGREEMENT**

**THIS AMENDMENT #1** (this "**Amendment**"), dated as of December 11, 2008 (to be effective on the Effective Date) is entered into by and among:

- (a) Actuant Receivables Corporation, a Nevada corporation ("**Seller**"),
- (b) Actuant Corporation, a Wisconsin corporation ("**Parent**"), as initial Servicer, and
- (c) Wachovia Bank, National Association, individually as purchaser ("**Purchaser**") and as agent for Purchaser and its assigns under the Transaction Documents (together with its successors and assigns in such capacity, the "**Agent**"),

with respect to the Amended and Restated Receivables Purchase Agreement dated as of September 10, 2008 by and among the Seller, Parent, Purchaser and Agent (as amended, restated or otherwise modified from time to time, the "**Existing Agreement**"). Unless defined elsewhere herein, capitalized terms used in this Amendment shall have the meanings assigned to such terms in the Existing Agreement.

**PRELIMINARY STATEMENT**

Each of the parties wishes to amend the Existing Agreement on the terms and subject to the conditions hereinafter set forth.

**NOW, THEREFORE**, in consideration of the foregoing premises and the mutual agreements herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

Section 1. Amendment. The definition of "Purchase Limit" contained in Exhibit I to the Existing Agreement is hereby amended and restated to read as follows:

"**Purchase Limit**" means \$60,000,000."

Section 2. Representations. In order to induce the other parties hereto to consent to this Amendment, Seller hereby confirms that, as of the Effective Date:

- (a) the representations and warranties set forth in Section 5.1 of the Existing Agreement are true and correct on and as of the date of this Amendment as though made on the date hereof;
- (b) no event has occurred and is continuing that will constitute an Amortization Event or an Unmatured Amortization Event; and
- (c) the Aggregate Invested Amount does not exceed the Purchase Limit and the aggregate Receivable Interests do not exceed 100%.

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Section 3. Conditions Precedent. This Amendment shall become effective as of the Effective Date upon the receipt by the Agent of counterparts hereof, duly executed by each of the parties hereto.

Section 4. Miscellaneous.

4.1. CHOICE OF LAW. THIS AMENDMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS (AND NOT THE LAW OF CONFLICTS) OF THE STATE OF ILLINOIS.

4.2. CONSENT TO JURISDICTION. EACH PARTY TO THIS AMENDMENT HEREBY IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR ILLINOIS STATE COURT SITTING IN CHICAGO, ILLINOIS, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY OR ANY DOCUMENT EXECUTED BY SUCH PERSON PURSUANT TO THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY, AND EACH SUCH PARTY HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH COURT AND IRREVOCABLY WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH A COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM. NOTHING HEREIN SHALL LIMIT THE RIGHT OF THE AGENT OR ANY PURCHASER TO BRING PROCEEDINGS AGAINST ANY SELLER PARTY IN THE COURTS OF ANY OTHER JURISDICTION. ANY JUDICIAL PROCEEDING BY ANY SELLER PARTY AGAINST THE AGENT OR ANY PURCHASER OR ANY AFFILIATE OF THE AGENT OR ANY PURCHASER INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY OR ANY DOCUMENT EXECUTED BY SUCH SELLER PARTY PURSUANT TO THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY SHALL BE BROUGHT ONLY IN A COURT IN CHICAGO, ILLINOIS.

4.3. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY, ANY DOCUMENT EXECUTED BY ORIGINATOR PURSUANT TO THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY OR THE RELATIONSHIP ESTABLISHED HEREUNDER OR THEREUNDER.

4.4. Counterparts. This Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same Agreement.

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4.5. Reference to and Effect on Existing Agreement. Except as specifically modified above, the Existing Agreement and the other Transaction Documents shall remain in full force and effect and are hereby ratified and confirmed. The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of Agent under the Existing Agreement or any other Transaction Documents, nor constitute a waiver of any provision of the Existing Agreement or any other Transaction Documents, except as specifically set forth herein.

*<signature pages follow>*

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**IN WITNESS WHEREOF**, the parties hereto have caused this Amendment to be executed and delivered by their duly authorized officers or attorneys-in-fact as of the date hereof.

