

BRUSH ENGINEERED MATERIALS INC

FORM 8-K (Unscheduled Material Events)

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Address	17876 ST. CLAIR AVE. CLEVELAND, Ohio 44110
Telephone	216-383-4062
CIK	0001104657
Industry	Metal Mining
Sector	Basic Materials
Fiscal Year	12/31

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of Earliest Event Reported):

April 29, 2005

Brush Engineered Materials Inc.

(Exact name of registrant as specified in its charter)

Ohio

001-15885

34-1919973

(State or other jurisdiction
of incorporation)

(Commission
File Number)

(I.R.S. Employer
Identification No.)

17876 St. Clair Avenue, Cleveland, Ohio

44110

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code:

216-486-4200

N/A

Former name or former address, if changed since last report

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 1.01. Entry into a Material Definitive Agreement.

On May 3, 2005, Brush Engineered Materials Inc. (the "Company") entered into updated indemnification agreements with its directors, executive officers and key employees.

The form indemnification agreements for directors and executive officers require the Company to indemnify each director and executive officer against certain liabilities that may arise by reason of the individual's status as a director and/or officer of the Company, to advance expenses incurred as a result of a proceeding as to which the individual may be indemnified and to cover such individual under any directors' and officers' liability policy the Company chooses to maintain. The form indemnification agreements are intended to provide indemnification rights to the fullest extent permitted under applicable indemnification rights statutes in the State of Ohio and shall be in addition to any other rights the directors and officers may have under the Company's Amended and Restated Articles of Incorporation, Amended and Restated Code of Regulations and applicable law.

The forms of indemnification agreements for directors and executive officers are being filed as Exhibits 10.1 and 10.2, respectively, to this Form 8-K and are incorporated herein by reference.

The Company also approved new forms of severance agreements for future use for officers and key employees. As described below under Item 5.02, the Company entered into a severance agreement with Mr. Hipple, in connection with his appointment as President and Chief Operating Officer of the Company. These new severance agreements, which includes Mr. Hipple's severance agreement, were updated to include language with regard to the Jobs Creation Act of 2004.

For a description of the terms of the form severance agreement for executive officers, see the description of the Severance Agreement (as defined below) described under Item 5.02 of this Current Report on Form 8-K and incorporated into this Item 1.01 by reference. The terms of the severance agreement for key employees are identical to the terms of the severance agreement for executive officers except that key employees are eligible to receive a lump sum payment of two times versus three times of certain compensation and benefits.

The forms of severance agreements for executive officers and key employees are being filed as Exhibits 10.3 and 10.4, respectively, to this Form 8-K and are incorporated herein by reference.

Item 5.02. Departure of Directors or Principal Officers; Election of Directors; Appointment of Principal Officers.

Effective May 3, 2005, Richard J. Hipple, 52, was appointed President and Chief Operating Officer of Brush Engineered Materials Inc.

Mr. Hipple joined Brush Wellman in July 2001 and served as its Vice President of Strip Products from July 2001 until May 2002 at which time he was promoted to President of Alloy Products. Prior to joining Brush, Mr. Hipple was President of LTV Steel Company, a business unit of The LTV Corporation. Prior to running LTV's steel business, Mr. Hipple held numerous positions at LTV in Engineering, Strategic Planning and Procurement since 1975. LTV filed for chapter 11 bankruptcy protection in December of 2000.

The Company has entered into a severance agreement with Mr. Hipple effective as of May 3, 2005 (the "Severance Agreement"). Upon a "change in control" of the Company as defined in the Severance Agreement, Mr. Hipple's employment is terminated by the Company or one of its affiliates except for cause, or he resigns within one month after the first anniversary of the change, or the nature and scope of his duties worsens or certain other adverse changes occur and the Board of Directors so decides, then severance benefits will apply. Severance benefits include rights to a lump sum payment of three times salary; incentive compensation; cash in lieu of benefits under the Company's Supplemental Retirement Benefit Plan; any special awards; the continuation of retiree medical and life insurance benefits for three years; and a lump sum payment equal to the sum of the present value of any bonus he would have received under any long-term incentive plan (assuming attainment of the plan target rate), any retirement benefits he would have earned during the next three years and the cash value of certain other benefits. All equity incentive awards would vest, and all stock options become fully exercisable, if the severance benefits are applicable. A termination or demotion following the commencement of discussions with a third party which ultimately result in a change in control will also activate severance benefits. Payments and benefits under the Severance Agreement are subject to reduction in order to avoid the application of the excise tax on "excess parachute payments" under the Internal Revenue Code, but only if the reduction would increase the net after-tax amount received by Mr. Hipple.

In connection with Mr. Hipple's new position, on April 29, 2005, the Organization and Compensation Committee of the Board of Directors of the Company awarded Mr. Hipple 8,000 stock options under the 1995 Stock Incentive Plan and 6,600 performance shares under the Long-Term Performance Shares Incentive Plan with a performance period of January 1, 2005 through December 31, 2007. Effective as of May 3, 2005, Mr. Hipple's base salary is \$325,000.

Effective May 3, 2005, Gordon D. Harnett, Chairman of the Board, President and Chief Executive Officer of the Company resigned as President of Brush Engineered Materials Inc., but will retain his positions as Chairman of the Board and Chief Executive Officer.

Item 8.01. Other Events.

On May 3, 2005, the Organization and Compensation Committee of the Board of Directors appointed Mr. John Sherwin, Jr. as Chairman of the Organization and Compensation Committee. Under the Company's Policy Statement of Significant Corporate Governance Issues, the Chairman of the Organization and Compensation Committee is also the lead director. Mr. Sherwin is replacing Mr. Madar as Chairman of the Organization and Compensation Committee and lead director. Mr. Madar will remain a member of the Organization and Compensation Committee.

Mr. Sherwin has been a member of the Company's Board of Directors since 1981 and currently serves on the Audit Committee, Organization and Compensation Committee and the Retirement Plan Review Committee. Mr. Keithley will replace Mr. Sherwin as Chairman of the Retirement Plan Review Committee effective May 3, 2005.

The lead independent director may call a meeting of the independent directors at any time. The lead independent director will supervise the conduct of the meetings of independent directors, will communicate the results of the meetings to the Chief Executive Officer, as appropriate, and will have other responsibilities which the independent directors may designate from time to time.

Item 9.01. Financial Statements and Exhibits.

- 10.1 Form of Indemnification Agreement for Directors
 - 10.2 Form of Indemnification Agreement for Executive Officers and key employees
 - 10.3 Form of Severance Agreement for Executive Officers
 - 10.4 Form of Severance Agreement for key employees
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SIGNATURES

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 hereunto duly authorized.

Brush Engineered Materials Inc.

May 5, 2005

By: Michael C. Hasychak

Name: Michael C. Hasychak

Title: Vice President, Treasurer and Secretary

Exhibit Index

Exhibit No.	Description
10.1	Form of Indemnification Agreement for Directors
10.2	Form of Indemnification Agreement for Executive Officers and Key Employees
10.3	Form of Severance Agreement for Executive Officers
10.4	Form of Severance Agreement for Key Employees

Exhibit 10.1

INDEMNIFICATION AGREEMENT

This Indemnification Agreement (this “Agreement”) is made as of the ____day of ____2005 by and between BRUSH ENGINEERED MATERIALS INC., an Ohio corporation (the “Company”), and ____ (the “Indemnatee”), a Director of the Company.

RECITALS

A. The Indemnatee is presently serving as a Director of the Company, and the Company desires the Indemnatee to continue in that capacity. The Indemnatee is willing, subject to certain conditions (including, without limitation, the execution and performance of this Agreement by the Company), to continue in that capacity.

B. In addition to the indemnification to which the Indemnatee is entitled under the Code of Regulations of the Company (the “Regulations”) or otherwise, the Company has obtained, at its sole expense, insurance protecting the Company and its Directors and officers including the Indemnatee against certain losses arising out of actual or threatened actions, suits, or proceedings to which such persons may be made or threatened to be made parties. However, as a result of circumstances having no relation to, and beyond the control of, the Company and the Indemnatee, there can be no assurance of the continuation or renewal of that insurance.

Accordingly, and in order to induce the Indemnatee to continue to serve in his present capacity, the Company and the Indemnatee agree as follows:

1. Continued Service. The Indemnatee shall continue to serve at the will of the Company as a Director of the Company so long as he is duly elected and qualified in accordance with the Regulations or until he resigns in writing in accordance with applicable law.
2. Initial Indemnity. (a) The Company shall indemnify the Indemnatee, if or when he is a party or is threatened to be made a party to any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Company), by reason of the fact that he is or was a Director or an officer of the Company or is or was serving at the request of the Company as a director, trustee, officer, employee, or agent of another corporation, domestic or foreign, nonprofit or for profit, partnership, joint venture, trust, or other enterprise, or by reason of any action alleged to have been taken or omitted in any such capacity, against any and all costs, charges, expenses (including, without limitation, fees and expenses of attorneys and/or others; all such costs, charges and expenses being herein jointly referred to as “Expenses”), judgments, fines and amounts paid in settlement, actually and reasonably incurred by the Indemnatee in connection therewith including any appeal of or from any judgment or decision, unless it is proved by clear and convincing evidence in a court of competent jurisdiction that the Indemnatee’s action or failure to act involved an act or omission undertaken with deliberate intent to cause injury to the Company or undertaken with reckless disregard for the best interests of the Company. In addition, with respect to any criminal action or proceeding, indemnification hereunder shall be made only if the Indemnatee had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the Indemnatee did not satisfy the foregoing standard of conduct to the extent

applicable thereto.

- (b) The Company shall indemnify the Indemnitee, if or when he is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding by or in the right of the Company to procure a judgment in its favor, by reason of the fact that the Indemnitee is or was a Director or an officer of the Company or is or was serving at the request of the Company as a director, trustee, officer, employee, or agent of another corporation, domestic or foreign, nonprofit or for profit, partnership, joint venture, trust, or other enterprise, against any and all Expenses actually and reasonably incurred by the Indemnitee in connection with the defense or settlement thereof or any appeal of or from any judgment or decision, unless it is proved by clear and convincing evidence in a court of competent jurisdiction that the Indemnitee's action or failure to act involved an act or omission undertaken with deliberate intent to cause injury to the Company or undertaken with reckless disregard for the best interests of the Company, except that no indemnification pursuant to this Section 2(b) shall be made in respect of any action or suit in which the only liability asserted against the Indemnitee is pursuant to Section 1701.95 of the Ohio Revised Code (the "ORC").
- (c) Any indemnification under Section 2(a) or 2(b) (unless ordered by a court) shall be made by the Company only as authorized in the specific case upon a determination that indemnification of the Indemnitee is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 2(a) or 2(b). Such authorization shall be made (i) by the Directors of the Company (the "Board") by a majority vote of a quorum consisting of Directors who were not and are not parties to or threatened with such action, suit, or proceeding, or (ii) if such a quorum of disinterested Directors is not obtainable or if a majority of such quorum so directs, in a written opinion by independent legal counsel (designated for such purpose by the Board) which shall not be an attorney, or a firm having associated with it an attorney, who has been retained by or who has performed services for the Company, or any person to be indemnified, within the five years preceding such determination, or (iii) by the shareholders of the Company (the "Shareholders"), or (iv) by the court in which such action, suit, or proceeding was brought.
- (d) To the extent that the Indemnitee has been successful on the merits or otherwise, including, without limitation, the dismissal of an action without prejudice, in defense of any action, suit, or proceeding referred to in Section 2(a) or 2(b), or in defense of any claim, issue, or matter therein, he shall be indemnified against Expenses actually and reasonably incurred by him in connection therewith.
- (e) Expenses actually and reasonably incurred by the Indemnitee in defending any such action, suit, or proceeding shall be paid by the Company as they are incurred in advance of the final disposition of such action, suit, or proceeding under the procedure set forth in Section 4(b).
- (f) For purposes of this Agreement, references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on the Indemnitee with respect to any employee benefit plan; references to "serving at the request of the Company" shall include any service which imposes duties on, or involves services by, the Indemnitee with respect to an employee benefit plan, its participants or beneficiaries; references to the masculine shall include the feminine; and references to the singular shall include the plural and vice versa.
- (g) No amendment to the Amended Articles of Incorporation of the Company (the "Articles") or the Regulations shall deny, diminish, or encumber the Indemnitee's rights to indemnity pursuant to this Agreement, except to the extent that such amendment is required by law to be given effect. No amendment to the Articles or the Regulations shall deny, diminish, or encumber the Indemnitee's rights to indemnity pursuant to the Articles, the Regulations, the ORC, or any other applicable law as applied to any act or failure to act occurring in whole or in part prior to the date (the "Effective Date") upon which the amendment was approved by the Shareholders, except to the extent that such amendment is required by law to be given effect. In the event that the Company shall purport to adopt any amendment to its Articles or Regulations or take any other action the effect of which is to deny, diminish, or encumber the Indemnitee's rights to indemnity pursuant to the Articles, the Regulations, the ORC, or any such other law, such amendment shall apply only to acts or failures to act occurring entirely after the Effective Date thereof.

3. Additional Indemnification. Pursuant to ORC Section 1701.13(E)(6), without limiting any right which the Indemnitee may have pursuant to Section 2 hereof or any other provision of this Agreement or the Articles, the Regulations, the ORC, any policy of insurance, or otherwise, but subject to any limitation on the maximum permissible indemnity which may exist under applicable law at the time of any request for indemnity hereunder and subject to the following provisions of this Section 3, the Company shall indemnify the Indemnitee against any amount which he is or becomes obligated to pay relating to or arising out of any claim (including any pending, threatened or completed action, suit or proceeding to which he is or is threatened to be made a party) made against him because of any action alleged to have been taken or omitted to be taken, including any actual or alleged error, misstatement, or misleading statement, which he commits, suffers, permits, or acquiesces in while acting in his capacity as a Director or an officer of the Company. The payments which the Company is obligated to make pursuant to this Section 3 shall include, without limitation, judgments, fines, and amounts paid in settlement and any and all Expenses actually and reasonably incurred by the Indemnitee in connection therewith including any appeal of or from any judgment or decision; provided, however, that the Company shall not be obligated under this Section 3 to make any payment in connection with any claim against the Indemnitee:

- (i) to the extent of any fine or similar governmental imposition which the Company is prohibited by applicable law from paying which results from a final, nonappealable order; or

to the extent based upon or attributable to the Indemnitee having actually realized a personal gain or profit to which he was not legally entitled, including, without limitation, profit from the purchase and sale by the Indemnitee of equity securities of the Company which is recoverable by the Company pursuant to Section 16(b) of the Securities Exchange Act of 1934, or profit arising from transactions in publicly traded securities of the Company which were effected by the Indemnitee in violation of Section 10(b) of the Securities Exchange Act of 1934, or Rule 10b-5 promulgated thereunder.

- (b) A determination as to whether the Indemnitee shall be entitled to indemnification under this Section 3 shall be made in accordance with Section 4(a).
- (c) Expenses incurred by the Indemnitee in defending any claim to which this Section 3 applies shall be paid by the Company as they are actually and reasonably incurred in advance of the final disposition of such claim under the procedure set forth in Section 4(b).

4. Certain Procedures Relating to Indemnification. (a) For purposes of pursuing his rights to indemnification under Section 3, the Indemnitee shall (i) submit to the Board a sworn statement of request for indemnification substantially in the form of Exhibit 1 attached hereto and made a part hereof (the "Indemnification Statement") stating that he is entitled to indemnification hereunder; and (ii) present to the Board reasonable evidence of all amounts for which indemnification is requested. Submission of an Indemnification Statement to the Board shall create a presumption that the Indemnitee is entitled to indemnification hereunder, and the Company shall, within 60 calendar days after submission of the Indemnification Statement, make the payments requested in the Indemnification Statement to or for the benefit of the Indemnitee, unless (i) within such 60-calendar-day period the Board shall resolve by vote of a majority of the Directors at a meeting at which a quorum is present that the Indemnitee is not entitled to indemnification under Section 3, (ii) such vote shall be based upon clear and convincing evidence (sufficient to rebut the foregoing presumption), and (iii) the Indemnitee shall have received within such period notice in writing of such vote, which notice shall disclose with particularity the evidence upon which the vote is based. The foregoing notice shall be sworn to by all persons who participated in the vote and voted to deny indemnification. The provisions of this Section 4(a) are intended to be procedural only and shall not affect the right of any Indemnitee to indemnification under Section 3 so long as the Indemnitee follows the prescribed procedure and any determination by the Board that an Indemnitee is not entitled to indemnification and any failure to make the payments requested in the Indemnification Statement shall be subject to judicial review by any court of competent jurisdiction.

