

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION
www.flmb.uscourts.gov

In re: Chapter 11
LUMASTREAM, INC., Case No. 8:20-bk-00999-CPM
Debtor.

_____ /

NOTICE OF FILING BIDDER'S APA

NOTICE IS HEREBY GIVEN of the filing, as an attachment hereto, of the Bidder's APA in accordance with paragraph 2(e)(i) of the *Order on Expedited Motion for Entry of an Order (I) Approving Bid Procedures in Connection with the Sale of Substantially All of Debtor's Assets, (II) Establishing Procedures for the Assumption and/or Assignment of Certain Executory Contracts and Unexpired Leases, (III) Approving Procedures for Selection of Stalking Horse Bidder and Establishing Break Up Fee, (IV) Approving Form and Manner of Notice of Bidding Procedures, and (V) Setting Objection Deadlines* (Doc. No. 98).

/s/ Scott A. Stichter
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Attorneys for Debtor

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “**Agreement**”) is made this ___ day of _____, 2020 (the “**Effective Date**”), by and among _____ (“**Purchaser**”), on the one hand, and LumaStream, Inc. (the “**Seller**”), on the other hand. Purchaser and the Seller may hereinafter be referred to as the “**Parties**” or each as a “**Party**.”

RECITALS

A. Seller is a technology company whose core competency is built around the digital conversion of power and efficient energy distribution. Seller owns technology, protected by patents, that fundamentally changes and improves the way power is distributed in buildings (the “**Business**”).

B. Seller is the owner of all of the issued and outstanding shares of stock of LumaStream Canada ULC and Lumastream California LLC.

C. On February 5, 2020 (the “**Petition Date**”), Seller filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “**Bankruptcy Code**”), commencing Case No. 8:20-bk-00999-CPM (the “**Bankruptcy Case**”), pending in the United States Bankruptcy Court for the Middle District of Florida, Tampa Division (the “**Bankruptcy Court**”).

D. Since the Petition Date, Seller has been in possession of its assets and in control of its business operations as a debtor in possession pursuant to the applicable provisions of the Bankruptcy Code;

E. Seller desires to sell and assign to Purchaser, and Purchaser desires to purchase and acquire from Seller, the Purchased Assets (defined below), and the Purchaser agrees to pay to the Seller the consideration set forth in this Agreement including the assumption by the Purchaser of the Assumed Liabilities (defined below), on the terms and conditions set forth in this Agreement and in accordance with Sections 105, 363, 365, and 1129 and other applicable provisions of the Bankruptcy Code (collectively, the “**Transaction**”).

F. The approval of the Bankruptcy Court is required to consummate the sale and purchase of the Purchased Assets and the Transaction.

AGREEMENT

Accordingly, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE 1
PURCHASE AND SALE OF PURCHASED ASSETS

Section 1.1. Agreement to Sell and Purchase Assets. Subject to the terms and conditions of this Agreement, on the Closing Date, Seller will sell, assign, transfer, convey and deliver to Purchaser, and Purchaser will purchase and acquire, all right, title, and interest in and to the Purchased Assets, free and clear of all encumbrances, except for the Permitted Encumbrances.

Section 1.2. Purchased Assets Defined. As used in this Agreement, the term “**Purchased Assets**” means all of the Seller’s right, title, and interest in or to the following assets to the extent it relates to the Business and only to the extent assignable:

1.2.1. personal property and equipment listed on Schedule 1.2.1 (the “Tangible Personal Property”);

1.2.2. all patents, patent applications, inventions and discoveries that may be patentable, registered and unregistered trademarks, all fictional business names, trade names, service marks, registered user entries, copyrights in both published works and unpublished works, and all right, title and interest of the Seller in any application for any of the foregoing, and all claims and causes of action relating to any of the foregoing, including claims and causes of action for past infringement, if any (collectively, the “**Intellectual Property Assets**”), including those listed on Schedule 1.2.2;

1.2.3. all claims and rights to and under the contracts as set for on Schedule 1.2.3 attached hereto to be assigned to Purchaser (each an “**Assumed Contract**” and collectively, the “**Assumed Contracts**”);

1.2.4. all operating data and records of the Seller, including sales and sales promotional data, advertising materials, customer lists, credit information, cost and pricing information, supplier lists, business plans, reference catalogs, but not including the Seller’s Records (as defined herein);

1.2.5. all the right, title, and interest of the Seller in, to and under all websites, domain names, email addresses and similar assets related to the operation of the Business;

1.2.6. all the right, title, and interest of the Seller in, to and under all telephone numbers, including all extensions thereto, used in the operation of the Business;

1.2.7. subject to applicable laws and regulations, all transferable licenses, permits, certificates, approvals and other governmental or regulatory authorizations necessary for or incident to ownership of the Purchased Assets, including those listed on Schedule 1.2.7; and

1.2.8. all goodwill of the Seller relating to, attributable to, or arising from the Purchased Assets or the Business.

