

843247

LEASE AGREEMENT

CHICAGO TITLE INSURANCE COMPANY  
INDIANA DIVISION

THIS LEASE, made and entered into as of the 18th day of February,  
19 86, by and between Donald E. Keller and Frances Keller,  
hereinafter referred to as "Landlord", and Tri-State Industries, Inc.

hereinafter referred to as "Tenant", WITNESSETH THAT:

Landlord is the owner of a Commercial Building located in 1215 Birch  
Drive, Schererville, IN 46375, described as:

Lot 3, Schuyler's Industrial Park Add., Unit One, in the Town of Schererville, as  
shown in Plat Book 46, Page 138, in Lake County, Indiana.

STATE OF INDIANA  
LAKE COUNTY  
RECORDER  
FEB 23 1 25 PM '86  
RUDOLPH OLAY  
RECORDER

ARTICLE I

Lease of the Premises

Section 1.1 The Demise. Landlord hereby leases to Tenant and Tenant  
hereby leases from Landlord, upon and subject to the terms, and provisions of this  
lease, ~~the store premises indicated above as~~ \_\_\_\_\_,  
WITH a frontage of \_\_\_\_\_ feet and a depth of \_\_\_\_\_ feet,  
and which store premises will be referred to hereinafter as the "Demised  
Premises".

Section 1.2 Commercial Building Defined. The term "Commercial  
Building" whenever used herein shall mean the entire development, including any  
and all proposed structures, parking facilities, common facilities and the like to  
be built on the property described above or on adjoining property controlled or  
owned or hereafter controlled or acquired by Landlord.

ARTICLE II

Term

Section 2.1 The Demised Term. The term of this lease is for a period  
of 21 years, which shall be hereinafter referred to as the "Demised  
Term". The beginning date of the Demised Term shall be February 1, 1986,  
and ending on January 31, 2007.

ARTICLE III

Rent

Section 3.1 Fixed Rent. Tenant agrees to pay to Landlord, at 1215  
Birch Drive, Schererville, IN, or at such place or places as Landlord shall  
designate from time to time in writing, rent for the Demised Premises as follows:

A fixed annual rent of Thirty Six Thousand and NO/100 Dollars  
payable in advance in equal successive monthly installments of \$3,000.00  
on the first day of every calendar month during the term of this lease. Tenant  
shall not be obligated to pay any rent until the beginning of the lease term, or  
until the Tenant opens his store for business, whichever is the earlier. A late  
penalty of \$50.00 will be assessed if monthly rent has not been paid  
within five (5) days after due date.

For Assignment of Lease See Doc. No. 843248

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ARTICLE IV

Operation and Maintenance of Common Area

Section 4.1 Common Area. The "Common Area" shall be defined as all that portion of the area within the outer property limits of the Commercial Building designed for common use and benefit, exclusive of space in building (or any future buildings) designed for rental to tenants for commercial purposes, as the same may exist from time to time, and exclusive of roads or highways maintained by a public authority.

Section 4.2 Use of Common Area. Landlord hereby grants to Tenant, its employees, agents, customers and invitees, the non-exclusive right during the Demised Term and any extension thereof to use the parking areas and other Common Area as from time to time constituted, such use to be in common with Landlord and all tenants of Landlord from time to time, its and their employees, agents, customers and invitees. No portion of the parking areas, sidewalks or other Common Area shall be used by Landlord, Tenant, other tenants of the Commercial Building or others for any purpose whatsoever other than, or that would interfere with, pedestrian and vehicular traffic and customer parking, without the prior consent of Landlord.

Section 4.3 Operation and Maintenance. Landlord agrees to manage, operate, repair and maintain all parking areas, access roads, drainage, and lighting facilities, within the Common Area and keep the same reasonably free of snow and ice.

ARTICLE V

Public Utilities

Section 5.1 Utility Services to the Premises. Landlord will, at its expense, provide the necessary mains and conduits to furnish water, gas, telephone, electricity and sewer service to the premises, and Tenant shall pay all regular and ordinary charges for gas, telephone, electricity and other utility services used on the premises by Tenant.

Section 5.2 Maintenance of Equipment. All utility equipment including heating plant, air conditioning, electric, gas, water and plumbing equipment whether installed by Landlord or Tenant, shall be maintained and kept in proper working condition by Tenant, except for defects in manufacture or installation of substantial replacement of any such equipment or units made necessary or desirable because of deterioration, obsolescence or inadequacy, such replacements being made by Landlord at the sole cost and expense of Landlord.