- (b) For purposes of obtaining payments of Expenses in advance of final disposition pursuant to the Section 2 (e) or Section 3(c), the Indemnitee shall submit to the Company a sworn request for advancement of Expenses substantially in the form of Exhibit 2 attached hereto and made a part hereof (the "Undertaking"), stating that he has reasonably incurred actual Expenses in defending an action, suit or proceeding referred to in Section 2(a) or 2(b) or any claim referred to in Section 3, or pursuant to

Section 12 hereof. Unless at the time of the Indemnitee's act or omission at issue, the Articles or Regulations prohibit such advances by specific reference to ORC Section 1701.13(E)(5)(a) and unless the only liability asserted against the Indemnitee in the subject action, suit, or proceeding is pursuant to ORC Section 1701.95, the Indemnitee shall be eligible to execute Part A of the Undertaking by which he undertakes to (a) repay such amount if it is proved by clear and convincing evidence in a court of competent jurisdiction that the Indemnitee's action or failure to act involved an act or omission undertaken with deliberate intent to cause injury to the Company or undertaken with reckless disregard for the best interests of the Company and (b) reasonably cooperate with the Company concerning the action, suit, proceeding or claim. In all cases, the Indemnitee shall be eligible to execute Part B of the Undertaking by which he undertakes to repay such amount if it ultimately is determined that he is not entitled to be indemnified by the Company under this Agreement or otherwise. If the Indemnitee is eligible to and does execute both Part A and Part B of the Undertaking, the Expenses which are paid by the Company pursuant thereto shall be required to be repaid by the Indemnitee only if he is required to do so under the terms of both Part A and Part B of the Undertaking. Upon receipt of the Undertaking, the Company shall thereafter promptly pay such Expenses of the Indemnitee as are noticed to the Company in writing and in reasonable detail arising out of the matter described in the Undertaking. No security shall be required in connection with any Undertaking. The Company shall advance to the Indemnitee all reasonable costs and expenses incurred or to be incurred by the Indemnitee in connection with any action under Section 3(c) within 20 days of receipt by the Company of a written request for such advance.

(c) Limitation on Indemnity. Notwithstanding anything contained herein to the contrary, the Company shall not be required hereby to indemnify the Indemnitee with respect to any action, suit, or proceeding that was initiated by the Indemnitee unless (i) such action, suit or proceeding was initiated by the Indemnitee to enforce any rights to indemnification arising hereunder and such person shall have been formally adjudged to be entitled to indemnity by reason hereof, (ii) authorized by another agreement to which the Company is a party whether heretofore or hereafter entered, or (iii) otherwise ordered by the court in which the suit was brought.

5. Notification and Defense of Claims. (a) The failure by the Indemnitee to timely notify the Company of any action, suit or proceeding referred to in Section 2(a) or 2(b) or any claim referred in Section 3 for which Indemnitee seeks or may seek indemnification or advancement of expenses under this Agreement, shall not relieve the Company from any liability hereunder unless, and only to the extent that, the Company did not otherwise learn of such action, suit, proceeding or claim and such failure results in forfeiture by the Company of substantial defenses, rights or insurance coverage.

(b) The Company shall be entitled to participate in the defense of any action, suit or proceeding referred to in Section 2(a) or 2(b) or any claim referred to in Section 3 for which Indemnitee seeks or may seek indemnification or advancement of expenses under this Agreement or to assume the defense thereof, with counsel reasonably satisfactory to the Indemnitee; *provided* that if Indemnitee believes, after consultation with counsel selected by Indemnitee, that (a) the use of counsel chosen by the Company to represent Indemnitee would present such counsel with an actual or potential conflict, (b) the named parties in any such action, suit, proceeding or claim (including any impleaded parties) include both the Company and Indemnitee and Indemnitee shall conclude that there may be one or more legal defenses available to him that are different from or in addition to those available to the Company, or (c) any such representation by such counsel would be precluded under the applicable standards of professional conduct then prevailing, then Indemnitee shall be entitled to retain separate counsel (but not more than one law firm plus, if applicable, local counsel in respect of any particular action, suit, proceeding or claim) at the Company's expense. The Company shall not be liable to Indemnitee under this Agreement for any amounts paid in settlement of any threatened or pending action, suit, proceeding or claim without the Company's prior written consent. The Company shall not, without the prior written consent of the Indemnitee, effect any settlement of any threatened or pending action, suit, proceeding or claim to which the Indemnitee is, or could have been, a party unless such settlement solely involves the payment of money and includes a complete and unconditional release of the Indemnitee from all liability on any claims that are the subject matter of such action, suit, proceeding or claim. Neither the Company nor Indemnitee shall unreasonably withhold its consent to any proposed settlement; *provided* that Indemnitee may withhold consent to any settlement that does not provide a complete and unconditional release of Indemnitee.

6. Liability Insurance and Funding. For the duration of Indemnitee's service as a Director and thereafter for so long as Indemnitee shall be subject to any pending or possible action, suit, proceeding or claim that gives rise to a right hereunder, the Company shall use commercially reasonable efforts (taking into account the scope and amount of coverage available relative to the cost thereof) to cause to be maintained in effect policies of directors' and officers' liability insurance providing coverage for Directors and officers of the Company either that (a) is at least substantially comparable in scope and amount to that provided by the Company's current policies of directors' and officers' liability insurance or (b) the premium cost of which is at least as much as that paid for the Company's current policies of directors' and liability insurance. The Company shall provide Indemnitee with a copy of all directors' and officers' liability insurance applications, binders, policies, declarations, endorsements and other related materials. In all policies of directors' and officers' liability obtained by the Company, Indemnitee shall be named as an insured in such a manner as to provide Indemnitee the same rights and benefits, subject to the same limitations, as are accorded to the Company's Directors most favorably insured by such policy.
7. Subrogation: Duplication of Payments. (a) In the event of payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of the Indemnitee, who shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the Company effectively to bring suit to enforce such rights.

(b) The Company shall not be liable under this Agreement to make any payment in connection with any claim made against an Indemnitee to the extent that the Indemnitee has actually received payment (under any insurance policy, the Regulations or otherwise) of amounts otherwise payable hereunder.
8. Shareholder Ratification. The Company may, at its option, propose at any future meeting of Shareholders that this Agreement be ratified by the Shareholders; provided, however, that the Indemnitee's rights hereunder shall be fully enforceable in accordance with the terms hereof whether or not such ratification is sought or obtained.
9. Fees and Expenses of Enforcement. It is the intent of the Company that the Indemnitee not be required to incur expenses associated with the enforcement of his rights under this Agreement by litigation or other legal action because such expenses would substantially detract from the benefits intended to be extended to the Indemnitee hereunder. Accordingly, if it should appear to the Indemnitee that the Company has failed to comply with any of its obligations under this Agreement or if the Company or any other person takes any action to declare this Agreement void or unenforceable, or institutes any action, suit, or proceeding to deny, or to recover from, the Indemnitee the benefits intended to be provided to the Indemnitee hereunder, the Company irrevocably authorizes the Indemnitee from time to time to retain counsel of his choice, at the expense of the Company as hereafter provided, to represent the Indemnitee in connection with the initiation or defense of any litigation or other legal action, whether by or against the Company or any director, officer, shareholder, or other person affiliated with the Company, in any jurisdiction. Regardless of the outcome thereof, the Company shall pay and be solely responsible for any and all expenses, including, without limitation, fees and expenses of attorneys and others, reasonably incurred by the Indemnitee pursuant to this Section 10, unless the court determines that each of the material assertions made by the Indemnitee as a basis for the litigation or other legal action were not made in good faith or were frivolous.
10. Merger or Consolidation. This Agreement shall be binding upon and inure to the benefit of the Company and any successor to the Company. If the Company shall be a constituent corporation in a consolidation, merger, or other reorganization, the Company, if it shall not be the surviving, resulting, or acquiring corporation therein, shall require as a condition thereto that the surviving, resulting, or acquiring corporation agree to assume all of the obligations of the Company hereunder and to indemnify the Indemnitee to the full extent provided herein. Whether or not the Company is the resulting, surviving, or acquiring corporation in any such transaction, the Indemnitee shall also stand in the same position under this Agreement with respect to the resulting, surviving, or acquiring corporation in which he would have stood with respect to the Company if its separate existence had continued.
11. Indemnification for Expenses of a Witness. Notwithstanding any other provision of this Agreement, to the extent Indemnitee is, by reason of the fact that Indemnitee is or was a Director of the Company, a witness in

any action, suit, proceeding or claim to which Indemnatee is not a party, he shall be indemnified against all expenses actually and reasonably incurred by him or on his behalf in connection therewith.

12. Nonexclusively and Severability. (a) The rights to indemnification provided by this Agreement shall not be exclusive of any other rights of indemnification to which the Indemnatee may be entitled under the Articles, the Regulations, the ORC or any other statute, any insurance policy, agreement, or vote of shareholders or directors or otherwise, as to any actions or failures to act by the Indemnatee, and shall continue after he has ceased to be a Director, officer, employee, or agent of the Company or other entity for which his service gives rise to a right hereunder, and shall inure to the benefit of his heirs, executors, and administrators; provided, however, that the Indemnatee hereby agrees that the provisions set forth in Sections 4 through 18 of this Agreement also shall apply to any rights of indemnification or advancement of expenses that Indemnatee may have under, and supercede, if necessary, provisions of the same subject matters set forth in, the Articles, the regulations, the ORC or any other statute, insurance policy, agreement, or vote of shareholders or directors, or otherwise. In the event of any payment under this Agreement, the Company shall be subrogated to the extent thereof to all rights of recovery previously vested in the Indemnatee, who shall execute all instruments and take all other actions as shall be reasonably necessary for the Company to enforce such right.

(b) This Agreement shall inure to the benefit of and be enforceable by the Indemnatee's personal or legal representatives, executors, administrators, heirs, distributees, legatees and other successors, but otherwise the rights to indemnification provided by this Agreement are personal to the Indemnatee and are non-transferable by Indemnatee, and no party other than the Indemnatee is entitled to indemnification under this Agreement.

(c) If any provision of this Agreement or the application of any provision hereof to any person or circumstances is held invalid, unenforceable, or otherwise illegal, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected, and the provision so held to be invalid, unenforceable, or otherwise illegal shall be reformed to the extent (and only to the extent) necessary to make it enforceable, valid, and legal.
13. Security. To ensure that the Company's obligations pursuant to this Agreement can be enforced by Indemnatee, the Company may, at its option, establish a trust pursuant to which the Company's obligations pursuant to this Agreement and other similar agreements can be funded.
14. Notices. All notices and other communications hereunder shall be in writing and shall be personally delivered or sent by recognized overnight courier service (a) if to the Company, to the then-current principal executive offices of the Company (Attention: General Counsel) or (b) if to the Indemnatee, to the last known address of Indemnatee as reflected in the Company's records. Either party may change its address for the delivery of notices or other communications hereunder by providing notice to the other party as provided in this Section 15. All notices shall be effective upon actual delivery by the methods specified in this Section 15.
15. Prior Agreements. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof, including, without limitation, the Indemnification Agreement dated as of __, __ between the Company and the Indemnatee.
16. Governing Law and Consent to Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles of conflict of laws thereof. The Company and the Indemnatee each hereby irrevocably consents to the jurisdiction of the courts of the State of Ohio for all purposes in connection with any action, suit, proceeding or claim which arises out of or relates to this Agreement and hereby waives any objections or defenses relating to jurisdiction with respect to any lawsuit or other legal proceeding initiated in or transferred to such courts.
17. Modification. This Agreement and the rights and duties of the Indemnatee and the Company hereunder may be modified only by an instrument in writing signed by both parties hereto.
18. Headings; References. Descriptive headings of the several Sections of this Agreement are inserted for

convenience only and will not control or affect the meaning or construction of any of the provisions of this Agreement. Unless otherwise expressly provided, references to Sections and Exhibits are to Sections of and Exhibits to this Agreement.

19. Counterparts. This Agreement may be executed in any number of counterparts and each of such counterparts will for all purposes be deemed to be an original, and all counterparts together will constitute but one and the same instrument.

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

BRUSH ENGINEERED MATERIALS INC.

By:
Title:

Exhibit 1

INDEMNIFICATION STATEMENT

State of _____)
)ss:
County of _____)

I, , being first duly sworn, do depose and say as follows:

1. This Indemnification Statement is submitted pursuant to the Indemnification Agreement made as of , ____ between BRUSH ENGINEERED MATERIALS INC. (the “Company”), an Ohio corporation, and the undersigned.

2. I am requesting indemnification against costs, charges, expenses (which may include fees and expenses of attorneys and/or others), judgments, fines, and amounts paid in settlement (collectively, “Liabilities”), which have been actually and reasonably incurred by me in connection with a claim referred to in Section 3 of the aforesaid Indemnification Agreement.

3 With respect to all matters related to any such claim, I am entitled to be indemnified as herein contemplated pursuant to the aforesaid Indemnification Agreement.

4. Without limiting any other rights which I have or may have, I am requesting indemnification against Liabilities which have or may arise out of .

[Signature of Indemnatee]

Subscribed and sworn to before me, a Notary Public in and for said County and State, this day of , ____.

[Seal]

My commission expires the day of , _ ____.

Exhibit 2

UNDERTAKING

State of _____)
)ss:
County of _____)

I, , being first duly sworn do depose and say as follows:

1. This Undertaking is submitted pursuant to the Indemnification Agreement made as of , between BRUSH ENGINEERED MATERIALS INC. (the “Company”), an Ohio corporation, and the undersigned.

2. I am requesting payment of costs, charges, and expenses which I have reasonably incurred or will reasonably incur in defending an action, suit or proceeding referred to in Section 2(a) or 2(b) or any claim referred to in Section 3, or pursuant to Section 10 or Section 12 of the aforesaid Indemnification Agreement.

3. The costs, charges, and expenses for which payment is requested are, in general, all expenses related to .

4. Part A

I hereby undertake to (a) repay all amounts paid pursuant hereto if it is proved by clear and convincing evidence in a court of competent jurisdiction that my action or failure to act which is the subject of the matter described herein involved an act or omission undertaken with deliberate intent to cause injury to the Company or undertaken with reckless disregard for the best interests of the Company and (b) reasonably cooperate with the Company concerning the action, suit, proceeding or claim.

[Signature of Indemnatee]

4. Part B

I hereby undertake to repay all amounts paid pursuant hereto if it ultimately is determined that I am not entitled to be indemnified by the Company under the aforesaid Indemnification Agreement or otherwise.

[Signature of Indemnatee]

Subscribed and sworn to before me, a Notary Public in and for said County and State, this day of , 200_.

[Seal]

My commission expires the day of , 200 ____.

Exhibit 10.2

INDEMNIFICATION AGREEMENT

This Indemnification Agreement (this “Agreement”) is made as of the ___ day of ___ 2005 by and between BRUSH ENGINEERED MATERIALS INC., an Ohio corporation (the “Company”), and ___ (the “Indemnatee”), an officer of the Company or one of its wholly owned subsidiaries.

RECITALS

A. The Indemnatee is presently serving as an officer of the Company or one of its wholly owned subsidiaries, and the Company desires the Indemnatee to continue in that capacity. The Indemnatee is willing, subject to certain conditions (including, without limitation, the execution and performance of this Agreement by the Company), to continue in that capacity.

B. In addition to the indemnification to which the Indemnatee is entitled under the Code of Regulations of the Company (the “Regulations”) or otherwise, the Company has obtained, at its sole expense, insurance protecting the Company and its Directors and officers including the Indemnatee against certain losses arising out of actual or threatened actions, suits, or proceedings to which such persons may be made or threatened to be made parties. However, as a result of circumstances having no relation to, and beyond the control of, the Company and the Indemnatee, there can be no assurance of the continuation or renewal of that insurance.

Accordingly, and in order to induce the Indemnatee to continue to serve in his present capacity, the Company and the

Indemnitee agree as follows:

1. Continued Service . The Indemnitee shall continue to serve at the will of the Company as an officer of the Company or one of its wholly owned subsidiaries so long as he is duly elected and qualified in accordance with the Regulations or until he resigns in writing in accordance with applicable law.

2. Initial Indemnity . (a) The Company shall indemnify the Indemnitee, if or when he is a party or is threatened to be made a party to any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Company), by reason of the fact that he is or was a Director or an officer of the Company or is or was serving at the request of the Company as a director, trustee, officer, employee, or agent of another corporation, domestic or foreign, nonprofit or for profit, partnership, joint venture, trust, or other enterprise, or by reason of any action alleged to have been taken or omitted in any such capacity, against any and all costs, charges, expenses (including, without limitation, fees and expenses of attorneys and/or others; all such costs, charges and expenses being herein jointly referred to as "Expenses"), judgments, fines and amounts paid in settlement, actually and reasonably incurred by the Indemnitee in connection therewith including any appeal of or from any judgment or decision, if the Indemnitee acted in good faith and in a manner which he believed to be in or not opposed to the best interests of the Company. In addition, with respect to any criminal action or proceeding, indemnification hereunder shall be made only if the Indemnitee had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the Indemnitee did not satisfy the foregoing standard of conduct to the extent applicable thereto.

