

2942785

December 31, 1998

(1) SupplyTech International LLC

(2) API Systems Limited

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BUSINESS SALE AGREEMENT

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abc

SOLICITORS

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THIS BUSINESS SALE AGREEMENT ("Agreement") is made the 31st day of December, 1998  
BETWEEN



- (1) SupplyTech International LLC, a Michigan limited liability company with a branch office located at 10-12 Frederick Sanger Road, Surrey Research Park, Guildford, Surrey ("the Vendor"); and
- (2) API Systems Limited, incorporated in England and Wales with registered number 2942785, whose registered office is at 5 Great College Street, Westminster, London, SW1P3SJ ("the Purchaser").

**WHEREAS**

The Vendor has carried on and is carrying on the Business as defined in Clause 1 and has agreed to sell the assets of the Business to the Purchaser on the terms and conditions of this Agreement.

NOW IT IS HEREBY AGREED as follows:

**1 Interpretation**

- 1.1 In this Agreement unless the context otherwise requires the following words and expressions shall have the following meanings:

"the Assets"	means all the undertaking and assets of the Vendor relating to or used in the Business including (without limitation) those assets and rights referred to in Clause 2;
"the Business"	means all of the business and activities of the Vendor's United Kingdom branch registered with the Registrar of Companies under Company No FC 018982 and Branch No BR003256;
"Completion"	means the completion of the sale and purchase in accordance with the provisions of Clause 4;
"the Contracts"	means the contracts and engagements of the Vendor entered into in the course of the Business which remain to be performed (in

whole or in part) by the Vendor at the Transfer Date but excluding contracts with employees;

“the Employees” means all the persons engaged in the Business on the Transfer Date;

“the Leasehold Property” means Units 10 and 12, Frederick Sanger Road, Surrey Research Park, Guilford, Surrey, GU25YD;

“the Liabilities” means all the liabilities and obligations of the Vendor in connection with the Business;

“the Transfer Date” means the close of business on the date on which this Agreement is executed.

1.2 References to clauses are references to clauses of this Agreement and references to sub-clauses are, unless otherwise stated, references to sub-clauses of the clause in which the reference appears.

1.3 The headings are inserted for convenience only and shall not affect the construction of this Agreement.

## **2 Sale and Purchase**

2.1 Subject to the terms of this Agreement the Vendor shall sell with full title guarantee and the Purchaser shall purchase with effect from the Transfer Date the Business as a going concern comprising the following Assets:

- (i) the goodwill of the Vendor in relation to the Business;
- (ii) the Leasehold Property;
- (iii) the plant machinery vehicles and equipment of the Vendor used in the Business;
- (iv) the book and other debts due to the Vendor at the Transfer Date and the benefit of all securities for any such debts and the benefit of all payments in advance;
- (v) the stocks and work-in progress of the Business at the Transfer Date;
- (vi) all intellectual property rights owned or used by the Vendor in relation to the Business;
- (vii) the benefit (subject to the burden) of the Contracts;

- (viii) all the records, lists of customers, books, accounts and other documents relating to the Business or the Assets whether electronically or magnetically or otherwise stored or recorded;
- (ix) all rights and claims of the Vendor against third parties with respect to the Business (including without limitation) all rights in connection with insurance policies held by the Vendor subject to the consent of the relevant insurance companies) so far as the Vendor can assign the same;
- (x) all other (if any) assets of the Vendor of whatsoever nature existing or arising in connection with the Business.

### **3 Consideration**

3.1 The purchase price for the Assets ("the Consideration") shall be

- (i) the sum equal to the aggregate value of the Assets less the aggregate value of the Liabilities determined in each case by the books of account of the Vendor at the Transfer Date; and
- (ii) the assumption by the Purchaser of the Liabilities in accordance with this Agreement.

3.2 The Consideration shall be satisfied by the issuance by the Purchaser to the Vendor of shares of the capital of the Purchaser ("the Consideration Shares") of equal value.

### **4 Completion**

4.1 Completion shall take place on the Transfer Date when the Vendor shall deliver to the Purchaser:

- (i) vacant possession of the Leasehold Property;
- (ii) full management and control of the Business;
- (iii) all the physical assets comprised in the Assets; and
- (iv) the written consent of any mortgagee or other person whose consent is required for the sale of any of the Assets.

4.2 The Purchaser may, in its absolute discretion, waive any requirement contained in clause 4.1 of this Agreement.

4.3 Risk and property in and title to the Assets shall pass to the Purchaser on the Transfer Date.

- 4.4 The Vendor shall on or as soon as practicable after the Transfer Date deliver to the Purchaser all transfers assignments and novations (if necessary) of the Assets (including the Property) together with the relevant documents of title necessary to give effect to this Agreement.
- 4.5 Following completion of the matters referred to above, the Purchaser shall procure that the Consideration Shares are issued to the Vendor and deliver to the Vendor Share Certificates for the Consideration Shares (such Consideration Shares to be held in accordance with and subject to the Memorandum and Articles of Association of the Purchaser).

## **5 Leasehold Property**

If, as at the Transfer Date, the consent of the University of Surrey to the assignment of the Leasehold Property from the Vendor to the Purchaser has not yet been obtained then both parties shall use their reasonable endeavours to obtain such consent at which time the Vendor shall assign the Leasehold Property to the Purchaser.