ACTUANT RECEIVABLES CORPORATION

By: /s/ Patrick C. Dorn  
Name: Patrick C. Dorn  
Title: President

**Address:** 3993 Howard Hughes Pkwy.  
Suite 100  
Las Vegas, Nevada 89169  
Attn: Pat Dorn  
Phone: (702) 691-2210  
Fax: (702) 691-2236

ACTUANT CORPORATION

By: /s/ Terry M. Braatz  
Name: Terry M. Braatz  
Title: Treasurer

**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007  
Attn: Terry M. Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

[Signature Page to Amendment No. 1 to A&R Receivables Purchase Agreement]

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WACHOVIA BANK, NATIONAL ASSOCIATION, as Purchaser and as Agent

By: /s/ Michael J. Landry  
Name: Michael J. Landry  
Title: Vice President

[Signature Page to Amendment No. 1 to A&R Receivables Purchase Agreement]

**AMENDMENT #2 TO AMENDED AND RESTATED RECEIVABLES  
PURCHASE AGREEMENT**

**THIS AMENDMENT #2** (this "**Amendment**"), dated as of February 10, 2009 (to be effective on the Effective Date) is entered into by and among:

- (a) Actuant Receivables Corporation, a Nevada corporation ("**Seller**"),
- (b) Actuant Corporation, a Wisconsin corporation ("**Parent**"), as initial Servicer, and
- (c) Wachovia Bank, National Association, individually as purchaser ("**Purchaser**") and as agent for Purchaser and its assigns under the Transaction Documents (together with its successors and assigns in such capacity, the "**Agent**"),

with respect to the Amended and Restated Receivables Purchase Agreement dated as of September 10, 2008 by and among the Seller, Parent, Purchaser and Agent (as amended, restated or otherwise modified from time to time, the "**Existing Agreement**"). Unless defined elsewhere herein, capitalized terms used in this Amendment shall have the meanings assigned to such terms in the Existing Agreement.

**PRELIMINARY STATEMENT**

Each of the parties wishes to amend the Existing Agreement on the terms and subject to the conditions hereinafter set forth.

**NOW, THEREFORE**, in consideration of the foregoing premises and the mutual agreements herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

Section 1. Amendment. The definition of "Originator" contained in Exhibit I to the Existing Agreement is hereby amended and restated in its entirety to read as follows:

"**Originator**" means each of Parent, GB Tools and Supplies, Inc., a Wisconsin corporation, Versa Technologies, Inc., a Delaware corporation, Kwikkee Products Company, LLC, a Delaware limited liability company, Nielsen Hardware Corp., a Connecticut corporation, B.W. Elliott Manufacturing Co., LLC, a New York limited liability company, Acme Electric Corporation, a New York corporation, Atlantic Guest, Inc., a Delaware corporation, Hydratight Operations, Inc. (formerly Hydratight Sweeney, Inc.), a Delaware corporation, Hydratight, Inc. (formerly Hydratight Sweeney Products Corporation), a Delaware corporation, D.L. Ricci Corp., a Minnesota corporation, Precision Sure-Lock, Inc., a Delaware corporation, Key Components, Inc. (successor by merger to Key Components, LLC), a New York corporation, Maxima Technologies & Systems, LLC, a Delaware limited liability company, ACME Electric Inc. (successor by merger to Actown Electrocoil, Inc.), a Delaware corporation, BH Electronics, Inc., a Tennessee corporation and Templeton, Kenly & Co., Inc., an Illinois corporation, in its capacity as a seller under the Receivables Sale Agreement."



Section 2. Representations. In order to induce the other parties hereto to consent to this Amendment, Seller hereby confirms that, as of the Effective Date:

- (a) the representations and warranties set forth in Section 5.1 of the Existing Agreement are true and correct on and as of the date of this Amendment as though made on the date hereof;
- (b) no event has occurred and is continuing that will constitute an Amortization Event or an Unmatured Amortization Event; and
- (c) the Aggregate Invested Amount does not exceed the Purchase Limit and the aggregate Receivable Interests do not exceed 100%.

Section 3. Conditions Precedent. This Amendment shall become effective as of the Effective Date upon the (a) receipt by the Agent of counterparts hereof, duly executed by each of the parties hereto, (b) filing of amendments (in form suitable for filing) to the financing statements against Seller in connection with the Existing Agreement to reflect the change in definition of "Originator", (c) receipt by the Agent of counterparts to Amendment #20 to the Receivables Purchase Agreement, duly executed by each of the parties thereto, (d) effectiveness of (i) Amendment #11 to the Receivables Sale Agreement of even date herewith and (ii) the Seventh Amended and Restated Collection Account Agreement of even date herewith by and among JPMorgan Chase Bank, N.A. and Agent and (e) payment of all outstanding legal fees and expenses of Latham & Watkins LLP.

Section 4. Miscellaneous.

4.1. CHOICE OF LAW. THIS AMENDMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS (AND NOT THE LAW OF CONFLICTS) OF THE STATE OF ILLINOIS.