(b) The Company shall indemnify the Indemnitee, if or when he is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding by or in the right of the Company to procure a judgment in its favor, by reason of the fact that the Indemnitee is or was a Director or an officer of the Company or is or was serving at the request of the Company as a director, trustee, officer, employee, or agent of another corporation, domestic or foreign, nonprofit or for profit, partnership, joint venture, trust, or other enterprise, against any and all Expenses actually and reasonably incurred by the Indemnitee in connection with the defense or settlement thereof or any appeal of or from any judgment or decision, if the Indemnitee acted in good faith and in a manner which he believed to be in or not opposed to the best interests of the Company, except that no indemnification pursuant to this Section 2(b) shall be made in respect of any action or suit in which the only liability asserted against the Indemnitee is pursuant to Section 1701.95 of the Ohio Revised Code (the "ORC").

(c) Any indemnification under Section 2(a) or 2(b) (unless ordered by a court) shall be made by the Company only as authorized in the specific case upon a determination that indemnification of the Indemnitee is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 2(a) or 2(b). Such authorization shall be made (i) by the Directors of the Company (the "Board") by a majority vote of a quorum consisting of Directors who were not and are not parties to or threatened with such action, suit, or proceeding, or (ii) if such a quorum of disinterested Directors is not obtainable or if a majority of such quorum so directs, in a written opinion by independent legal counsel (designated for such purpose by the Board) which shall not be an attorney, or a firm having associated with it an attorney, who has been retained by or who has performed services for the Company, or any person to be indemnified, within the five years preceding such determination, or (iii) by the shareholders of the Company (the "Shareholders"), or (iv) by the court in which such action, suit, or proceeding was brought.

(d) To the extent that the Indemnitee has been successful on the merits or otherwise, including, without limitation, the dismissal of an action without prejudice, in defense of any action, suit, or proceeding referred to in Section 2(a) or 2(b), or in defense of any claim, issue, or matter therein, he shall be indemnified against Expenses actually and reasonably incurred by him in connection therewith.

(e) Expenses actually and reasonably incurred by the Indemnitee in defending any such action, suit, or proceeding shall be paid by the Company as they are incurred in advance of the final disposition of such action, suit, or proceeding under the procedure set forth in Section 4(b).

(f) For purposes of this Agreement, references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on the Indemnitee with respect to any employee benefit plan; references to "serving at the request of the Company" shall include any service which imposes duties on, or involves services by, the Indemnitee with respect to an employee benefit plan, its participants or beneficiaries; references to the masculine shall include the feminine; and references to the singular shall include the plural and vice versa.

(g) No amendment to the Amended Articles of Incorporation of the Company (the "Articles") or the Regulations shall deny, diminish, or encumber the Indemnitee's rights to indemnity pursuant to this Agreement, except to the extent that such amendment is required by law to be given effect. No amendment to the Articles or the Regulations shall deny, diminish, or encumber the Indemnitee's rights to indemnity pursuant to the Articles, the Regulations, the ORC, or any other applicable law as

applied to any act or failure to act occurring in whole or in part prior to the date (the "Effective Date") upon which the amendment was approved by the Shareholders, except to the extent that such amendment is required by law to be given effect. In the event that the Company shall purport to adopt any amendment to its Articles or Regulations or take any other action the effect of which is to deny, diminish, or encumber the Indemnatee's rights to indemnity pursuant to the Articles, the Regulations, the ORC, or any such other law, such amendment shall apply only to acts or failures to act occurring entirely after the Effective Date thereof.

3. Additional Indemnification. Pursuant to ORC Section 1701.13(E)(6), without limiting any right which the Indemnatee may have pursuant to Section 2 hereof or any other provision of this Agreement or the Articles, the Regulations, the ORC, any policy of insurance, or otherwise, but subject to any limitation on the maximum permissible indemnity which may exist under applicable law at the time of any request for indemnity hereunder and subject to the following provisions of this Section 3, the Company shall indemnify the Indemnatee against any amount which he is or becomes obligated to pay relating to or arising out of any claim (including any pending, threatened or completed action, suit or proceeding to which he is or is threatened to be made a party) made against him because of any action alleged to have been taken or omitted to be taken, including any actual or alleged error, misstatement, or misleading statement, which he commits, suffers, permits, or acquiesces in while acting in his capacity as a Director or an officer of the Company. The payments which the Company is obligated to make pursuant to this Section 3 shall include, without limitation, judgments, fines, and amounts paid in settlement and any and all Expenses actually and reasonably incurred by the Indemnatee in connection therewith including any appeal of or from any judgment or decision; provided, however, that the Company shall not be obligated under this Section 3 to make any payment in connection with any claim against the Indemnatee:

(i) to the extent of any fine or similar governmental imposition which the Company is prohibited by applicable law from paying which results from a final, nonappealable order; or

(ii) to the extent based upon or attributable to the Indemnatee having actually realized a personal gain or profit to which he was not legally entitled, including, without limitation, profit from the purchase and sale by the Indemnatee of equity securities of the Company which is recoverable by the Company pursuant to Section 16(b) of the Securities Exchange Act of 1934, or profit arising from transactions in publicly traded securities of the Company which were effected by the Indemnatee in violation of Section 10(b) of the Securities Exchange Act of 1934, or Rule 10b-5 promulgated thereunder.

(b) A determination as to whether the Indemnatee shall be entitled to indemnification under this Section 3 shall be made in accordance with Section 4(a).

(c) Expenses incurred by the Indemnatee in defending any claim to which this Section 3 applies shall be paid by the Company as they are actually and reasonably incurred in advance of the final disposition of such claim under the procedure set forth in Section 4(b).

4. Certain Procedures Relating to Indemnification. (a) For purposes of pursuing his rights to indemnification under Section 3, the Indemnatee shall (i) submit to the Board a sworn statement of request for indemnification substantially in the form of Exhibit 1 attached hereto and made a part hereof (the "Indemnification Statement") stating that he is entitled to indemnification hereunder; and (ii) present to the Board reasonable evidence of all amounts for which indemnification is requested. Submission of an Indemnification Statement to the Board shall create a presumption that the Indemnatee is entitled to indemnification hereunder, and the Company shall, within 60 calendar days after submission of the Indemnification Statement, make the payments requested in the Indemnification Statement to or for the benefit of the Indemnatee, unless (i) within such 60-calendar-day period the Board shall resolve by vote of a majority of the Directors at a meeting at which a quorum is present that the Indemnatee is not entitled to indemnification under Section 3, (ii) such vote shall be based upon clear and convincing evidence (sufficient to rebut the foregoing presumption), and (iii) the Indemnatee shall have received within such period notice in writing of such vote, which notice shall disclose with particularity the evidence upon which the vote is based. The foregoing notice shall be sworn to by all persons who participated in the vote and voted to deny indemnification. The provisions of this Section 4(a) are intended to be procedural only and shall not affect the right of any Indemnatee to indemnification under Section 3 so long as the Indemnatee follows the prescribed procedure and any determination by the Board that an Indemnatee is not entitled to indemnification and any failure to make the payments requested in the Indemnification Statement shall be subject to judicial review by any court of competent jurisdiction.

(b) For purposes of obtaining payments of Expenses in advance of final disposition pursuant to the Section 2(e) or Section 3(c), the Indemnatee shall submit to the Company a sworn request for advancement of Expenses substantially in the form of Exhibit 2 attached hereto and made a part hereof (the "Undertaking"), stating that he has reasonably incurred actual Expenses in defending an action, suit or proceeding referred to in Section 2(a) or 2(b) or any claim referred to in Section 3, or pursuant to Section 12 hereof Unless at the time of the Indemnatee's act or omission at issue, the Articles or Regulations prohibit such advances by specific reference to ORC Section 1701.13(E)(5)(a) and unless the only liability asserted against the Indemnatee in

the subject action, suit, or proceeding is pursuant to ORC Section 1701.95, the Indemnatee shall be eligible to execute Part A of the Undertaking by which he undertakes to repay such amount if it ultimately is determined that he is not entitled to be indemnified by the Company under this Agreement or otherwise. Upon receipt of the Undertaking, the Company shall thereafter promptly pay such Expenses of the Indemnatee as are noticed to the Company in writing and in reasonable detail arising out of the matter described in the Undertaking. No security shall be required in connection with any Undertaking. The Company shall advance to the Indemnatee all reasonable costs and expenses incurred or to be incurred by the Indemnatee in connection with any action under Section 3(c) within 20 days of receipt by the Company of a written request for such advance.

5. Limitation on Indemnity. Notwithstanding anything contained herein to the contrary, the Company shall not be required hereby to indemnify the Indemnatee with respect to any action, suit, or proceeding that was initiated by the Indemnatee unless (i) such action, suit or proceeding was initiated by the Indemnatee to enforce any rights to indemnification arising hereunder and such person shall have been formally adjudged to be entitled to indemnity by reason hereof, (ii) authorized by another agreement to which the Company is a party whether heretofore or hereafter entered, or (iii) otherwise ordered by the court in which the suit was brought.

6. Notification and Defense of Claims. (a) The failure by the Indemnatee to timely notify the Company of any action, suit or proceeding referred to in Section 2(a) or 2(b) or any claim referred in Section 3 for which Indemnatee seeks or may seek indemnification or advancement of expenses under this Agreement, shall not relieve the Company from any liability hereunder unless, and only to the extent that, the Company did not otherwise learn of such action, suit, proceeding or claim and such failure results in forfeiture by the Company of substantial defenses, rights or insurance coverage.

(b) The Company shall be entitled to participate in the defense of any action, suit or proceeding referred to in Section 2 (a) or 2(b) or any claim referred to in Section 3 for which Indemnatee seeks or may seek indemnification or advancement of expenses under this Agreement or to assume the defense thereof, with counsel reasonably satisfactory to the Indemnatee; *provided* that if Indemnatee believes, after consultation with counsel selected by Indemnatee, that (a) the use of counsel chosen by the Company to represent Indemnatee would present such counsel with an actual or potential conflict, (b) the named parties in any such action, suit, proceeding or claim (including any impleaded parties) include both the Company and Indemnatee and Indemnatee shall conclude that there may be one or more legal defenses available to him that are different from or in addition to those available to the Company, or (c) any such representation by such counsel would be precluded under the applicable standards of professional conduct then prevailing, then Indemnatee shall be entitled to retain separate counsel (but not more than one law firm plus, if applicable, local counsel in respect of any particular action, suit, proceeding or claim) at the Company's expense. The Company shall not be liable to Indemnatee under this Agreement for any amounts paid in settlement of any threatened or pending action, suit, proceeding or claim without the Company's prior written consent. The Company shall not, without the prior written consent of the Indemnatee, effect any settlement of any threatened or pending action, suit, proceeding or claim to which the Indemnatee is, or could have been, a party unless such settlement solely involves the payment of money and includes a complete and unconditional release of the Indemnatee from all liability on any claims that are the subject matter of such action, suit, proceeding or claim. Neither the Company nor Indemnatee shall unreasonably withhold its consent to any proposed settlement; *provided* that Indemnatee may withhold consent to any settlement that does not provide a complete and unconditional release of Indemnatee.

7. Liability Insurance and Funding. For the duration of Indemnatee's service as an officer of the Company or one of its wholly owned subsidiaries, and thereafter for so long as Indemnatee shall be subject to any pending or possible action, suit, proceeding or claim that gives rise to a right hereunder, the Company shall use commercially reasonable efforts (taking into account the scope and amount of coverage available relative to the cost thereof) to cause to be maintained in effect policies of directors' and officers' liability insurance providing coverage for Directors and officers of the Company either that (a) is at least substantially comparable in scope and amount to that provided by the Company's current policies of directors' and officers' liability insurance or (b) the premium cost of which is at least as much as that paid for the Company's current policies of directors' and liability insurance. The Company shall provide Indemnatee with a copy of all directors' and officers' liability insurance applications, binders, policies, declarations, endorsements and other related materials. In all policies of directors' and officers' liability obtained by the Company, Indemnatee shall be named as an insured in such a manner as to provide Indemnatee the same rights and benefits, subject to the same limitations, as are accorded to the Company's Directors most favorably insured by such policy.

8. Subrogation: Duplication of Payments. (a) In the event of payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of the Indemnatee, who shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the Company effectively to bring suit to enforce such rights.

(b) The Company shall not be liable under this Agreement to make any payment in connection with any claim made against an Indemnatee to the extent that the Indemnatee has actually received payment (under any insurance policy, the Regulations or otherwise) of amounts otherwise payable hereunder.

9. Shareholder Ratification. The Company may, at its option, propose at any future meeting of Shareholders that this Agreement be ratified by the Shareholders; provided, however, that the Indemnitee's rights hereunder shall be fully enforceable in accordance with the terms hereof whether or not such ratification is sought or obtained.

10. Fees and Expenses of Enforcement. It is the intent of the Company that the Indemnitee not be required to incur expenses associated with the enforcement of his rights under this Agreement by litigation or other legal action because such expenses would substantially detract from the benefits intended to be extended to the Indemnitee hereunder. Accordingly, if it should appear to the Indemnitee that the Company has failed to comply with any of its obligations under this Agreement or if the Company or any other person takes any action to declare this Agreement void or unenforceable, or institutes any action, suit, or proceeding to deny, or to recover from, the Indemnitee the benefits intended to be provided to the Indemnitee hereunder, the Company irrevocably authorizes the Indemnitee from time to time to retain counsel of his choice, at the expense of the Company as hereafter provided, to represent the Indemnitee in connection with the initiation or defense of any litigation or other legal action, whether by or against the Company or any director, officer, shareholder, or other person affiliated with the Company, in any jurisdiction. Regardless of the outcome thereof, the Company shall pay and be solely responsible for any and all expenses, including, without limitation, fees and expenses of attorneys and others, reasonably incurred by the Indemnitee pursuant to this Section 10, unless the court determines that each of the material assertions made by the Indemnitee as a basis for the litigation or other legal action were not made in good faith or were frivolous.

11. Merger or Consolidation. This Agreement shall be binding upon and inure to the benefit of the Company and any successor to the Company. If the Company shall be a constituent corporation in a consolidation, merger, or other reorganization, the Company, if it shall not be the surviving, resulting, or acquiring corporation therein, shall require as a condition thereto that the surviving, resulting, or acquiring corporation agree to assume all of the obligations of the Company hereunder and to indemnify the Indemnitee to the full extent provided herein. Whether or not the Company is the resulting, surviving, or acquiring corporation in any such transaction, the Indemnitee shall also stand in the same position under this Agreement with respect to the resulting, surviving, or acquiring corporation in which he would have stood with respect to the Company if its separate existence had continued.

12. Indemnification for Expenses of a Witness. Notwithstanding any other provision of this Agreement, to the extent Indemnitee is, by reason of the fact that Indemnitee is or was a Director of the Company, a witness in any action, suit, proceeding or claim to which Indemnitee is not a party, he shall be indemnified against all expenses actually and reasonably incurred by him or on his behalf in connection therewith.

13. Nonexclusively and Severability. (a) The rights to indemnification provided by this Agreement shall not be exclusive of any other rights of indemnification to which the Indemnitee may be entitled under the Articles, the Regulations, the ORC or any other statute, any insurance policy, agreement, or vote of shareholders or directors or otherwise, as to any actions or failures to act by the Indemnitee, and shall continue after he has ceased to be a Director, officer, employee, or agent of the Company or other entity for which his service gives rise to a right hereunder, and shall inure to the benefit of his heirs, executors, and administrators; provided, however, that the Indemnitee hereby agrees that the provisions set forth in Sections 4 through 18 of this Agreement also shall apply to any rights of indemnification or advancement of expenses that Indemnitee may have under, and supercede, if necessary, provisions of the same subject matters set forth in, the Articles, the regulations, the ORC or any other statute, insurance policy, agreement, or vote of shareholders or directors, or otherwise. In the event of any payment under this Agreement, the Company shall be subrogated to the extent thereof to all rights of recovery previously vested in the Indemnitee, who shall execute all instruments and take all other actions as shall be reasonably necessary for the Company to enforce such right.

(b) This Agreement shall inure to the benefit of and be enforceable by the Indemnitee's personal or legal representatives, executors, administrators, heirs, distributees, legatees and other successors, but otherwise the rights to indemnification provided by the this Agreement are personal to the Indemnitee and are non-transferable by Indemnitee, and no party other than the Indemnitee is entitled to indemnification under this Agreement.

(c) If any provision of this Agreement or the application of any provision hereof to any person or circumstances is held invalid, unenforceable, or otherwise illegal, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected, and the provision so held to be invalid, unenforceable, or otherwise illegal shall be reformed to the extent (and only to the extent) necessary to make it enforceable, valid, and legal.

14. Security. To ensure that the Company's obligations pursuant to this Agreement can be enforced by Indemnitee, the Company may, at its option, establish a trust pursuant to which the Company's obligations pursuant to this Agreement and other similar agreements can be funded.

15. Notices. All notices and other communications hereunder shall be in writing and shall be personally delivered or

sent by recognized overnight courier service (a) if to the Company, to the then-current principal executive offices of the Company (Attention: General Counsel) or (b) if to the Indemnatee, to the last known address of Indemnatee as reflected in the Company’s records. Either party may change its address for the delivery of notices or other communications hereunder by providing notice to the other party as provided in this Section 15 . All notices shall be effective upon actual delivery by the methods specified in this Section 15 .