ARTICLE VI

Use

Section 6.1 Business Use. The Demised Premises are to be used and occupied for the operation of manufacturing selling such commodities as are commonly sold in such stores from time to time, and for no other purpose without written consent of Landlord. Landlord agrees not to rent or lease to another Tenant in direct competition during the Term of this lease.

Section 6.2 Operation of Premises. Tenant shall promptly comply with all laws, ordinances and regulations affecting the premises and promulgated by duly constituted governmental authority affecting the cleanliness, safety, use and occupation of the premises, except such laws, ordinances or regulations as may require structural alteration of the premises, which alterations are to be made by Landlord.

Section 6.3 Right to Use Premises. It is a condition of this lease that the Demised Premises are free and shall remain free from any restrictions of any sort against Tenant's occupancy and use of the Demised Premises in the manner herein provided.

## ARTICLE VII

### Repairs

Section 7.1 Landlord's Repairs. Landlord shall keep the foundation, exterior walls, including door frames and window frames, roof, downspouts and gutters, and all structural parts of the building in good repair; and, if necessary or required by proper governmental authority, make modifications or replacements thereof, except that Landlord shall not be required to pay for any such repairs or replacements which become necessary by reason of the negligence of Tenant, its agents, servants, or employees, unless covered by insurance against such hazard however it may be caused.

Section 7.2 Tenant's Repairs. All repairs, replacements, or improvements to the Demised Premises which are not the obligation of Landlord shall be made by Tenant, and the same shall at all times be kept in good order, condition and repair by Tenant, and in a clean, sanitary and safe condition in accordance with all applicable laws, ordinances and regulations of any governmental authority having jurisdiction.

Section 7.3 Plate Glass. Tenant shall forthwith at its own cost and expense replace any cracked or broken glass, including plate glass, and any glass in interior or exterior windows and doors in the premises; provided, however, that Landlord will replace any glass that is cracked or broken by settling of the building or by any casualty covered by fire and extended coverage or other insurance of the Landlord.

## ARTICLE VIII

### Signs and Alterations

Section 8.1 Signs. The cost of installing, maintaining, changing and removing any signs upon the Demised Premises shall be borne by Tenant. Tenant shall obtain Landlord's approval as to design, location and manner of installation prior to placing any sign on the Demised Premises. Common area sign shall be maintained by Landlord.

Section 8.2 Alterations. No structural changes, additions, or substantial alterations shall be made to said building by Tenant without the written consent of Landlord. Tenant shall have the right, at its own expense, to place or install within the Demised Premises such fixtures, partitions, equipment and trade fixtures, together with any additional painting or minor alterations in the Demised Premises which Tenant may find necessary or deem desirable, for all of which Landlord hereby consents. It is further covenanted and agreed that all fixtures, partitions, equipment, trade fixtures, alterations, or changes, installed by Tenant shall be and remain personal property, regardless of the manner of their annexation, and shall be removed by Tenant at the termination of this lease or any extension thereof. Any damage to the Demised Premises caused by the removal thereof shall be repaired by Tenant.

## ARTICLE IX

### Indemnity and Insurance

Section 9.1 General Indemnity. Tenant agrees to indemnify and save harmless the Landlord against and from any and all claims by or on behalf of any person or persons, firm or firms, corporation or corporations, arising from any breach or default in the performance of any covenant or agreement on its part to be performed under this lease. Tenant agrees to indemnify Landlord against all damages, claims and liability arising from any accident or injury whatsoever caused to any person, firm or corporation during the Demised Term or any extension thereof in the Demised Premises. The indemnification herein provided shall include all costs, counsel fees, expenses and liabilities incurred in connection with any such claim or action or proceeding brought thereon. Tenant agrees to pay and to indemnify the Landlord for all legal costs and charges, including counsel fees, lawfully and reasonably incurred in enforcing any covenant contained in this lease.

Section 9.2 Mechanics' Liens. Tenant shall indemnify and save Landlord harmless from all mechanics', materialmen's, or other liens against the Demised Premises claimed in respect of any labor, services, materials, supplies or equipment furnished to or upon the request of Tenant other than those items to be furnished by Landlord.