## **6 Liabilities**

- 6.1 The Purchaser agrees to purchase the Business subject to and to assume and discharge all debts owing by the Vendor in respect of the Business and all other liabilities of the Business subsisting as at the Transfer Date (including the Contracts) and the Purchaser agrees to indemnify the Vendor against all claims demands actions or other proceedings in respect of such debts or liabilities.

## **7 Value Added Tax**

- 7.1 The parties intend that Section 49 Value Added Tax 1994 ("Section 49") and the Value Added Tax (Special Pensions) Order 1995 Article 5 as amended ("Article 5") shall apply to the transfer of the Business and the parties shall use all reasonable endeavours to secure that, pursuant to Section 49 and Article 5, the sale of the Business is treated as neither a supply of goods nor a supply of services for the purposes of Value Added Tax.
- 7.2 The Vendor shall on Completion deliver to the Purchaser all the records of the Business for Value Added Tax purposes referred to in Section 49.
- 7.3 The Purchaser shall for a period of not less than six years from the Transfer Date preserve the Records delivered to it by the Vendor and, upon reasonable notice, make them available to the Vendor or its agents during normal business hours.

## **8 Further Assurance and Contracts**

8.1 The Vendor agrees and declares that it will after and notwithstanding completion of the sale and purchase under this agreement execute and deliver any other documents and take any other steps as shall reasonably be required from time to time by the Purchaser to vest in the Purchaser or as it may direct the Business and the Assets.

8.2 Subject always to clause 7.3 below, the Purchaser shall after Completion carry out and complete for its own account the Contracts to the extent that the same have not been performed prior to Completion.

8.3 Insofar as the benefit of the Contracts cannot effectively be transferred by the Vendor to the Purchaser except by way of an agreement of novation with or consent to the assignment from the person, firm or company concerned:

(i) the Vendor and the Purchaser shall (if the Purchaser so requires and at the expense of the Purchaser) cooperate to do everything they reasonably can to procure the Contracts to be novated or assigned as aforesaid as soon as reasonably practicable;

(ii) in the case of any assignment as aforesaid, the Purchaser shall undertake to indemnify the Vendor against all costs, claims, liabilities and expenses arising by reason of or in connection with the non-performance or the defective or negligent performance by the Purchaser of the Contracts following such assignment; and

(iii) unless and until any such Contracts shall be novated or assigned as aforesaid, the Vendor shall hold the benefit of the said Contracts in trust for the Purchaser and shall account to the Purchaser accordingly in respect of any sums or other benefits received by the Vendor in respect thereof and otherwise act at the direction of the Purchaser and as its agent in all matters relating thereto subject to the Purchaser indemnifying and holding the Vendor harmless against any action, claim, demand, proceeding, damage, expense, charge, liability, cost or loss which the Vendor may have made or brought against it or suffer or incur as a consequence.

## **9 Employees**

9.1 The Vendor and the Purchaser hereby acknowledge that the Employees shall become employed by the Purchaser on Completion in accordance with and as provided by the Transfer of Undertakings (Protection of Employment) Regulations 1981 ("the Regulations").

## **10 General**

10.1 This Agreement shall not be assignable by either party hereto without the prior written consent of the other.

- 10.2 The provisions of this Agreement insofar as the same shall not have been performed at Completion shall remain in full force and effect notwithstanding Completion.
- 10.3 This Agreement constitutes the entire agreement between the parties in relation to the subject matter hereof and shall be in substitution for all prior understandings, agreements or arrangements (if any) between the parties in relation to the subject matter in this Agreement.
- 10.4 Each party shall pay the costs and expenses incurred by it in connection with the entering into and completion of this Agreement.

**11 Notices**

- 11.1 Any notice to be given hereunder shall be in writing and shall be delivered personally or sent by fax or registered post to the address of the addressee as set out in this Agreement. Any such notice shall be deemed to have been served if delivered personally at the time of delivery, or if delivered by fax 24 hours after despatch or if sent by post 48 hours after the same was posted. In proving service by post it shall be sufficient to prove that the letter containing the notice was properly addressed and stamped and posted.

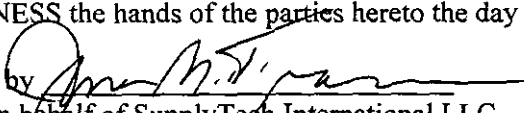
**12 Further Assurance**

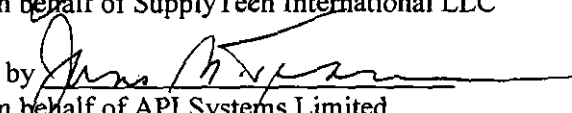
- 12.1 The Vendor and the Purchaser shall and shall use their best endeavours to procure that any necessary third party shall do and execute and perform such further deeds documents assurances acts and things as either of them may reasonably require to give effect to the terms of this Agreement.

**13 Applicable Law**

- 13.1 This Agreement shall be subject to and construed in accordance with English Law.

AS WITNESS the hands of the parties hereto the day and year first before written

SIGNED by   
for and on behalf of SupplyTech International LLC

SIGNED by   
for and on behalf of API Systems Limited