16. Prior Agreements . This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof, including, without limitation, the Indemnification Agreement dated as of _____, ____ between the Company and the Indemnatee.

17. Governing Law and Consent to Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles of conflict of laws thereof. The Company and the Indemnatee each hereby irrevocably consents to the jurisdiction of the courts of the State of Ohio for all purposes in connection with any action, suit, proceeding or claim which arises out of or relates to this Agreement and hereby waives any objections or defenses relating to jurisdiction with respect to any lawsuit or other legal proceeding initiated in or transferred to such courts.

18. Modification . This Agreement and the rights and duties of the Indemnatee and the Company hereunder may be modified only by an instrument in writing signed by both parties hereto.

19. Headings; References . Descriptive headings of the several Sections of this Agreement are inserted for convenience only and will not control or affect the meaning or construction of any of the provisions of this Agreement. Unless otherwise expressly provided, references to Sections and Exhibits are to Sections of and Exhibits to this Agreement.

20. Counterparts. This Agreement may be executed in any number of counterparts and each of such counterparts will for all purposes be deemed to be an original, and all counterparts together will constitute but one and the same instrument.

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

BRUSH ENGINEERED MATERIALS INC.

By:
Title:

Exhibit 1

INDEMNIFICATION STATEMENT

State of _____)
)ss:
County of _____)

I, , being first duly sworn, do depose and say as follows:

- 1. This Indemnification Statement is submitted pursuant to the Indemnification Agreement made as of , ____between BRUSH ENGINEERED MATERIALS INC. (the “Company”), an Ohio corporation, and the undersigned.
- 2. I am requesting indemnification against costs, charges, expenses (which may include fees and expenses of attorneys and/or others), judgments, fines, and amounts paid in settlement (collectively, “Liabilities”), which have been actually and reasonably incurred by me in connection with a claim referred to in Section 3 of the aforesaid Indemnification Agreement.
- 3. With respect to all matters related to any such claim, I am entitled to be indemnified as herein contemplated pursuant to the aforesaid Indemnification Agreement.
- 4. Without limiting any other rights which I have or may have, I am requesting indemnification against Liabilities which have or may arise out of .

[Signature of Indemnatee]

Subscribed and sworn to before me, a Notary Public in and for said County and State, this day of ____.

[Seal]

My commission expires the day of , _ ____.

Exhibit 2

UNDERTAKING

State of _____)
)ss:
County of _____)

I, , being first duly sworn do depose and say as follows:

1. This Undertaking is submitted pursuant to the Indemnification Agreement made as of , between BRUSH ENGINEERED MATERIALS INC. (the “Company”), an Ohio corporation, and the undersigned.

2. I am requesting payment of costs, charges, and expenses which I have reasonably incurred or will reasonably incur in defending an action, suit or proceeding referred to in Section 2(a) or 2(b) or any claim referred to in Section 3, or pursuant to Section 10 or Section 12 of the aforesaid Indemnification Agreement.

3. The costs, charges, and expenses for which payment is requested are, in general, all expenses related to .

4. I hereby undertake to repay all amounts paid pursuant hereto if it ultimately is determined that I am not entitled to be indemnified by the Company under the aforesaid Indemnification Agreement or otherwise.

[Signature of Indemnitee]

Subscribed and sworn to before me, a Notary Public in and for said County and State, this day of , 200_.

[Seal]

My commission expires the day of , 200_.

Exhibit 10.3

SEVERANCE AGREEMENT

THIS SEVERANCE AGREEMENT (this “Agreement”), dated as of ___, ___ is made and entered by and between Brush Engineered Materials Inc., an Ohio corporation (the “Company”), and ___ (the “Executive”).

WITNESSETH:

WHEREAS, the Executive is a senior executive of the Company or one or more of its Subsidiaries and has made and is expected to continue to make major contributions to the short- and long-term profitability, growth and financial strength of the Company;

WHEREAS, the Company recognizes that, as is the case for most companies, the possibility of a Change in Control (as defined below) exists;

WHEREAS, the Company desires to assure itself of both present and future continuity of management and desires to establish certain minimum severance benefits for certain of its senior executives, including the Executive, applicable in the event of a Change in Control;

WHEREAS, the Company wishes to ensure that its senior executives are not practically disabled from discharging

their duties in respect of a proposed or actual transaction involving a Change in Control; and

WHEREAS, the Company desires to provide additional inducement for the Executive to continue to remain in the employ of the Company;

NOW, THEREFORE, the Company and the Executive agree as follows:

1. Certain Defined Terms . In addition to terms defined elsewhere herein, the following terms have the following meanings when used in this Agreement with initial capital letters:

(a) “Affiliate” means with respect to any Person, any holder of more than 10% of the outstanding shares or equity interests of such Person or any other Person which directly or indirectly controls, is controlled by or is under common control with such Person. A Person shall be deemed to control another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the “controlled” Person, whether through ownership of voting securities, by contract or otherwise.

(b) “Base Pay” means the Executive’s annual base salary rate as in effect from time to time.

(c) “Board” means the Board of Directors of the Company.

(d) “Cause” means that, prior to any termination pursuant to Section 3(a)(iii), Section 3(b) or Section 3(c), the Executive shall have:

(i) been convicted of a criminal violation involving fraud, embezzlement, theft or violation of federal antitrust statutes or federal securities laws in connection with his duties or in the course of his employment with the Company or any Affiliate of the Company;

(ii) committed intentional wrongful damage to property of the Company or any Affiliate of the Company;

(iii) committed intentional wrongful disclosure of secret processes or confidential information of the Company or any Affiliate of the Company; or

(iv) intentionally engaged in any activity in violation of Section 8;

and any such act shall have been demonstrably and materially harmful to the Company. For purposes of this Agreement, no act or failure to act on the part of the Executive shall be deemed “intentional” if it was due primarily to an error in judgment or negligence, but shall be deemed “intentional” only if done or omitted to be done by the Executive not in good faith and without reasonable belief that the Executive’s action or omission was in the best interest of the Company. Notwithstanding the foregoing, the Executive shall not be deemed to have been terminated for “Cause” hereunder unless and until there shall have been delivered to the Executive a copy of a resolution duly adopted by the affirmative vote of not less than three quarters of the Board then in office at a meeting of the Board called and held for such purpose, after reasonable notice to the Executive and an opportunity for the Executive, together with the Executive’s counsel (if the Executive chooses to have counsel present at such meeting), to be heard before the Board, finding that, in the good faith opinion of the Board, the Executive had committed an act constituting “Cause” as herein defined and specifying the particulars thereof in detail. Nothing herein will limit the right of the Executive or his beneficiaries to contest the validity or propriety of any such determination.

(e) “Change in Control” means

(i) The acquisition by any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”)) (a “Person”) of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of voting securities of the Company where such acquisition causes such Person to own (X) 20% or more of the

combined voting power of the then outstanding voting securities of the Company entitled to vote generally in the election of directors (the “Outstanding Company Voting Securities”) without the approval of the Incumbent Board as defined in (ii) below or (Y) 35% or more of the Outstanding Voting Securities of the Company with the approval of the Incumbent Board; *provided, however*, that for purposes of this subsection (i), the following acquisitions shall not be deemed to result in a Change of Control: (A) any acquisition directly from the Company that is approved by the Incumbent Board (as defined in subsection (ii), below), (B) any acquisition by the Company or a subsidiary of the Company, (C) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any corporation controlled by the Company, (D) any acquisition by any Person pursuant to a transaction described in clauses (A), (B) and (C) of subsection (iii) below, or (E) any acquisition by, or other Business Combination (as defined in (iii) below) with, a person or group of which employees of the Company or any subsidiary of the Company control a greater than 25% interest (a “MBO”) but only if the Executive is one of those employees of the Company or any subsidiary of the Company that are participating in the MBO; *provided, further*, that if any Person’s beneficial ownership of the Outstanding Company Voting Securities reaches or exceeds 20% or 35%, as the case may be, as a result of a transaction described in clause (A) or (B) above, and such Person subsequently acquires beneficial ownership of additional voting securities of the Company, such subsequent acquisition shall be treated as an acquisition that causes such Person to own 20% or 35% or more, as the case may be, of the Outstanding Company Voting Securities; and *provided, further*, that if at least a majority of the members of the Incumbent Board determines in good faith that a Person has acquired beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of 20% or more of the Outstanding Company Voting Securities inadvertently, and such Person divests as promptly as practicable a sufficient number of shares so that such Person beneficially owns (within the meanings of Rule 13d-3 promulgated under the Exchange Act) less than 20% of the Outstanding Company Voting Securities, then no Change of Control shall have occurred as a result of such Person’s acquisition; or

- (ii) individuals who, as of the date hereof, constitute the Board (the “Incumbent Board” (as modified by this clause (ii))) cease for any reason to constitute at least a majority of the Board; *provided, however*, that any individual becoming a director subsequent to the date hereof whose election, or nomination for election by the Company’s shareholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board (either by a specific vote or by approval of the proxy statement of the Company in which such person is named as a nominee for director, without objection to such nomination) shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board; or
- (iii) the consummation of a reorganization, merger or consolidation or sale or other disposition of all or substantially all of the assets of the Company or the acquisition of assets of another corporation, or other transaction (“Business Combination”) excluding, however, such a Business Combination pursuant to which (A) the individuals and entities who were the ultimate beneficial owners of voting securities of the Company immediately prior to such Business Combination beneficially own, directly or indirectly, more than 65% of, respectively, the then outstanding shares of common stock and the combined voting power of the then outstanding voting securities entitled to vote generally in the election of directors, as the case may be, of the entity resulting from such Business Combination (including, without limitation, an entity that as a result of such transaction owns the Company or all or substantially all of the Company’s assets either directly or through one or more subsidiaries), (B) no Person (excluding any employee benefit plan (or related trust) of the Company, the Company or such entity resulting from such Business Combination) beneficially owns, directly or indirectly (X) 20% or more, if such Business Combination is approved by the Incumbent Board or (Y) 35% or more, if such Business Combination is not approved by the Incumbent Board, of the combined voting power of the then outstanding securities entitled to vote generally in the election of directors of the entity resulting from such Business Combination and (C) at least a majority of the members of the board of directors of the corporation resulting from such Business Combination were members of the

Incumbent Board at the time of the execution of the initial agreement, or of the action of the Board, providing for such Business Combination; or

- (iv) approval by the shareholders of the Company of a complete liquidation or dissolution of the Company except pursuant to a Business Combination described in clauses (A), (B) and (C) of subsection (iii), above.
- (f) “Employee Benefits” means the perquisites, benefits and service credit for benefits as provided under any and all employee retirement income and welfare benefit policies, plans, programs or arrangements in which Executive is entitled to participate, including without limitation any stock option, performance share, performance unit, stock purchase, stock appreciation, savings, pension, supplemental executive retirement, or other retirement income or welfare benefit, deferred compensation, incentive compensation, group or other life, health, medical/hospital or other insurance (whether funded by actual insurance or self-insured by the Company or an Affiliate of the Company), disability, salary continuation, expense reimbursement and other employee benefit policies, plans, programs or arrangements.
- (g) “Incentive Pay” means the annual bonus, incentive or other payment of compensation under the Management Performance Compensation Plan or, if such Management Performance Compensation Plan is no longer in effect, the annual bonus, incentive or other payment of compensation in addition to Base Pay, made or to be made in regard to services rendered in any year or other period pursuant to any bonus, incentive, profit-sharing, performance, discretionary pay or similar agreement, policy, plan, program or arrangement (whether or not funded) of the Company or an Affiliate of the Company, or any successor thereto.
- (h) “Retirement Plans” means the benefit plans of the Company that are intended to be qualified under Section 401(a) of the Internal Revenue Code and the Company’s Supplemental Retirement Benefit Plan or any other plan that is a successor thereto if the Executive was a participant in such Retirement Plan on the date of the occurrence of the Change in Control.
- (i) “Severance Period” means the period of time commencing on the date of the first occurrence of a Change in Control and continuing until the earlier of (i) the third anniversary of the occurrence of the Change in Control, or (ii) the Executive’s death; *provided, however*, that commencing on each anniversary of the Change in Control, the Severance Period will automatically be extended for an additional year unless, not later than 90 calendar days prior to such anniversary date, either the Company or the Executive shall have given written notice to the other that the Severance Period is not to be so extended.
- (j) “Subsidiary” means an entity in which the Company directly or indirectly beneficially owns 50% or more of the Outstanding Company Voting Securities.
- (k) “Term” means the period commencing as of the date hereof and expiring on the close of business on December 31, __; *provided, however*, that (i) commencing on January 1, __ and each January 1 thereafter, the term of this Agreement will automatically be extended for an additional year unless, not later than September 30 of the immediately preceding year, the Company or the Executive shall have given notice that it or the Executive, as the case may be, does not wish to have the Term extended; (ii) if a Change in Control occurs during the Term, the Term shall expire and this Agreement will terminate at the expiration of the Severance Period; and (iii) subject to the last sentence of Section 9, if, prior to a Change in Control, the Executive ceases for any reason to be an employee of the Company and any Affiliate of the Company, thereupon without further action the Term shall be deemed to have expired and this Agreement will immediately terminate and be of no further effect. For purposes of this Section 1(k), the Executive shall not be deemed to have ceased to be an employee of the Company and any Affiliate of the Company by reason of the transfer of Executive’s employment between the Company and any Affiliate of the Company, or among any Affiliates of the Company.
- (l) “Termination Date” means the date on which the Executive’s employment is terminated (the effective date of which shall be the date of termination, or such other date that may be specified by the Executive if the termination is pursuant to Section 3(b) or Section 3(c)).

2. Operation of Agreement . This Agreement will be effective and binding immediately upon its execution, but, anything in this Agreement to the contrary notwithstanding, except as provided in Section 9, this Agreement will not be operative unless and until a Change in Control occurs. Upon the occurrence of a Change in Control at any time during the Term, without further action, this Agreement shall become immediately operative.

3. Termination Following a Change in Control .

(a) In the event of the occurrence of a Change in Control, the Executive's employment may be terminated by the Company or an Affiliate of the Company during the Severance Period and the Executive shall be entitled to the benefits provided by Section 4 unless such termination is the result of the occurrence of one or more of the following events:

(i) The Executive's death;

(ii) If the Executive becomes permanently disabled within the meaning of, and begins actually to receive disability benefits pursuant to, the long-term disability plan in effect for, or applicable to, Executive immediately prior to the Change in Control; or

(iii) Cause.

If, during the Severance Period, the Executive's employment is terminated by the Company or any Affiliate of the Company other than pursuant to Section 3(a)(i), 3(a)(ii) or 3(a)(iii), the Executive will be entitled to the benefits provided by Section 4 hereof.

(b) In the event of the occurrence of a Change in Control, if (but only if) the Board determines that this Section 3(b) shall be operative following such Change in Control, the Executive may terminate employment with the Company and any Affiliate of the Company during the Severance Period with the right to severance compensation as provided in Section 4 upon the occurrence of one or more of the following events (regardless of whether any other reason, other than Cause as hereinabove provided, for such termination exists or has occurred, including without limitation other employment):

(i) Failure to elect or reelect or otherwise to maintain the Executive in the office or the position, or a substantially equivalent or better office or position, of or with the Company and/or an Affiliate of the Company (or any successor thereto by operation of law or otherwise), as the case may be, which the Executive held immediately prior to a Change in Control, or the removal of the Executive as a Director of the Company and/or an Affiliate of the Company (or any successor thereto) if the Executive shall have been a Director of the Company and/or an Affiliate of the Company immediately prior to the Change in Control;

(ii) (A) A significant adverse change in the nature or scope of the authorities, powers, functions, responsibilities or duties attached to the position with the Company and any Affiliate of the Company which the Executive held immediately prior to the Change in Control, (B) a reduction in the aggregate of the Executive's Base Pay and Incentive Pay received from the Company and any Affiliate of the Company, or (C) the termination or denial of the Executive's rights to Employee Benefits or a reduction in the scope or value thereof, any of which is not remedied by the Company within 10 calendar days after receipt by the Company of written notice from the Executive of such change, reduction or termination, as the case may be;

(iii) The liquidation, dissolution, merger, consolidation or reorganization of the Company or the transfer of all or substantially all of its business and/or assets, unless the successor or successors (by liquidation, merger, consolidation, reorganization, transfer or otherwise) to which all or substantially all of its business and/or assets have been transferred (by operation of law or otherwise) assumed all duties and obligations of the Company under this Agreement pursuant to Section 11(a);

(iv) The Company relocates its principal executive offices (if such offices are the principal location of Executive's work), or requires the Executive to have his principal location of work changed, to any

location that, in either case, is in excess of 50 miles from the location thereof immediately prior to the Change in Control, or requires the Executive to travel away from his office in the course of discharging his responsibilities or duties hereunder at least 20% more (in terms of aggregate days in any calendar year or in any calendar quarter when annualized for purposes of comparison to any prior year) than was required of Executive in any of the three full years immediately prior to the Change in Control without, in either case, his prior written consent; or

- (v) Without limiting the generality or effect of the foregoing, any material breach of this Agreement by the Company or any successor thereto which is not remedied by the Company within 10 calendar days after receipt by the Company of written notice from the Executive of such breach.
- (c) Notwithstanding anything contained in this Agreement to the contrary, in the event of a Change in Control, the Executive may terminate employment with the Company and any Affiliate of the Company for any reason, or without reason, during the 30-day period immediately following the first anniversary of the first occurrence of a Change in Control with the right to severance compensation as provided in Section 4.
- (d) A termination by the Company pursuant to Section 3(a) or by the Executive pursuant to Section 3(b) or Section 3(c) will not affect any rights that the Executive may have pursuant to any agreement, policy, plan, program or arrangement of the Company or an Affiliate of the Company providing Employee Benefits, which rights shall be governed by the terms thereof.