Section 9.3 Replacement Insurance. Landlord, throughout the Demised Term and any extensions thereof, shall keep the building in which the Demised Premises are located insured against loss or damage by fire and such other risks as are usually and customarily covered by extended coverage endorsements for the full insurable value thereof. If such insurance shall become unavailable at any time, the most nearly comparable type of insurance shall be obtained.

Section 9.4 Public Liability Insurance For Demised Premises. Tenant agrees to procure and maintain during the Demised Term and any extension thereof a policy or policies of insurance written by a responsible insurance company or companies (which may be written to include the Demised Premises in conjunction with other premises owned or operated by Tenant) assuring Landlord and Tenant from any and all losses, claims, demands or actions for injury to or death of any one person to the limit of not less than \$100,000, and for injury to or death of more than one person in any one accident or occurrence to the limit of not less than \$300,000, and for damage to property in an amount not less than \$25,000, made by or on behalf of any person, firm or corporation arising from, related to, or connected with the conduct and operation of Tenant's business in the Demised Premises, and to furnish to Landlord upon reasonable request, certificates evidencing the existence thereof.

#### ARTICLE X

##### Damage by Fire or Other Casualty

Section 10.1 Partial or Total Destruction of Building. In case the building comprising the leased area of the Commercial Building shall be partially or totally destroyed by fire, explosion or other casualty insurable under standard fire and extended coverage insurance so as to become partially or totally untenable, the same shall be repaired as speedily as possible at the expense of Landlord, unless Landlord shall elect not to rebuild as hereinafter provided, and a just and proportionate part of the rent shall be abated until so repaired. In case the building comprising the leased area of the Commercial Building shall be destroyed or so damaged by fire or other casualty as to render more than fifty per cent (50%) thereof untenable, the Landlord may, by notice in writing within thirty (30) days after such destruction or damage, elect not to rebuild and restore said building and thereby terminate this lease. If Landlord elects to rebuild or restore said building, it shall, within said thirty (30) day period, give Tenant notice in writing of its intention so to do and proceed with the rebuilding and restoration as promptly as possible, and a proportionate part of the rent shall be abated until so repaired and restored to its original condition.

Section 10.2 Rights on Termination. In the event of the termination of this lease under the provisions of this Article contained, all rents shall be adjusted to the date of such damage or destruction and all liabilities and obligations under this lease shall be immediately terminated, provided that Tenant shall be given a reasonable opportunity to remove its property from the Demised Premises.

#### ARTICLE XI

##### Remedies

Section 11.1 Defaults. Landlord may terminate this lease and the term demised upon the happening of any one or more of the following events: (a) the making by Tenant of an assignment for the benefit of its creditors; (b) the levying or a writ of execution or attachment on or against the Demised Premises as the property of Tenant and the same not released or discharged within ninety (90) days thereafter; (c) institution of proceedings in a court of competent jurisdiction for the reorganization, liquidation or involuntary dissolution of Tenant, or for its adjudication as a bankrupt or insolvent, or for the appointment of a receiver of the property of Tenant, and said proceedings are not dismissed,

and any receiver, trustee or liquidator appointed therein discharged, within ninety (90) days after the institution of said proceedings; (d) the doing by Tenant of any act which creates a mechanic's lien or claim therefor against the land or building of which the Demised Premises are a part and the same not released, or otherwise provided for by indemnification, within thirty (30) days after written notice thereof first given to Tenant by Landlord; or (e) the failure of Tenant to pay an installment of rent within ten (10) days after written notice, or to perform any other of its covenants under this lease within thirty (30) days after written notice. In the event of any breach of any covenant by Tenant which cannot be cured within thirty (30) days, Tenant shall not be deemed to be in default if Tenant shall have commenced appropriate action to cure such default within said thirty (30) days and shall be diligently pursuing the same.

Section 11.2 Re-entry. Upon termination of the estate as aforesaid, Landlord may re-enter the Demised Premises with or without process of law, using such force as may be necessary, and remove all persons and property therefrom and Landlord shall not be liable for damages or otherwise by reason of re-entry or termination of the term of this lease.