4.2. CONSENT TO JURISDICTION. EACH PARTY TO THIS AMENDMENT HEREBY IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR ILLINOIS STATE COURT SITTING IN CHICAGO, ILLINOIS, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY OR ANY DOCUMENT EXECUTED BY SUCH PERSON PURSUANT TO THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY, AND EACH SUCH PARTY HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH COURT AND IRREVOCABLY WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH A COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM. NOTHING HEREIN SHALL LIMIT THE RIGHT OF THE AGENT OR ANY PURCHASER TO BRING PROCEEDINGS AGAINST ANY SELLER PARTY IN THE COURTS OF ANY OTHER JURISDICTION. ANY JUDICIAL PROCEEDING BY ANY SELLER PARTY AGAINST THE AGENT OR ANY PURCHASER OR ANY AFFILIATE OF THE AGENT OR ANY PURCHASER INVOLVING, DIRECTLY

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OR INDIRECTLY, ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY OR ANY DOCUMENT EXECUTED BY SUCH SELLER PARTY PURSUANT TO THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY SHALL BE BROUGHT ONLY IN A COURT IN CHICAGO, ILLINOIS.

4.3. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY, ANY DOCUMENT EXECUTED BY ORIGINATOR PURSUANT TO THIS AMENDMENT OR THE EXISTING AGREEMENT AS AMENDED HEREBY OR THE RELATIONSHIP ESTABLISHED HEREUNDER OR THEREUNDER.

4.4. Counterparts. This Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same Agreement.

4.5. Reference to and Effect on Existing Agreement. Except as specifically modified above, the Existing Agreement and the other Transaction Documents shall remain in full force and effect and are hereby ratified and confirmed. The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of Agent under the Existing Agreement or any other Transaction Documents, nor constitute a waiver of any provision of the Existing Agreement or any other Transaction Documents, except as specifically set forth herein.

*<signature pages follow>*

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**IN WITNESS WHEREOF**, the parties hereto have caused this Amendment to be executed and delivered by their duly authorized officers or attorneys-in-fact as of the date hereof.

ACTUANT RECEIVABLES CORPORATION

By: /s/ Patrick C. Dorn  
Name: Patrick C. Dorn  
Title: President  
**Address:** 3993 Howard Hughes Pkwy.  
Suite 100  
Las Vegas, Nevada 89169  
Attn: Pat Dorn  
Phone: (702) 691-2210  
Fax: (702) 691-2236

ACTUANT CORPORATION

By: /s/ Terry M. Braatz  
Name: Terry M. Braatz  
Title: Treasurer  
**Address:** 13000 W Silver Spring Road  
Milwaukee, WI 53007  
Attn: Terry M. Braatz  
Phone: 262-373-7437  
Fax: 262-790-6820

[Signature Page to Amendment No. 2 to A&R Receivables Purchase Agreement]

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WACHOVIA BANK, NATIONAL ASSOCIATION, as Purchaser and as Agent

By: /s/ Michael J. Landry  
Name: Michael J. Landry  
Title: Vice President

[Signature Page to Amendment No. 2 to A&R Receivables Purchase Agreement]

## CERTIFICATION

I, Robert C. Arzbaecher, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Actuant Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting

Date: April 9, 2009

/s/ Robert C. Arzbaecher

Robert C. Arzbaecher  
Chairman, Chief Executive Officer and President

## CERTIFICATION

I, Andrew G. Lampereur, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Actuant Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting

Date: April 9, 2009

/s/ Andrew G. Lampereur

Andrew G. Lampereur  
Executive Vice President and Chief Financial Officer

## WRITTEN STATEMENT OF THE CHIEF EXECUTIVE OFFICER

Pursuant to 18 U.S.C. ss.1350, I, the undersigned Chairman, Chief Executive Officer and President of Actuant Corporation (the "Company"), hereby certify, based on my knowledge, that the Quarterly Report on Form 10-Q of the Company for the quarterly period ended February 28, 2009 (the "Report") fully complies with the requirements of Sections 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company as of and for the periods covered in the Report.

Date: April 9, 2009

/s/ Robert C. Arzbaecher

Robert C. Arzbaecher

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to Actuant Corporation and will be retained by Actuant Corporation and furnished to the Securities and Exchange Commission or its staff upon request.

The foregoing certification is being furnished to the Securities and Exchange Commission as an exhibit to the Form 10-Q and shall not be considered filed as part of the Form 10-Q.

## WRITTEN STATEMENT OF THE CHIEF FINANCIAL OFFICER

Pursuant to 18 U.S.C. ss.1350, I, the undersigned Executive Vice President and Chief Financial Officer of Actuant Corporation (the "Company"), hereby certify, based on my knowledge, that the Quarterly Report on Form 10-Q of the Company for the quarterly period ended February 28, 2009 (the "Report") fully complies with the requirements of Sections 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company as of and for the periods covered in the Report.

Date: April 9, 2009

/s/ Andrew G. Lampereur

Andrew G. Lampereur

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to Actuant Corporation and will be retained by Actuant Corporation and furnished to the Securities and Exchange Commission or its staff upon request.

The foregoing certification is being furnished to the Securities and Exchange Commission as an exhibit to the Form 10-Q and shall not be considered filed as part of the Form 10-Q.