4. Severance Compensation .

- (a) If, following the occurrence of a Change in Control, the Company or an Affiliate of the Company terminates the Executive's employment during the Severance Period other than pursuant to Section 3(a)(i), 3(a)(ii) or 3(a)(iii), or if the Executive terminates his employment pursuant to Section 3(b) (if Section 3(b) is operative) or Section 3(c), the Company will pay to the Executive the amounts described in Annex A within five business days after the Termination Date and will continue to provide to the Executive the benefits described in Annex A for the periods described therein.
- (b) Without limiting the rights of the Executive at law or in equity, if the Company fails to make any payment or provide any benefit required to be made or provided hereunder on a timely basis, the Company will pay interest on the amount or value thereof at an annualized rate of interest equal to the so-called composite "prime rate" as quoted from time to time during the relevant period in the Midwest Edition of The Wall Street Journal, plus 4%. Such interest will be payable as it accrues on demand. Any change in such prime rate will be effective on and as of the date of such change.
- (c) Notwithstanding any provision of this Agreement to the contrary, the parties' respective rights and obligations under this Section 4 and under Sections 5, 7, 8, 9 and 13 will survive any termination or expiration of this Agreement or the termination of the Executive's employment following a Change in Control for any reason whatsoever.
- (d) Unless otherwise expressly provided by the applicable plan, program or agreement, after the occurrence of a Change in Control, the Company shall pay in cash to the Executive a lump sum amount equal to the value of any annual bonus (including, without limitation, incentive-based annual cash bonuses and performance units, but not including any equity-based compensation or compensation provided under a qualified plan) earned or accrued with respect to the Executive's service during the performance period or periods that includes the date on which the Change in Control occurred, disregarding any applicable vesting requirements; provided that (i) such amount shall be calculated at the plan target or payout rate, but prorated to base payment only on the portion of the Executive's service that had elapsed during the applicable performance period; and (ii) such amount shall be reduced by any amount actually paid to the Executive under the terms of such Plan. Such payment shall take into account service rendered through the payment date and shall be made at the earlier of (i) the date prescribed for payment pursuant to the applicable plan, program or agreement, or (ii) within five business days after the Termination Date.
- (e) Notwithstanding any provision to the contrary in any applicable plan, program or agreement, upon the

occurrence of a Change in Control, all equity incentive awards held by the Executive shall become fully vested and all stock options held by the Executive shall become fully exercisable.

5. Limitation on Payments and Benefits. Notwithstanding any provision of this Agreement to the contrary, if any amount or benefit to be paid or provided under this Agreement would be an "Excess Parachute Payment," within the meaning of Section 280G of the Internal Revenue Code of 1986, as amended (the "Code"), or any successor provision thereto, but for the application of this sentence, then the payments and benefits to be paid or provided under this Agreement shall be reduced to the minimum extent necessary (but in no event to less than zero) so that no portion of any such payment or benefit, as so reduced, constitutes an Excess Parachute Payment; *provided, however*, that the foregoing reduction shall be made only if and to the extent that such reduction would result in an increase in the aggregate payments and benefits to be provided, determined on an after-tax basis (taking into account the excise tax imposed pursuant to Section 4999 of the Code, or any successor provision thereto, any tax imposed by any comparable provision of state law, and any applicable federal, state and local income taxes). The determination of whether any reduction in such payments or benefits to be provided under this Agreement or otherwise is required pursuant to the preceding sentence shall be made at the expense of the Company, if requested by the Executive or the Company, by the Company's independent accountants. The fact that the Executive's right to payments or benefits may be reduced by reason of the limitations contained in this Section 5 shall not of itself limit or otherwise affect any other rights of the Executive other than pursuant to this Agreement. In the event that any payment or benefit intended to be provided under this Agreement or otherwise is required to be reduced pursuant to this Section 5, the Executive shall be entitled to designate the payments and/or benefits to be so reduced in order to give effect to this Section 5. The Company shall provide the Executive with all information reasonably requested by the Executive to permit the Executive to make such designation. In the event that the Executive fails to make such designation within 10 business days of the Termination Date, the Company may effect such reduction in any manner it deems appropriate.

6. No Mitigation Obligation. The Company hereby acknowledges that it will be difficult and may be impossible for the Executive to find reasonably comparable employment following the Termination Date. Accordingly, the payment of the severance compensation by the Company to the Executive in accordance with the terms of this Agreement is hereby acknowledged by the Company to be reasonable, and the Executive will not be required to mitigate the amount of any payment provided for in this Agreement by seeking other employment or otherwise, nor will any profits, income, earnings or other benefits from any source whatsoever create any mitigation, offset, reduction or any other obligation on the part of the Executive hereunder or otherwise, except as expressly provided in the last sentence of Paragraph 3 set forth on Annex A.

7. Legal Fees and Expenses.

- (a) It is the intent of the Company that the Executive not be required to incur legal fees and the related expenses associated with the interpretation, enforcement or defense of Executive's rights under this Agreement by litigation or otherwise because the cost and expense thereof would substantially detract from the benefits intended to be extended to the Executive hereunder. Accordingly, if it should appear to the Executive that the Company has failed to comply with any of its obligations under this Agreement or in the event that the Company or any other person takes or threatens to take any action to declare this Agreement void or unenforceable, or institutes any litigation or other action or proceeding designed to deny, or to recover from, the Executive the benefits provided or intended to be provided to the Executive hereunder, the Company irrevocably authorizes the Executive from time to time to retain counsel of Executive's choice, at the expense of the Company as hereafter provided, to advise and represent the Executive in connection with any such interpretation, enforcement or defense, including without limitation the initiation or defense of any litigation or other legal action, whether by or against the Company or any Director, officer, stockholder or other person affiliated with the Company, in any jurisdiction. Notwithstanding any existing or prior attorney-client relationship between the Company and such counsel, the Company irrevocably consents to the Executive's entering into an attorney-client relationship with such counsel, and in that connection the Company and the Executive agree that a confidential relationship shall exist between the Executive and such counsel. Without respect to whether the Executive prevails, in whole or in part, in connection with any of the foregoing, the Company will pay and be solely financially responsible for any and all attorneys' and related fees and expenses incurred by the Executive in

connection with any of the foregoing.

- (b) Without limiting the obligations of the Company pursuant to Section 7(a) hereof, in the event a Change in Control occurs, the performance of the Company's obligations under this Agreement, including, without limitation, this Section 7 and Annex A, shall be secured by amounts deposited or to be deposited in trust pursuant to certain trust agreements to which the Company shall be a party providing that the benefits to be provided hereunder and the fees and expenses of counsel selected from time to time by the Executive pursuant to Section 7(a) shall be paid, or reimbursed to the Executive if paid by the Executive, either in accordance with the terms of such trust agreements, or, if not so provided, on a regular, periodic basis upon presentation by the Executive to the trustee of a statement or statements prepared by such counsel in accordance with its customary practices. Any failure by the Company to satisfy any of its obligations under this Section 7(b) shall not limit the rights of the Executive hereunder. Subject to the foregoing, the Executive shall have the status of a general unsecured creditor of the Company and shall have no right to, or security interest in, any assets of the Company or any Affiliate of the Company.

8. Competitive Activity; Confidentiality; Nonsolicitation.

- (a) Acknowledgements and Agreements. The Executive hereby acknowledges and agrees that in the performance of the Executive's duties to the Company during the Term, the Executive will be brought into frequent contact, either in person, by telephone or through the mails, with existing and potential customers of the Company throughout the United States. The Executive also agrees that trade secrets and confidential information of the Company, more fully described in Section 8(j) of this Agreement, gained by the Executive during the Executive's association with the Company, have been developed by the Company through substantial expenditures of time, effort and money and constitute valuable and unique property of the Company. The Executive further understands and agrees that the foregoing makes it necessary for the protection of the business of the Company that the Executive not compete with the Company during the Term and not compete with the Company for a reasonable period thereafter, as further provided in the following subsections.
- (b) Covenants During the Term. During the Term and prior to the Termination Date, the Executive will not compete with the Company anywhere within the United States. In accordance with this restriction, but without limiting its terms, during the term of the Executive's employment, the Executive will not:
- (i) enter into or engage in any business which competes with the business of the Company;
 - (ii) solicit customers, business, patronage or orders for, or sell, any products and services in competition with, or for any business that competes with, the business of the Company;
 - (iii) divert, entice or otherwise take away any customers, business, patronage or orders of the Company or attempt to do so; or
 - (iv) promote or assist, financially or otherwise, any person, firm, association, partnership, corporation or other entity engaged in any business which competes with the business of the Company.
- (c) Covenants Following Termination. For a period of one (1) year following the Termination Date, if the Executive has received or is receiving benefits under this Agreement, the Executive will not:
- (i) enter into or engage in any business which competes with the Company's business within the Restricted Territory (as defined in Section 8(g));
 - (ii) solicit customers, business, patronage or orders for, or sell, any products and services in competition with, or for any business, wherever located, that competes with, the Company's business within the Restricted Territory;
 - (iii) divert, entice or otherwise take away any customers, business, patronage or orders of the Company within the Restricted Territory, or attempt to do so; or

(iv) promote or assist, financially or otherwise, any person, firm, association, partnership, corporation or other entity engaged in any business which competes with the Company's business within the Restricted Territory.

(d) Indirect Competition. For the purposes of Sections 8(b) and 8(c), inclusive, but without limitation thereof, the Executive will be in violation thereof if the Executive engages in any or all of the activities set forth therein directly as an individual on the Executive's own account, or indirectly as a partner, joint venturer, employee, agent, salesperson, consultant, officer and/or director of any firm, association, partnership, corporation or other entity, or as a stockholder of any corporation in which the Executive or the Executive's spouse, child or parent owns, directly or indirectly, individually or in the aggregate, more than five percent (5%) of the outstanding stock.

(e) The Company. For the purposes of this Section 8, the Company shall include any and all direct and indirect subsidiary, parent, affiliated, or related companies of the Company for which the Executive worked or had responsibility at the time of termination of the Executive's employment and at any time during the two (2) year period prior to such termination.

(f) The Company's Business. For the purposes of Sections 8(b), 8(c), 8(k) and 8(l), inclusive, the Company's business is defined to be the manufacture, marketing and sale of high performance engineered materials serving global telecommunications, computer, automotive electronics, industrial components and optical media markets, as further described in any and all manufacturing, marketing and sales manuals and materials of the Company as the same may be altered, amended, supplemented or otherwise changed from time to time, or of any other products or services substantially similar to or readily substitutable for any such described products and services.

(g) Restricted Territory. For the purposes of Section 8(c), the Restricted Territory shall be defined as and limited to:

(i) the geographic area(s) within a one hundred (100) mile radius of any and all Company location(s) in, to, or for which the Executive worked, to which the Executive was assigned or had any responsibility (either direct or supervisory) at the time of termination of the Executive's employment and at any time during the two (2) year period prior to such termination; and

(ii) all of the specific customer accounts, whether within or outside of the geographic area described in (i) above, with which the Executive had any contact or for which the Executive had any responsibility (either direct or supervisory) at the time of termination of the Executive's employment and at any time during the two (2) year period prior to such termination.

(h) Extension. If it shall be judicially determined that the Executive has violated any of the Executive's obligations under Section 8(c), then the period applicable to each obligation that the Executive shall have been determined to have violated shall automatically be extended by a period of time equal in length to the period during which such violation(s) occurred.

(i) Non-Solicitation. The Executive will not directly or indirectly at any time solicit or induce or attempt to solicit or induce any employee(s), sales representative(s), agent(s) or consultant(s) of the Company and/or of its parent, or its other subsidiary, affiliated or related companies to terminate their employment, representation or other association with the Company and/or its parent or its other subsidiary, affiliated or related companies.

(j) Further Covenants.

(i) The Executive will keep in strict confidence, and will not, directly or indirectly, at any time during or after the Executive's employment with the Company, disclose, furnish, disseminate, make available or, except in the course of performing the Executive's duties of employment, use any trade secrets or confidential business and technical information of the Company or its customers or vendors, including without limitation as to when or how the Executive may have acquired such information. Such

confidential information shall include, without limitation, the Company's unique selling, manufacturing and servicing methods and business techniques, training, service and business manuals, promotional materials, training courses and other training and instructional materials, vendor and product information, customer and prospective customer lists, other customer and prospective customer information and other business information. The Executive specifically acknowledges that all such confidential information, whether reduced to writing, maintained on any form of electronic media, or maintained in the Executive's mind or memory and whether compiled by the Company, and/or the Executive, derives independent economic value from not being readily known to or ascertainable by proper means by others who can obtain economic value from its disclosure or use, that reasonable efforts have been made by the Company to maintain the secrecy of such information, that such information is the sole property of the Company and that any retention and use of such information by the Executive during the Executive's employment with the Company (except in the course of performing the Executive's duties and obligations to the Company) or after the termination of the Executive's employment shall constitute a misappropriation of the Company's trade secrets.

- (ii) The Executive agrees that upon termination of the Executive's employment with the Company, for any reason, the Executive shall return to the Company, in good condition, all property of the Company, including without limitation, the originals and all copies of any materials which contain, reflect, summarize, describe, analyze or refer or relate to any items of information listed in Section 8 (j)(i) of this Agreement. In the event that such items are not so returned, the Company will have the right to charge the Executive for all reasonable damages, costs, attorneys' fees and other expenses incurred in searching for, taking, removing and/or recovering such property.

(k) Discoveries and Inventions; Work Made for Hire .

- (i) The Executive hereby assigns and agrees to assign to the Company, its successors, assigns or nominees, all of the Executive's rights to any discoveries, inventions and improvements, whether patentable or not, made, conceived or suggested, either solely or jointly with others, by the Executive while in the Company's employ, whether in the course of the Executive's employment with the use of the Company's time, material or facilities or that is in any way within or related to the existing or contemplated scope of the Company's business. Any discovery, invention or improvement relating to any subject matter with which the Company was concerned during the Executive's employment and made, conceived or suggested by the Executive, either solely or jointly with others, within one (1) year following termination of the Executive's employment under this Agreement or any successor agreements shall be irrebuttably presumed to have been so made, conceived or suggested in the course of such employment with the use of the Company's time, materials or facilities. Upon request by the Company with respect to any such discoveries, inventions or improvements, the Executive will execute and deliver to the Company, at any time during or after the Executive's employment, all appropriate documents for use in applying for, obtaining and maintaining such domestic and foreign patents as the Company may desire, and all proper assignments therefor, when so requested, at the expense of the Company, but without further or additional consideration.
- (ii) The Executive acknowledges that, to the extent permitted by law, all work papers, reports, documentation, drawings, photographs, negatives, tapes and masters therefor, prototypes and other materials (hereinafter, "items"), including without limitation, any and all such items generated and maintained on any form of electronic media, generated by the Executive during the Executive's employment with the Company shall be considered a "work made for hire" and that ownership of any and all copyrights in any and all such items shall belong to the Company. The item will recognize the Company as the copyright owner, will contain all proper copyright notices , e.g., "(creation date) [Company Name], All Rights Reserved," and will be in condition to be registered or otherwise placed in compliance with registration or other statutory requirements throughout the world.

- (l) Communication of Contents of Agreement . During the Executive's employment and for one (1) year thereafter, the Executive will communicate the contents of this Agreement to any person, firm, association, partnership, corporation or other entity which the Executive intends to be employed by, associated with, or represent and which is engaged in a business that is competitive to the business of the Company.

(m) Relief . The Executive acknowledges and agrees that the remedy at law available to the Company for breach of any of the Executive's obligations under this Agreement would be inadequate. The Executive therefore agrees that, in addition to any other rights or remedies that the Company may have at law or in equity, temporary and permanent injunctive relief may be granted in any proceeding which may be brought to enforce any provision contained in Sections 8(b), 8(c), 8(i), 8(j), 8(k) and 8(l), inclusive, of this Agreement, without the necessity of proof of actual damage.

(n) Reasonableness . The Executive acknowledges that the Executive's obligations under this Section 8 are reasonable in the context of the nature of the Company's business and the competitive injuries likely to be sustained by the Company if the Executive was to violate such obligations. The Executive further acknowledges that this Agreement is made in consideration of, and is adequately supported by the agreement of the Company to perform its obligations under this Agreement and by other consideration, which the Executive acknowledges constitutes good, valuable and sufficient consideration.