Section 11.3 Advances. In the event of any breach hereunder by Tenant, Landlord may, after thirty (30) days' written notice, cure such breach for the account and at the expense of Tenant. In the event of any breach hereunder by Landlord, Tenant may, after thirty (30) days' written notice, cure such breach for the account and at the expense of Landlord. If either Landlord or Tenant at any time, by reason of such breach, is compelled to pay or elects to pay any sum of money or do any act which will require the payment of any sum of money, or is compelled to incur any expense, including reasonable attorney's fees, court costs, and without relief from valuation and appraisal laws, in institution or prosecuting any action or proceeding to cure any default of the other or to enforce their rights hereunder, the sum or sums so paid shall be reimbursed by either Tenant or Landlord, as the case may be, on the first day of the month following the payment of such respective sums or expenses.

Section 11.4 Emergency Repairs. In the event of the necessity of repairs to the Demised Premises which are the obligation of the Landlord which must be made immediately in order to preserve the tenantable condition of the Demised Premises and Tenant is unable to immediately contact Landlord, or Landlord, having been contacted, fails to make immediate repairs, Tenant may make such repairs for the account and at the expense of Landlord. In such event, Tenant shall be entitled to reimbursement in the same manner as provided in Section 11.3.

## ARTICLE XII

### Subordination

Section 12.1 Subordination to Mortgage. Landlord reserves the right to subject and subordinate this lease at all times to the lien of any mortgage or mortgages hereafter placed upon Landlord's interest in the said premises and on the land and buildings of which the Demised Premises is a part; provided, however, any such mortgage shall recognize this lease in the event of foreclosure if Tenant is not in default; and, provided further that Tenant shall in no event be liable for the repayment of any part of such mortgage. In the event that any such mortgagee wishes to have the lease be prior to its mortgage, this lease shall be deemed a prior encumbrance, regardless of the respective dates of this lease and such mortgage, if such mortgagee shall so notify Tenant in writing within thirty (30) days of the execution of any such mortgage.

## ARTIICLE XIII

### Assignment and Subletting

Section 13.1 Tenant May Not Assign or Sublet. Tenant may not assign or

transfer this lease or sublet the Demised Premises, or any part or parts thereof, without the previous consent of Landlord.

#### ARTICLE XIV

##### Taxes

Section 14.1 Real Estate Taxes. Landlord shall pay all real estate taxes and special assessments levied against all or any part of the Commercial Building including all of its improvements except that in any year that the real estate taxes on the entire Commercial Building exceed \$           N/A           such excess shall be paid by the tenants on a pro-rata basis relating to the number of square feet occupied by each tenant in the Commercial Building.

Section 14.2 Taxes on Tenant's Property. Tenant shall pay all taxes levied against its personal property located within the Commercial Building.

#### ARTICLE XV

##### Access to Premises

Section 15.1 Inspection and Repairs. Landlord shall have the right to enter upon the Demised Premises at all reasonable hours for the purpose of inspecting the same or of making repairs, additions or alterations thereto, or to the building in which the same are located, or for the purpose of exhibiting the same to prospective purchasers or mortgagees.

#### ARTICLE XVI

##### Notices

Section 16.1 Manner of Giving. Whenever under this lease a provision is made for notice of any kind, such notice shall be in writing and signed by or on behalf of the party giving or making the same, and it shall be deemed sufficient notice and service thereof if such notice is to Tenant and sent by registered or certified mail, postage prepaid, to the general office of Tenant or to the last post office address of Tenant furnished to Landlord for such purpose; and, if to Landlord, sent by registered or certified mail, postage prepaid, to Landlord at the address furnished for such purpose, or to the place then fixed for the payment of rent. Employees of Tenant at the Demised Premises are not authorized to receive any such notice on behalf of Tenant. If Landlord is more than one person, notice need be sent to only one (1) Landlord.

#### ARTICLE XVII

##### Surrender of Possession

Section 17.1 Surrender in Good Condition. At the expiration of the tenancy created hereunder, whether by lapse of time or otherwise, Tenant shall surrender the Demised Premises in reasonably good condition and repair, reasonable wear and tear, loss by fire or other casualty, and acts of God excepted.

Section 17.2 Holding Over. In the event Tenant remains in possession of the Demised Premises with the consent of Landlord after the expiration of the tenancy created hereunder, and without the execution of a new lease or an extension of this lease, it shall be deemed to be occupying said premises as a tenant from month-to-month at a rental to be agreed upon by the parties and subject to all the other conditions, provisions and obligations of this lease insofar as the same are applicable to a month-to-month tenancy.