9. Employment Rights . Nothing expressed or implied in this Agreement will create any right or duty on the part of the Company or the Executive to have the Executive remain in the employment of the Company or any Affiliate of the Company prior to or following any Change in Control. Any termination of employment of the Executive or the removal of the Executive from the office or position in the Company or any Affiliate of the Company that occurs following the commencement of any discussion with a third person that ultimately results in a Change in Control, shall be deemed to be a termination or removal of the Executive after a Change in Control for purposes of this Agreement.

10. Withholding of Taxes . The Company may withhold from any amounts payable under this Agreement all federal, state, city or other taxes as the Company is required to withhold pursuant to any applicable law, regulation or ruling.

11. Successors and Binding Agreement .

(a) The Company will require any successor (whether direct or indirect, by purchase, merger, consolidation, reorganization or otherwise) to all or substantially all of the business or assets of the Company, by agreement in form and substance reasonably satisfactory to the Executive, expressly to assume and agree to perform this Agreement in the same manner and to the same extent the Company would be required to perform if no such succession had taken place. This Agreement will be binding upon and inure to the benefit of the Company and any successor to the Company, including without limitation any persons acquiring directly or indirectly all or substantially all of the business or assets of the Company whether by purchase, merger, consolidation, reorganization or otherwise (and such successor shall thereafter be deemed the "Company" for the purposes of this Agreement), but will not otherwise be assignable, transferable or delegable by the Company.

(b) This Agreement will inure to the benefit of and be enforceable by the Executive's personal or legal representatives, executors, administrators, successors, heirs, distributees and legatees.

(c) This Agreement is personal in nature and neither of the parties hereto shall, without the consent of the other, assign, transfer or delegate this Agreement or any rights or obligations hereunder except as expressly provided in Sections 11(a) and 11(b). Without limiting the generality or effect of the foregoing, the Executive's right to receive payments hereunder will not be assignable, transferable or delegable, whether by pledge, creation of a security interest, or otherwise, other than by a transfer by Executive's will or by the laws of descent and distribution and, in the event of any attempted assignment or transfer contrary to this Section 11(c), the Company shall have no liability to pay any amount so attempted to be assigned, transferred or delegated.

12. Notices . For all purposes of this Agreement, all communications, including without limitation notices, consents, requests or approvals, required or permitted to be given hereunder will be in writing and will be deemed to have been duly given when hand delivered or dispatched by electronic facsimile transmission (with receipt thereof orally confirmed), or five business days after having been mailed by United States registered or certified mail, return receipt requested, postage prepaid, or three business days after having been sent by a

nationally recognized overnight courier service such as FedEx, UPS, or Purolator, addressed to the Company (to the attention of the Secretary of the Company) at its principal executive office and to the Executive at his principal residence, or to such other address as any party may have furnished to the other in writing and in accordance herewith, except that notices of changes of address shall be effective only upon receipt.

13. Compliance with Section 409A of the Code . To the extent applicable, it is intended that this Agreement comply with the provisions of Section 409A of the Code. This Agreement shall be administered in a manner consistent with this intent, and any provision that would cause the Agreement to fail to satisfy Section 409A of the Code shall have no force and effect until amended to comply with Section 409A of the Code (which amendment may be retroactive to the extent permitted by Section 409A of the Code and may be made by the Company without the consent of the Executive). In particular, to the extent the Executive becomes entitled to receive payment subject to Section 409A upon an event that does not constitute a permitted distribution event under Section 409A(a)(2) of the Code, then notwithstanding anything to the contrary in this Agreement, payment will be made to the Executive on the earlier of (a) the Executive's "separation from service" with the Company (determined in accordance with Section 409A); provided , however , that if the Executive is a "specified employee" (within the meaning of Section 409A), the Executive's date of payment shall be made on the date which is 6 months after the date of the Executive's separation from service with the Company or (b) the Executive's death.
14. Governing Law . The validity, interpretation, construction and performance of this Agreement will be governed by and construed in accordance with the substantive laws of the State of Ohio, without giving effect to the principles of conflict of laws of such State.
15. Validity . If any provision of this Agreement or the application of any provision hereof to any person or circumstance is held invalid, unenforceable or otherwise illegal, the remainder of this Agreement and the application of such provision to any other person or circumstance will not be affected, and the provision so held to be invalid, unenforceable or otherwise illegal will be reformed to the extent (and only to the extent) necessary to make it enforceable, valid or legal.
16. Miscellaneous . No provision of this Agreement may be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing signed by the Executive and the Company. No waiver by either party hereto at any time of any breach by the other party hereto or compliance with any condition or provision of this Agreement to be performed by such other party will be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time. No agreements or representations, oral or otherwise, expressed or implied with respect to the subject matter hereof have been made by either party which are not set forth expressly in this Agreement. References to Sections are to Sections of this Agreement.
17. Counterparts . This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same agreement.

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

BRUSH ENGINEERED MATERIALS INC.

By:
Name:
Title:

[Executive]

Annex A

SEVERANCE COMPENSATION

(1) A lump sum payment in an amount equal to three times the sum of (A) Base Pay (at the highest rate in effect for any period prior to the Termination Date), plus (B) Incentive Pay (in an amount equal to not less than the higher of (1) the highest aggregate Incentive Pay earned in any fiscal year ending after the Change in Control or in any of the three fiscal years immediately preceding the year in which the Change in Control occurred or (2) the plan target for the year in which the Change in Control occurred).

(2) A lump sum payment in an amount equal to the present value of the bonuses the Executive would have received under any Long Term Cash Incentive Plan of the Company for performance periods in effect at the time of the termination of the Executive's employment had he continued to be employed through the period covered by any such plan, assuming payout under such plans at the plan target rate, reduced by any amounts actually paid to the Executive under the terms of any such plan. In determining present value for this purpose, there shall be applied a discount factor equal to the coupon rate on general full-faith-and-credit obligations of the U.S. Treasury having a maturity of five years and issued on the date of the termination of the Executive's employment.

(3) For a period of 36 months following the Termination Date (the "Continuation Period"), the Company will arrange to provide the Executive with Employee Benefits that are welfare benefits including, without limitation, retiree medical and life insurance (but not perquisites, stock option, performance share, performance unit, stock purchase, stock appreciation or similar compensatory benefits or benefits covered by (4) below) substantially similar to those that the Executive was receiving or entitled to receive immediately prior to the Termination Date (or, if greater, immediately prior to the reduction, termination, or denial described in Section 3(b)(ii)). If and to the extent that any benefit described in this Paragraph 3 is not or cannot be paid or provided under any policy, plan, program or arrangement of the Company or any Affiliate of the Company, as the case may be, then the Company will itself pay or provide for the payment to the Executive, his dependents and beneficiaries, of such Employee Benefits along with, in the case of any benefit described in this Paragraph 3 which is subject to tax because it is not or cannot be paid or provided under any such policy, plan, program or arrangement of the Company or any Affiliate of the Company, an additional amount such that after payment by the Executive, or his dependents or beneficiaries, as the case may be, of all taxes so imposed, the recipient retains an amount equal to such taxes. Notwithstanding the foregoing, or any other provision of the Agreement, for purposes of determining the period of continuation coverage to which the Executive or any of his dependents is entitled pursuant to Section 4980B of the Code (or any successor provision thereto) under the Company's medical, dental and other group health plans, or successor plans, the Executive's "qualifying event" shall be the termination of the Continuation Period. Further, for purposes of the immediately preceding sentence and for any other purpose including, without limitation, the calculation of service or age to determine Executive's eligibility for benefits under any retiree medical benefits or life insurance plan or policy, the Executive shall be considered to have remained actively employed on a full-time basis through the termination of the Continuation Period. Without otherwise limiting the purposes or effect of Section 6, Employee Benefits otherwise receivable by the Executive pursuant to this Paragraph 3 will be reduced to the extent comparable welfare benefits are actually received by the Executive from another employer during the Continuation Period following the Executive's Termination Date, and any such benefits actually received by the Executive shall be reported by the Executive to the Company.

(4) In addition to the retirement income and other benefits to which Executive is entitled under the Company's Retirement Plans with respect to Executive's employment through the Termination Date, a lump sum payment in an amount equal to the present value of the excess of (x) the retirement income and other benefits that would be payable to the Executive under the Retirement Plans if Executive had continued to be employed as an active participant in the Company's Retirement Plans through the Continuation Period given the Executive's Base Pay and Incentive Pay (as determined in Paragraph 1) (without regard to any amendment to the Retirement Plans made subsequent to a Change in Control which reduces the retirement income or other benefits thereunder), over (y) the retirement income and other benefits that the Executive is entitled to receive (either immediately or on a deferred basis) under the Retirement Plans. For purposes of this Paragraph 4, present value shall be determined by applying a discount factor equal to the annual rate of interest on 30-year U.S. Treasury securities issued on the date of the termination of the Executive's employment (or, if no such securities are issued on such date, on the most recent date preceding the date of the termination of the Executive's employment on which such securities are issued), and by using the 1983 Group Annuity Mortality Table (50% male/50% female).

(5) If the Executive is entitled to receive or has received, during the year in which the Termination Date occurs, cash payments from the Company in connection with which the Executive agreed to receive current cash payments in lieu of benefits under the Company's Supplemental Retirement Benefit Plan (SERP), a lump sum payment

in an amount equal to three times the aggregate amount paid or payable to the Executive by the Company in lieu of benefits under the SERP.

(6) If the Executive is receiving or has been granted cash payments from the Company which have been designated by the Board as special awards, a lump sum payment equal to three times the aggregate award designated by the Board of Directors for the year in which the Termination Date occurs.

(7) A lump sum payment equal to the cash value of the club dues and financial counseling benefits that the Executive would have been entitled to receive during the Continuation Period based on the annual value of such club dues and financial counseling benefits immediately before the Termination Date or, if greater, immediately before the Change in Control; provided that the Executive must have been receiving such benefits immediately prior to either the Termination Date or the date of the Change in Control.

(8) Reasonable fees for outplacement services, by a firm selected by the Executive, at the expense of the Company in an amount not in excess of \$20,000.

Exhibit 10.4

SEVERANCE AGREEMENT

THIS SEVERANCE AGREEMENT (this "Agreement"), dated as of ___, ___ is made and entered by and between Brush Engineered Materials Inc., an Ohio corporation (the "Company"), and ___ (the "Executive").

WITNESSETH:

WHEREAS, the Executive is a senior executive of the Company or one or more of its Subsidiaries and has made and is expected to continue to make major contributions to the short- and long-term profitability, growth and financial strength of the Company;

WHEREAS, the Company recognizes that, as is the case for most companies, the possibility of a Change in Control (as defined below) exists;

WHEREAS, the Company desires to assure itself of both present and future continuity of management and desires to establish certain minimum severance benefits for certain of its senior executives, including the Executive, applicable in the event of a Change in Control;

WHEREAS, the Company wishes to ensure that its senior executives are not practically disabled from discharging their duties in respect of a proposed or actual transaction involving a Change in Control; and

WHEREAS, the Company desires to provide additional inducement for the Executive to continue to remain in the employ of the Company;

NOW, THEREFORE, the Company and the Executive agree as follows:

1. Certain Defined Terms. In addition to terms defined elsewhere herein, the following terms have the following meanings when used in this Agreement with initial capital letters:

(a) "Affiliate" means with respect to any Person, any holder of more than 10% of the outstanding shares or equity interests of such Person or any other Person which directly or indirectly controls, is controlled by or is under common control with such Person. A Person shall be deemed to control another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the "controlled" Person, whether through ownership of voting securities, by contract or otherwise.

(b) "Base Pay" means the Executive's annual base salary rate as in effect from time to time.

(c) “Board” means the Board of Directors of the Company.

(d) “Cause” means that, prior to any termination pursuant to Section 3(a)(iii), Section 3(b) or Section 3(c), the Executive shall have:

- (i) been convicted of a criminal violation involving fraud, embezzlement, theft or violation of federal antitrust statutes or federal securities laws in connection with his duties or in the course of his employment with the Company or any Affiliate of the Company;
- (ii) committed intentional wrongful damage to property of the Company or any Affiliate of the Company;
- (iii) committed intentional wrongful disclosure of secret processes or confidential information of the Company or any Affiliate of the Company; or
- (iv) intentionally engaged in any activity in violation of Section 8;

and any such act shall have been demonstrably and materially harmful to the Company. For purposes of this Agreement, no act or failure to act on the part of the Executive shall be deemed “intentional” if it was due primarily to an error in judgment or negligence, but shall be deemed “intentional” only if done or omitted to be done by the Executive not in good faith and without reasonable belief that the Executive’s action or omission was in the best interest of the Company. Notwithstanding the foregoing, the Executive shall not be deemed to have been terminated for “Cause” hereunder unless and until there shall have been delivered to the Executive a copy of a resolution duly adopted by the affirmative vote of not less than three quarters of the Board then in office at a meeting of the Board called and held for such purpose, after reasonable notice to the Executive and an opportunity for the Executive, together with the Executive’s counsel (if the Executive chooses to have counsel present at such meeting), to be heard before the Board, finding that, in the good faith opinion of the Board, the Executive had committed an act constituting “Cause” as herein defined and specifying the particulars thereof in detail. Nothing herein will limit the right of the Executive or his beneficiaries to contest the validity or propriety of any such determination.

(e) “Change in Control” means

- (i) The acquisition by any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”)) (a “Person”) of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of voting securities of the Company where such acquisition causes such Person to own (X) 20% or more of the combined voting power of the then outstanding voting securities of the Company entitled to vote generally in the election of directors (the “Outstanding Company Voting Securities”) without the approval of the Incumbent Board as defined in (ii) below or (Y) 35% or more of the Outstanding Voting Securities of the Company with the approval of the Incumbent Board; *provided, however*, that for purposes of this subsection (i), the following acquisitions shall not be deemed to result in a Change of Control: (A) any acquisition directly from the Company that is approved by the Incumbent Board (as defined in subsection (ii), below), (B) any acquisition by the Company or a subsidiary of the Company, (C) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any corporation controlled by the Company, (D) any acquisition by any Person pursuant to a transaction described in clauses (A), (B) and (C) of subsection (iii) below, or (E) any acquisition by, or other Business Combination (as defined in (iii) below) with, a person or group of which employees of the Company or any subsidiary of the Company control a greater than 25% interest (a “MBO”) but only if the Executive is one of those employees of the Company or any subsidiary of the Company that are participating in the MBO; *provided, further*, that if any Person’s beneficial ownership of the Outstanding Company Voting Securities reaches or exceeds 20% or 35%, as the case may be, as a result of a transaction described in clause (A) or (B) above, and such Person subsequently acquires beneficial ownership of additional voting securities of the Company, such subsequent acquisition shall be treated as an acquisition that causes such Person to own 20% or 35% or more, as the case may be, of the Outstanding Company Voting Securities; and *provided, further*, that if at least a majority of the members of the Incumbent Board determines in good faith that a

Person has acquired beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of 20% or more of the Outstanding Company Voting Securities inadvertently, and such Person divests as promptly as practicable a sufficient number of shares so that such Person beneficially owns (within the meanings of Rule 13d-3 promulgated under the Exchange Act) less than 20% of the Outstanding Company Voting Securities, then no Change of Control shall have occurred as a result of such Person's acquisition; or

(ii) individuals who, as of the date hereof, constitute the Board (the "Incumbent Board" (as modified by this clause (ii)) cease for any reason to constitute at least a majority of the Board; *provided, however*, that any individual becoming a director subsequent to the date hereof whose election, or nomination for election by the Company's shareholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board (either by a specific vote or by approval of the proxy statement of the Company in which such person is named as a nominee for director, without objection to such nomination) shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board; or

(iii) the consummation of a reorganization, merger or consolidation or sale or other disposition of all or substantially all of the assets of the Company or the acquisition of assets of another corporation, or other transaction ("Business Combination") excluding, however, such a Business Combination pursuant to which (A) the individuals and entities who were the ultimate beneficial owners of voting securities of the Company immediately prior to such Business Combination beneficially own, directly or indirectly, more than 65% of, respectively, the then outstanding shares of common stock and the combined voting power of the then outstanding voting securities entitled to vote generally in the election of directors, as the case may be, of the entity resulting from such Business Combination (including, without limitation, an entity that as a result of such transaction owns the Company or all or substantially all of the Company's assets either directly or through one or more subsidiaries), (B) no Person (excluding any employee benefit plan (or related trust) of the Company, the Company or such entity resulting from such Business Combination) beneficially owns, directly or indirectly (X) 20% or more, if such Business Combination is approved by the Incumbent Board or (Y) 35% or more, if such Business Combination is not approved by the Incumbent Board, of the combined voting power of the then outstanding securities entitled to vote generally in the election of directors of the entity resulting from such Business Combination and (C) at least a majority of the members of the board of directors of the corporation resulting from such Business Combination were members of the Incumbent Board at the time of the execution of the initial agreement, or of the action of the Board, providing for such Business Combination; or

(iv) approval by the shareholders of the Company of a complete liquidation or dissolution of the Company except pursuant to a Business Combination described in clauses (A), (B) and (C) of subsection (iii), above.

(f) "Employee Benefits" means the perquisites, benefits and service credit for benefits as provided under any and all employee retirement income and welfare benefit policies, plans, programs or arrangements in which Executive is entitled to participate, including without limitation any stock option, performance share, performance unit, stock purchase, stock appreciation, savings, pension, supplemental executive retirement, or other retirement income or welfare benefit, deferred compensation, incentive compensation, group or other life, health, medical/hospital or other insurance (whether funded by actual insurance or self-insured by the Company or an Affiliate of the Company), disability, salary continuation, expense reimbursement and other employee benefit policies, plans, programs or arrangements.

(g) "Incentive Pay" means the annual bonus, incentive or other payment of compensation under the Management Performance Compensation Plan or, if such Management Performance Compensation Plan is no longer in effect, the annual bonus, incentive or other payment of compensation in addition to Base Pay, made or to be made in regard to services rendered in any year or other period pursuant to any bonus,

incentive, profit-sharing, performance, discretionary pay or similar agreement, policy, plan, program or arrangement (whether or not funded) of the Company or an Affiliate of the Company, or any successor thereto.

- (h) "Retirement Plans" means the benefit plans of the Company that are intended to be qualified under Section 401(a) of the Internal Revenue Code and the Company's Supplemental Retirement Benefit Plan or any other plan that is a successor thereto if the Executive was a participant in such Retirement Plan on the date of the occurrence of the Change in Control.
- (i) "Severance Period" means the period of time commencing on the date of the first occurrence of a Change in Control and continuing until the earlier of (i) the second anniversary of the occurrence of the Change in Control, or (ii) the Executive's death; *provided, however*, that commencing on each anniversary of the Change in Control, the Severance Period will automatically be extended for an additional year unless, not later than 90 calendar days prior to such anniversary date, either the Company or the Executive shall have given written notice to the other that the Severance Period is not to be so extended.
- (j) "Subsidiary" means an entity in which the Company directly or indirectly beneficially owns 50% or more of the Outstanding Company Voting Securities.
- (k) "Term" means the period commencing as of the date hereof and expiring on the close of business on December 31, __; *provided, however*, that (i) commencing on January 1, __ and each January 1 thereafter, the term of this Agreement will automatically be extended for an additional year unless, not later than September 30 of the immediately preceding year, the Company or the Executive shall have given notice that it or the Executive, as the case may be, does not wish to have the Term extended; (ii) if a Change in Control occurs during the Term, the Term shall expire and this Agreement will terminate at the expiration of the Severance Period; and (iii) subject to the last sentence of Section 9, if, prior to a Change in Control, the Executive ceases for any reason to be an employee of the Company and any Affiliate of the Company, thereupon without further action the Term shall be deemed to have expired and this Agreement will immediately terminate and be of no further effect. For purposes of this Section 1(k), the Executive shall not be deemed to have ceased to be an employee of the Company and any Affiliate of the Company by reason of the transfer of Executive's employment between the Company and any Affiliate of the Company, or among any Affiliates of the Company.
- (l) "Termination Date" means the date on which the Executive's employment is terminated (the effective date of which shall be the date of termination, or such other date that may be specified by the Executive if the termination is pursuant to Section 3(b) or Section 3(c)).

2. Operation of Agreement . This Agreement will be effective and binding immediately upon its execution, but, anything in this Agreement to the contrary notwithstanding, except as provided in Section 9, this Agreement will not be operative unless and until a Change in Control occurs. Upon the occurrence of a Change in Control at any time during the Term, without further action, this Agreement shall become immediately operative.

3. Termination Following a Change in Control .

- (a) In the event of the occurrence of a Change in Control, the Executive's employment may be terminated by the Company or an Affiliate of the Company during the Severance Period and the Executive shall be entitled to the benefits provided by Section 4 unless such termination is the result of the occurrence of one or more of the following events:
 - (i) The Executive's death;
 - (ii) If the Executive becomes permanently disabled within the meaning of, and begins actually to receive disability benefits pursuant to, the long-term disability plan in effect for, or applicable to, Executive immediately prior to the Change in Control; or
 - (iii) Cause.

If, during the Severance Period, the Executive's employment is terminated by the Company or any Affiliate of the Company other than pursuant to Section 3(a)(i), 3(a)(ii) or 3(a)(iii), the Executive will be entitled to the benefits provided by Section 4 hereof.

- (b) In the event of the occurrence of a Change in Control, if (but only if) the Board determines that this Section 3(b) shall be operative following such Change in Control, the Executive may terminate employment with the Company and any Affiliate of the Company during the Severance Period with the right to severance compensation as provided in Section 4 upon the occurrence of one or more of the following events (regardless of whether any other reason, other than Cause as hereinabove provided, for such termination exists or has occurred, including without limitation other employment):
- (i) Failure to elect or reelect or otherwise to maintain the Executive in the office or the position, or a substantially equivalent or better office or position, of or with the Company and/or an Affiliate of the Company (or any successor thereto by operation of law or otherwise), as the case may be, which the Executive held immediately prior to a Change in Control, or the removal of the Executive as a Director of the Company and/or an Affiliate of the Company (or any successor thereto) if the Executive shall have been a Director of the Company and/or an Affiliate of the Company immediately prior to the Change in Control;
 - (ii) (A) A significant adverse change in the nature or scope of the authorities, powers, functions, responsibilities or duties attached to the position with the Company and any Affiliate of the Company which the Executive held immediately prior to the Change in Control, (B) a reduction in the aggregate of the Executive's Base Pay and Incentive Pay received from the Company and any Affiliate of the Company, or (C) the termination or denial of the Executive's rights to Employee Benefits or a reduction in the scope or value thereof, any of which is not remedied by the Company within 10 calendar days after receipt by the Company of written notice from the Executive of such change, reduction or termination, as the case may be;
 - (iii) The liquidation, dissolution, merger, consolidation or reorganization of the Company or the transfer of all or substantially all of its business and/or assets, unless the successor or successors (by liquidation, merger, consolidation, reorganization, transfer or otherwise) to which all or substantially all of its business and/or assets have been transferred (by operation of law or otherwise) assumed all duties and obligations of the Company under this Agreement pursuant to Section 11(a);
 - (iv) The Company relocates its principal executive offices (if such offices are the principal location of Executive's work), or requires the Executive to have his principal location of work changed, to any location that, in either case, is in excess of 50 miles from the location thereof immediately prior to the Change in Control, or requires the Executive to travel away from his office in the course of discharging his responsibilities or duties hereunder at least 20% more (in terms of aggregate days in any calendar year or in any calendar quarter when annualized for purposes of comparison to any prior year) than was required of Executive in any of the three full years immediately prior to the Change in Control without, in either case, his prior written consent; or
 - (v) Without limiting the generality or effect of the foregoing, any material breach of this Agreement by the Company or any successor thereto which is not remedied by the Company within 10 calendar days after receipt by the Company of written notice from the Executive of such breach.
- (c) Notwithstanding anything contained in this Agreement to the contrary, in the event of a Change in Control, the Executive may terminate employment with the Company and any Affiliate of the Company for any reason, or without reason, during the 30-day period immediately following the first anniversary of the first occurrence of a Change in Control with the right to severance compensation as provided in Section 4.
- (d) A termination by the Company pursuant to Section 3(a) or by the Executive pursuant to Section 3(b) or Section 3(c) will not affect any rights that the Executive may have pursuant to any agreement, policy, plan, program or arrangement of the Company or an Affiliate of the Company providing Employee Benefits, which rights shall be governed by the terms thereof.

4. Severance Compensation.

- (a) If, following the occurrence of a Change in Control, the Company or an Affiliate of the Company terminates the Executive's employment during the Severance Period other than pursuant to Section 3(a)(i), 3(a)(ii) or 3(a)(iii), or if the Executive terminates his employment pursuant to Section 3(b) (if Section 3(b) is operative) or Section 3(c), the Company will pay to the Executive the amounts described in Annex A within five business days after the Termination Date and will continue to provide to the Executive the benefits described in Annex A for the periods described therein.
- (b) Without limiting the rights of the Executive at law or in equity, if the Company fails to make any payment or provide any benefit required to be made or provided hereunder on a timely basis, the Company will pay interest on the amount or value thereof at an annualized rate of interest equal to the so-called composite "prime rate" as quoted from time to time during the relevant period in the Midwest Edition of The Wall Street Journal, plus 4%. Such interest will be payable as it accrues on demand. Any change in such prime rate will be effective on and as of the date of such change.
- (c) Notwithstanding any provision of this Agreement to the contrary, the parties' respective rights and obligations under this Section 4 and under Sections 5, 7, 8, 9 and 13 will survive any termination or expiration of this Agreement or the termination of the Executive's employment following a Change in Control for any reason whatsoever.
- (d) Unless otherwise expressly provided by the applicable plan, program or agreement, after the occurrence of a Change in Control, the Company shall pay in cash to the Executive a lump sum amount equal to the value of any annual bonus (including, without limitation, incentive-based annual cash bonuses and performance units, but not including any equity-based compensation or compensation provided under a qualified plan) earned or accrued with respect to the Executive's service during the performance period or periods that includes the date on which the Change in Control occurred, disregarding any applicable vesting requirements; provided that (i) such amount shall be calculated at the plan target or payout rate, but prorated to base payment only on the portion of the Executive's service that had elapsed during the applicable performance period; and (ii) such amount shall be reduced by any amount actually paid to the Executive under the terms of such Plan. Such payment shall take into account service rendered through the payment date and shall be made at the earlier of (i) the date prescribed for payment pursuant to the applicable plan, program or agreement, or (ii) within five business days after the Termination Date.
- (e) Notwithstanding any provision to the contrary in any applicable plan, program or agreement, upon the occurrence of a Change in Control, all equity incentive awards held by the Executive shall become fully vested and all stock options held by the Executive shall become fully exercisable.

5. Limitation on Payments and Benefits. Notwithstanding any provision of this Agreement to the contrary, if any amount or benefit to be paid or provided under this Agreement would be an "Excess Parachute Payment," within the meaning of Section 280G of the Internal Revenue Code of 1986, as amended (the "Code"), or any successor provision thereto, but for the application of this sentence, then the payments and benefits to be paid or provided under this Agreement shall be reduced to the minimum extent necessary (but in no event to less than zero) so that no portion of any such payment or benefit, as so reduced, constitutes an Excess Parachute Payment; *provided, however*, that the foregoing reduction shall be made only if and to the extent that such reduction would result in an increase in the aggregate payments and benefits to be provided, determined on an after-tax basis (taking into account the excise tax imposed pursuant to Section 4999 of the Code, or any successor provision thereto, any tax imposed by any comparable provision of state law, and any applicable federal, state and local income taxes). The determination of whether any reduction in such payments or benefits to be provided under this Agreement or otherwise is required pursuant to the preceding sentence shall be made at the expense of the Company, if requested by the Executive or the Company, by the Company's independent accountants. The fact that the Executive's right to payments or benefits may be reduced by reason of the limitations contained in this Section 5 shall not of itself limit or otherwise affect any other rights of the Executive other than pursuant to this Agreement. In the event that any payment or benefit intended to be provided under this Agreement or otherwise is required to be reduced pursuant to this Section 5, the Executive shall be entitled to designate the payments and/or benefits to be so reduced in order to give effect to this

Section 5. The Company shall provide the Executive with all information reasonably requested by the Executive to permit the Executive to make such designation. In the event that the Executive fails to make such designation within 10 business days of the Termination Date, the Company may effect such reduction in any manner it deems appropriate.

6. No Mitigation Obligation . The Company hereby acknowledges that it will be difficult and may be impossible for the Executive to find reasonably comparable employment following the Termination Date. Accordingly, the payment of the severance compensation by the Company to the Executive in accordance with the terms of this Agreement is hereby acknowledged by the Company to be reasonable, and the Executive will not be required to mitigate the amount of any payment provided for in this Agreement by seeking other employment or otherwise, nor will any profits, income, earnings or other benefits from any source whatsoever create any mitigation, offset, reduction or any other obligation on the part of the Executive hereunder or otherwise, except as expressly provided in the last sentence of Paragraph 3 set forth on Annex A.

7. Legal Fees and Expenses .

- (a) It is the intent of the Company that the Executive not be required to incur legal fees and the related expenses associated with the interpretation, enforcement or defense of Executive's rights under this Agreement by litigation or otherwise because the cost and expense thereof would substantially detract from the benefits intended to be extended to the Executive hereunder. Accordingly, if it should appear to the Executive that the Company has failed to comply with any of its obligations under this Agreement or in the event that the Company or any other person takes or threatens to take any action to declare this Agreement void or unenforceable, or institutes any litigation or other action or proceeding designed to deny, or to recover from, the Executive the benefits provided or intended to be provided to the Executive hereunder, the Company irrevocably authorizes the Executive from time to time to retain counsel of Executive's choice, at the expense of the Company as hereafter provided, to advise and represent the Executive in connection with any such interpretation, enforcement or defense, including without limitation the initiation or defense of any litigation or other legal action, whether by or against the Company or any Director, officer, stockholder or other person affiliated with the Company, in any jurisdiction. Notwithstanding any existing or prior attorney-client relationship between the Company and such counsel, the Company irrevocably consents to the Executive's entering into an attorney-client relationship with such counsel, and in that connection the Company and the Executive agree that a confidential relationship shall exist between the Executive and such counsel. Without respect to whether the Executive prevails, in whole or in part, in connection with any of the foregoing, the Company will pay and be solely financially responsible for any and all attorneys' and related fees and expenses incurred by the Executive in connection with any of the foregoing.
- (b) Without limiting the obligations of the Company pursuant to Section 7(a) hereof, in the event a Change in Control occurs, the performance of the Company's obligations under this Agreement, including, without limitation, this Section 7 and Annex A, shall be secured by amounts deposited or to be deposited in trust pursuant to certain trust agreements to which the Company shall be a party providing that the benefits to be provided hereunder and the fees and expenses of counsel selected from time to time by the Executive pursuant to Section 7(a) shall be paid, or reimbursed to the Executive if paid by the Executive, either in accordance with the terms of such trust agreements, or, if not so provided, on a regular, periodic basis upon presentation by the Executive to the trustee of a statement or statements prepared by such counsel in accordance with its customary practices. Any failure by the Company to satisfy any of its obligations under this Section 7(b) shall not limit the rights of the Executive hereunder. Subject to the foregoing, the Executive shall have the status of a general unsecured creditor of the Company and shall have no right to, or security interest in, any assets of the Company or any Affiliate of the Company.

8. Competitive Activity; Confidentiality; Nonsolicitation .

- (a) Acknowledgements and Agreements . The Executive hereby acknowledges and agrees that in the performance of the Executive's duties to the Company during the Term, the Executive will be brought into frequent contact, either in person, by telephone or through the mails, with existing and potential customers of the Company throughout the United States. The Executive also agrees that trade secrets and confidential

information of the Company, more fully described in Section 8(j) of this Agreement, gained by the Executive during the Executive's association with the Company, have been developed by the Company through substantial expenditures of time, effort and money and constitute valuable and unique property of the Company. The Executive further understands and agrees that the foregoing makes it necessary for the protection of the business of the Company that the Executive not compete with the Company during the Term and not compete with the Company for a reasonable period thereafter, as further provided in the following subsections.

- (b) Covenants During the Term. During the Term and prior to the Termination Date, the Executive will not compete with the Company anywhere within the United States. In accordance with this restriction, but without limiting its terms, during the term of the Executive's employment, the Executive will not:
- (i) enter into or engage in any business which competes with the business of the Company;
 - (ii) solicit customers, business, patronage or orders for, or sell, any products and services in competition with, or for any business that competes with, the business of the Company;
 - (iii) divert, entice or otherwise take away any customers, business, patronage or orders of the Company or attempt to do so; or
 - (iv) promote or assist, financially or otherwise, any person, firm, association, partnership, corporation or other entity engaged in any business which competes with the business of the Company.
- (c) Covenants Following Termination. For a period of one (1) year following the Termination Date, if the Executive has received or is receiving benefits under this Agreement, the Executive will not:
- (i) enter into or engage in any business which competes with the Company's business within the Restricted Territory (as defined in Section 8(g));
 - (ii) solicit customers, business, patronage or orders for, or sell, any products and services in competition with, or for any business, wherever located, that competes with, the Company's business within the Restricted Territory;
 - (iii) divert, entice or otherwise take away any customers, business, patronage or orders of the Company within the Restricted Territory, or attempt to do so; or
 - (iv) promote or assist, financially or otherwise, any person, firm, association, partnership, corporation or other entity engaged in any business which competes with the Company's business within the Restricted Territory.
- (d) Indirect Competition. For the purposes of Sections 8(b) and 8(c), inclusive, but without limitation thereof, the Executive will be in violation thereof if the Executive engages in any or all of the activities set forth therein directly as an individual on the Executive's own account, or indirectly as a partner, joint venturer, employee, agent, salesperson, consultant, officer and/or director of any firm, association, partnership, corporation or other entity, or as a stockholder of any corporation in which the Executive or the Executive's spouse, child or parent owns, directly or indirectly, individually or in the aggregate, more than five percent (5%) of the outstanding stock.
- (e) The Company. For the purposes of this Section 8, the Company shall include any and all direct and indirect subsidiary, parent, affiliated, or related companies of the Company for which the Executive worked or had responsibility at the time of termination of the Executive's employment and at any time during the two (2) year period prior to such termination.
- (f) The Company's Business. For the purposes of Sections 8(b), 8(c), 8(k) and 8(l), inclusive, the Company's business is defined to be the manufacture, marketing and sale of high performance engineered materials

serving global telecommunications, computer, automotive electronics, industrial components and optical media markets, as further described in any and all manufacturing, marketing and sales manuals and materials of the Company as the same may be altered, amended, supplemented or otherwise changed from time to time, or of any other products or services substantially similar to or readily substitutable for any such described products and services.