#### ARTICLE XVIII

##### Quiet Enjoyment

Section 18.1 Landlord's Warranty. Landlord warrants that Tenant, upon making the payments and performing and keeping the other covenants and agreements

of this lease on its part to be kept and performed, shall have peaceful and quiet possession of the Demised Premises during the term of this lease and any extension thereof, free from any molestation or hinderance whatsoever.

#### ARTICLE XIX

##### Security Deposit

Section 19.1 Tenant concurrently with the execution of this lease, deposits with the Landlord the sum of NONE

the receipt of which is hereby acknowledged, which sum shall be retained by the Landlord as security for faithful performance of the covenants, terms, rules and regulations of this lease. If at any time the Tenant shall be in default in any other provision of this lease or shall vacate the premises prior to the date of expiration of this lease, the said deposit as security shall be considered to be minimum damages and/or expenses resulting from the default or vacation of the premises by the Tenant. It is hereby understood and agreed the security deposit is not an advance payment of or on the account of the last month's rent or any installment thereof. Said sum shall not bear interest. Should all the provisions of this lease be satisfactorily performed, then said deposit shall be returned to the Tenant at the termination of this lease, subject however to the terms and conditions described in the conditions regarding the vacating of the premises.

#### ARTICLE XX

##### General Provisions

Section 20.1 Relationship of the Parties. Nothing herein contained shall be deemed or construed by the parties hereto nor by any third party as creating the relationship of principal and agent, partnership or joint venture between the parties hereto, it being understood and agreed that neither the method of computation of rent nor any other provision contained herein nor any acts of the parties hereto shall be deemed to create any relationship between the parties hereto other than the relationship of Landlord and Tenant.

Section 20.2 Remedies Cumulative Non-Waiver. The various rights and remedies herein contained and reserved to each of the parties shall not be considered as exclusive of any other right or remedy of such party, but shall be construed as cumulative and shall be in addition to every other remedy now or hereafter existing at law, in equity, or by statute, said rights and remedies may be exercised and enforced concurrently and whenever and as often as occasion therefor arises. No delay or omission of the right to exercise any power by either party shall impair any such right or power, or shall be construed as a waiver of any default or as acquiescence therein. One or more waivers of any covenant, term or condition of this lease by either party shall not be construed by the other party as a waiver of a subsequent or continuing breach of the same covenant, term or condition. The consent or approval by either party to or of any act by the other party of a nature requiring consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act.

Section 20.3 Law Governs. The laws of the State of Indiana shall govern the validity, performance and enforcement of this lease. The invalidity or unenforceability of any provision of this lease shall not affect or impair any other provision.

Section 20.4 Complete Agreement. The headings of the several Articles and Sections contained herein are for convenience only and do not define, limit or construe the contents of such Articles and Sections. All negotiations, considerations, representations and understandings between the parties are incorporated herein, and may be modified or altered only by agreement in writing signed by the parties to be bound.

Section 20.5 Consents Not Unreasonably Withheld. Whenever provision is made in this lease for either party to secure the consent or approval of the other, such consent or approval shall not be unreasonably withheld.

Section 20.6 Construction of Terms. Whenever the singular or plural number, or masculine, feminine or neuter gender is used herein, it shall equally include the other, and the terms and provisions of this instrument shall be construed accordingly.

Section 20.7 Agreement Binding on Successors. The covenants, agreements and obligations herein contained shall extend to, bind and inure to the benefit not only of the parties hereto but their respective personal representatives, heirs, successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Lease Agreement in several counterparts, each of which shall be deemed an original instrument, as of the day and year first above written.

LANDLORD

By: Donald E. Keller  
Donald E. Keller

TENANT

TRI-STATE INDUSTRIES, INC.

By: Donald E. Keller  
Donald E. Keller, President

BY: Frances Keller  
Frances Keller

By: \_\_\_\_\_

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF LAKE )

The undersigned, a Notary Public in and for said County in the State aforesaid, does hereby certify that Donald E. Keller and Frances Keller, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they signed and delivered said instrument as their free and voluntary act of the aforesaid Corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 18th day of February, 1986.

Signed: Lucila Cantu  
Notary Public

Print: Lucila Cantu

My Commission Expires: 2/12/88

My County of Residence: Lake

THIS INSTRUMENT WAS PREPARED BY

Donald E. Keller