(g) Restricted Territory . For the purposes of Section 8(c), the Restricted Territory shall be defined as and limited to:

- (i) the geographic area(s) within a one hundred (100) mile radius of any and all Company location(s) in, to, or for which the Executive worked, to which the Executive was assigned or had any responsibility (either direct or supervisory) at the time of termination of the Executive's employment and at any time during the two (2) year period prior to such termination; and
- (ii) all of the specific customer accounts, whether within or outside of the geographic area described in (i) above, with which the Executive had any contact or for which the Executive had any responsibility (either direct or supervisory) at the time of termination of the Executive's employment and at any time during the two (2) year period prior to such termination.

(h) Extension . If it shall be judicially determined that the Executive has violated any of the Executive's obligations under Section 8(c), then the period applicable to each obligation that the Executive shall have been determined to have violated shall automatically be extended by a period of time equal in length to the period during which such violation(s) occurred.

(i) Non-Solicitation . The Executive will not directly or indirectly at any time solicit or induce or attempt to solicit or induce any employee(s), sales representative(s), agent(s) or consultant(s) of the Company and/or of its parent, or its other subsidiary, affiliated or related companies to terminate their employment, representation or other association with the Company and/or its parent or its other subsidiary, affiliated or related companies.

(j) Further Covenants .

- (i) The Executive will keep in strict confidence, and will not, directly or indirectly, at any time during or after the Executive's employment with the Company, disclose, furnish, disseminate, make available or, except in the course of performing the Executive's duties of employment, use any trade secrets or confidential business and technical information of the Company or its customers or vendors, including without limitation as to when or how the Executive may have acquired such information. Such confidential information shall include, without limitation, the Company's unique selling, manufacturing and servicing methods and business techniques, training, service and business manuals, promotional materials, training courses and other training and instructional materials, vendor and product information, customer and prospective customer lists, other customer and prospective customer information and other business information. The Executive specifically acknowledges that all such confidential information, whether reduced to writing, maintained on any form of electronic media, or maintained in the Executive's mind or memory and whether compiled by the Company, and/or the Executive, derives independent economic value from not being readily known to or ascertainable by proper means by others who can obtain economic value from its disclosure or use, that reasonable efforts have been made by the Company to maintain the secrecy of such information, that such information is the sole property of the Company and that any retention and use of such information by the Executive during the Executive's employment with the Company (except in the course of performing the Executive's duties and obligations to the Company) or after the termination of the Executive's employment shall constitute a misappropriation of the Company's trade secrets.
- (ii) The Executive agrees that upon termination of the Executive's employment with the Company, for any reason, the Executive shall return to the Company, in good condition, all property of the Company, including without limitation, the originals and all copies of any materials which contain, reflect, summarize, describe, analyze or refer or relate to any items of information listed in Section 8

(j)(i) of this Agreement. In the event that such items are not so returned, the Company will have the right to charge the Executive for all reasonable damages, costs, attorneys' fees and other expenses incurred in searching for, taking, removing and/or recovering such property.

(k) Discoveries and Inventions; Work Made for Hire.

(i) The Executive hereby assigns and agrees to assign to the Company, its successors, assigns or nominees, all of the Executive's rights to any discoveries, inventions and improvements, whether patentable or not, made, conceived or suggested, either solely or jointly with others, by the Executive while in the Company's employ, whether in the course of the Executive's employment with the use of the Company's time, material or facilities or that is in any way within or related to the existing or contemplated scope of the Company's business. Any discovery, invention or improvement relating to any subject matter with which the Company was concerned during the Executive's employment and made, conceived or suggested by the Executive, either solely or jointly with others, within one (1) year following termination of the Executive's employment under this Agreement or any successor agreements shall be irrebuttably presumed to have been so made, conceived or suggested in the course of such employment with the use of the Company's time, materials or facilities. Upon request by the Company with respect to any such discoveries, inventions or improvements, the Executive will execute and deliver to the Company, at any time during or after the Executive's employment, all appropriate documents for use in applying for, obtaining and maintaining such domestic and foreign patents as the Company may desire, and all proper assignments therefor, when so requested, at the expense of the Company, but without further or additional consideration.

(ii) The Executive acknowledges that, to the extent permitted by law, all work papers, reports, documentation, drawings, photographs, negatives, tapes and masters therefor, prototypes and other materials (hereinafter, "items"), including without limitation, any and all such items generated and maintained on any form of electronic media, generated by the Executive during the Executive's employment with the Company shall be considered a "work made for hire" and that ownership of any and all copyrights in any and all such items shall belong to the Company. The item will recognize the Company as the copyright owner, will contain all proper copyright notices, e.g., "(creation date) [Company Name], All Rights Reserved," and will be in condition to be registered or otherwise placed in compliance with registration or other statutory requirements throughout the world.

(l) Communication of Contents of Agreement. During the Executive's employment and for one (1) year thereafter, the Executive will communicate the contents of this Agreement to any person, firm, association, partnership, corporation or other entity which the Executive intends to be employed by, associated with, or represent and which is engaged in a business that is competitive to the business of the Company.

(m) Relief. The Executive acknowledges and agrees that the remedy at law available to the Company for breach of any of the Executive's obligations under this Agreement would be inadequate. The Executive therefore agrees that, in addition to any other rights or remedies that the Company may have at law or in equity, temporary and permanent injunctive relief may be granted in any proceeding which may be brought to enforce any provision contained in Sections 8(b), 8(c), 8(i), 8(j), 8(k) and 8(l), inclusive, of this Agreement, without the necessity of proof of actual damage.

(n) Reasonableness. The Executive acknowledges that the Executive's obligations under this Section 8 are reasonable in the context of the nature of the Company's business and the competitive injuries likely to be sustained by the Company if the Executive was to violate such obligations. The Executive further acknowledges that this Agreement is made in consideration of, and is adequately supported by the agreement of the Company to perform its obligations under this Agreement and by other consideration, which the Executive acknowledges constitutes good, valuable and sufficient consideration.

9. Employment Rights. Nothing expressed or implied in this Agreement will create any right or duty on the part of the Company or the Executive to have the Executive remain in the employment of the Company or any Affiliate of the Company prior to or following any Change in Control. Any termination of employment of the Executive or the removal of the Executive from the office or position in the Company or any Affiliate of the

Company that occurs following the commencement of any discussion with a third person that ultimately results in a Change in Control, shall be deemed to be a termination or removal of the Executive after a Change in Control for purposes of this Agreement.

10. Withholding of Taxes. The Company may withhold from any amounts payable under this Agreement all federal, state, city or other taxes as the Company is required to withhold pursuant to any applicable law, regulation or ruling.

11. Successors and Binding Agreement.

(a) The Company will require any successor (whether direct or indirect, by purchase, merger, consolidation, reorganization or otherwise) to all or substantially all of the business or assets of the Company, by agreement in form and substance reasonably satisfactory to the Executive, expressly to assume and agree to perform this Agreement in the same manner and to the same extent the Company would be required to perform if no such succession had taken place. This Agreement will be binding upon and inure to the benefit of the Company and any successor to the Company, including without limitation any persons acquiring directly or indirectly all or substantially all of the business or assets of the Company whether by purchase, merger, consolidation, reorganization or otherwise (and such successor shall thereafter be deemed the "Company" for the purposes of this Agreement), but will not otherwise be assignable, transferable or delegable by the Company.

(b) This Agreement will inure to the benefit of and be enforceable by the Executive's personal or legal representatives, executors, administrators, successors, heirs, distributees and legatees.

(c) This Agreement is personal in nature and neither of the parties hereto shall, without the consent of the other, assign, transfer or delegate this Agreement or any rights or obligations hereunder except as expressly provided in Sections 11(a) and 11(b). Without limiting the generality or effect of the foregoing, the Executive's right to receive payments hereunder will not be assignable, transferable or delegable, whether by pledge, creation of a security interest, or otherwise, other than by a transfer by Executive's will or by the laws of descent and distribution and, in the event of any attempted assignment or transfer contrary to this Section 11(c), the Company shall have no liability to pay any amount so attempted to be assigned, transferred or delegated.

12. Notices. For all purposes of this Agreement, all communications, including without limitation notices, consents, requests or approvals, required or permitted to be given hereunder will be in writing and will be deemed to have been duly given when hand delivered or dispatched by electronic facsimile transmission (with receipt thereof orally confirmed), or five business days after having been mailed by United States registered or certified mail, return receipt requested, postage prepaid, or three business days after having been sent by a nationally recognized overnight courier service such as FedEx, UPS, or Purolator, addressed to the Company (to the attention of the Secretary of the Company) at its principal executive office and to the Executive at his principal residence, or to such other address as any party may have furnished to the other in writing and in accordance herewith, except that notices of changes of address shall be effective only upon receipt.

13. Compliance with Section 409A of the Code. To the extent applicable, it is intended that this Agreement comply with the provisions of Section 409A of the Code. This Agreement shall be administered in a manner consistent with this intent, and any provision that would cause the Agreement to fail to satisfy Section 409A of the Code shall have no force and effect until amended to comply with Section 409A of the Code (which amendment may be retroactive to the extent permitted by Section 409A of the Code and may be made by the Company without the consent of the Executive). In particular, to the extent the Executive becomes entitled to receive payment subject to Section 409A upon an event that does not constitute a permitted distribution event under Section 409A(a)(2) of the Code, then notwithstanding anything to the contrary in this Agreement, payment will be made to the Executive on the earlier of (a) the Executive's "separation from service" with the Company (determined in accordance with Section 409A); provided, however, that if the Executive is a "specified employee" (within the meaning of Section 409A), the Executive's date of payment shall be made on the date which is 6 months after the date of the Executive's separation from service with the Company or (b) the Executive's death.

14. Governing Law . The validity, interpretation, construction and performance of this Agreement will be governed by and construed in accordance with the substantive laws of the State of Ohio, without giving effect to the principles of conflict of laws of such State.
15. Validity . If any provision of this Agreement or the application of any provision hereof to any person or circumstance is held invalid, unenforceable or otherwise illegal, the remainder of this Agreement and the application of such provision to any other person or circumstance will not be affected, and the provision so held to be invalid, unenforceable or otherwise illegal will be reformed to the extent (and only to the extent) necessary to make it enforceable, valid or legal.
16. Miscellaneous . No provision of this Agreement may be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing signed by the Executive and the Company. No waiver by either party hereto at any time of any breach by the other party hereto or compliance with any condition or provision of this Agreement to be performed by such other party will be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time. No agreements or representations, oral or otherwise, expressed or implied with respect to the subject matter hereof have been made by either party which are not set forth expressly in this Agreement. References to Sections are to Sections of this Agreement.
17. Counterparts . This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same agreement.

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

BRUSH ENGINEERED MATERIALS INC.

By:
Name:
Title:

[Executive]

Annex A

SEVERANCE COMPENSATION

(1) A lump sum payment in an amount equal to two times the sum of (A) Base Pay (at the highest rate in effect for any period prior to the Termination Date), plus (B) Incentive Pay (in an amount equal to not less than the higher of (1) the highest aggregate Incentive Pay earned in any fiscal year ending after the Change in Control or in any of the three fiscal years immediately preceding the year in which the Change in Control occurred or (2) the plan target for the year in which the Change in Control occurred).

(2) A lump sum payment in an amount equal to the present value of the bonuses the Executive would have received under any Long Term Cash Incentive Plan of the Company for performance periods in effect at the time of the termination of the Executive's employment had he continued to be employed through the period covered by any such plan, assuming payout under such plans at the plan target rate, reduced by any amounts actually paid to the Executive under the terms of any such plan. In determining present value for this purpose, there shall be applied a discount factor equal to the coupon rate on general full-faith-and-credit obligations of the U.S. Treasury having a maturity of five years and issued on the date of the termination of the Executive's employment.

(3) For a period of 24 months following the Termination Date (the "Continuation Period"), the Company will arrange to provide the Executive with Employee Benefits that are welfare benefits including, without limitation, retiree medical and life insurance (but not perquisites, stock option, performance share, performance unit, stock purchase,

stock appreciation or similar compensatory benefits or benefits covered by (4) below) substantially similar to those that the Executive was receiving or entitled to receive immediately prior to the Termination Date (or, if greater, immediately prior to the reduction, termination, or denial described in Section 3(b)(ii)). If and to the extent that any benefit described in this Paragraph 3 is not or cannot be paid or provided under any policy, plan, program or arrangement of the Company or any Affiliate of the Company, as the case may be, then the Company will itself pay or provide for the payment to the Executive, his dependents and beneficiaries, of such Employee Benefits along with, in the case of any benefit described in this Paragraph 3 which is subject to tax because it is not or cannot be paid or provided under any such policy, plan, program or arrangement of the Company or any Affiliate of the Company, an additional amount such that after payment by the Executive, or his dependents or beneficiaries, as the case may be, of all taxes so imposed, the recipient retains an amount equal to such taxes. Notwithstanding the foregoing, or any other provision of the Agreement, for purposes of determining the period of continuation coverage to which the Executive or any of his dependents is entitled pursuant to Section 4980B of the Code (or any successor provision thereto) under the Company's medical, dental and other group health plans, or successor plans, the Executive's "qualifying event" shall be the termination of the Continuation Period. Further, for purposes of the immediately preceding sentence and for any other purpose including, without limitation, the calculation of service or age to determine Executive's eligibility for benefits under any retiree medical benefits or life insurance plan or policy, the Executive shall be considered to have remained actively employed on a full-time basis through the termination of the Continuation Period. Without otherwise limiting the purposes or effect of Section 6, Employee Benefits otherwise receivable by the Executive pursuant to this Paragraph 3 will be reduced to the extent comparable welfare benefits are actually received by the Executive from another employer during the Continuation Period following the Executive's Termination Date, and any such benefits actually received by the Executive shall be reported by the Executive to the Company.

(4) In addition to the retirement income and other benefits to which Executive is entitled under the Company's Retirement Plans with respect to Executive's employment through the Termination Date, a lump sum payment in an amount equal to the present value of the excess of (x) the retirement income and other benefits that would be payable to the Executive under the Retirement Plans if Executive had continued to be employed as an active participant in the Company's Retirement Plans through the Continuation Period given the Executive's Base Pay and Incentive Pay (as determined in Paragraph 1) (without regard to any amendment to the Retirement Plans made subsequent to a Change in Control which reduces the retirement income or other benefits thereunder), over (y) the retirement income and other benefits that the Executive is entitled to receive (either immediately or on a deferred basis) under the Retirement Plans. For purposes of this Paragraph 4, present value shall be determined by applying a discount factor equal to the annual rate of interest on 30-year U.S. Treasury securities issued on the date of the termination of the Executive's employment (or, if no such securities are issued on such date, on the most recent date preceding the date of the termination of the Executive's employment on which such securities are issued), and by using the 1983 Group Annuity Mortality Table (50% male/50% female).

(5) If the Executive is entitled to receive or has received, during the year in which the Termination Date occurs, cash payments from the Company in connection with which the Executive agreed to receive current cash payments in lieu of benefits under the Company's Supplemental Retirement Benefit Plan (SERP), a lump sum payment in an amount equal to two times the aggregate amount paid or payable to the Executive by the Company in lieu of benefits under the SERP.

(6) If the Executive is receiving or has been granted cash payments from the Company which have been designated by the Board as special awards, a lump sum payment equal to two times the aggregate award designated by the Board of Directors for the year in which the Termination Date occurs.

(7) A lump sum payment equal to the cash value of the club dues and financial counseling benefits that the Executive would have been entitled to receive during the Continuation Period based on the annual value of such club dues and financial counseling benefits immediately before the Termination Date or, if greater, immediately before the Change in Control; provided that the Executive must have been receiving such benefits immediately prior to either the Termination Date or the date of the Change in Control.

(8) Reasonable fees for outplacement services, by a firm selected by the Executive, at the expense of the Company in an amount not in excess of \$20,000.

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