Section 1.3. Excluded Assets. Notwithstanding anything else contained herein, the following assets are excluded from the Purchased Assets being acquired by or transferred to Purchaser at the Closing and shall remain the property of the Seller after the Closing (collectively, the “**Excluded Assets**”):

1.3.1. any and all restricted and unrestricted cash and cash equivalents (including all restricted cash held by or for the benefit of the Seller), cash accounts, including cash accounts serving as collateral for secured debt, letters of credit, insurance policies or programs, marketable securities and certificates of deposit, temporary investments of cash, short-term investments, and all bank accounts and all electronic fund transfer accounts;

1.3.2. All personal property and equipment, other than those listed on Schedule 1.2.1;

1.3.3. all rights, title, and interest in and to all accounts receivable that relate to all periods on or prior to the Closing of the sale including, without limitation, receivables from governmental third-party payors;

1.3.4. all rights of Seller relating to deposits, prepaid expenses, and/or claims for refund;

1.3.5. all rights under this Agreement;

1.3.6. all rights of Seller in connection with, and assets of, the Seller’s employee benefit plans and all right to payment of monies that relate to the period on or prior to the Closing;

1.3.7. all records of Seller, including company records, corporate record books, minute books, articles of organization, bylaws, similar documents governing the Seller, stock records, corporate seals, litigation files, taxpayer and other identification numbers, tax records, financial and accounting books and records including ledgers and other related schedules, databases, information related to policies and procedures, personnel records, and other records, and any other records which Seller is required to retain by law (collectively, the “**Seller’s Records**”);

1.3.8. all rights in, claims to, and payments of any and all amounts, including all accounts receivable, note receivable, rebates, refunds or credits of whatever nature, including all claims for refund of taxes, whether real, personal, tangible or intangible, and other governmental charges, whenever and however paid, issued or credited and, in the case of the Purchased Assets to the extent the same relate to any period on or prior to the Closing;

1.3.9. all computer software, computer systems, electronic data processing software, and computer programs;

1.3.10. all contracts to which the Seller is a party, other than Assumed Contracts (collectively, the “**Excluded Contracts**”);

1.3.11. all deposits made with respect to (i) contracts that are not Assumed Contracts, (ii) Excluded Assets, and (iii) utilities;

1.3.12. all inventory not owned by Seller or that is disposed of or exhausted on or prior to the Closing in the ordinary course of business;

1.3.13. all items of personal property not owned by Seller or that are transferred or disposed of on or prior to the Closing in the ordinary course of business;

1.3.14. all amounts due, if any, to the Seller from any subsidiary, affiliate, officer, director, employee, or related entity or person of the Seller, including from LumaStream Canada ULC and/or Lumastream California LLC;

1.3.15. all right, title, and interest of Seller in LumaStream Canada ULC and Lumastream California LLC;

1.3.16. all rights and claims under or pursuant to all warranties (express or implied), representations or guarantees made or provided by third parties relating to any Excluded Assets;

1.3.17. all of Seller’s causes of action, actions which a trustee, debtor in possession, or other appropriate party in interest may assert on behalf of the Debtor of the bankruptcy estate or a Debtor under Chapter 5 of the Bankruptcy Code, including actions under one or more provisions of §§ 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, and 553 of the Bankruptcy Code (other than avoidance actions against current vendors that are parties to any Assumed Contracts) and Seller’s claims or causes of action for professional negligence and/or director and officer liability;

1.3.18. all of Seller’s insurance proceeds, dividends, rebates, refunds, or credits arising in connection with the Excluded Assets;

1.3.19. all of Seller’s insurance proceeds, dividends, rebates, refunds, or credits arising in connection with the Purchased Assets, in each case, to the extent the same relate to any period on or prior to the Closing Date (whether in whole or in part, and, if in part, as shall be allocated to the period prior to the Closing Date based on the relative number of days applicable thereto);

1.3.20. all assets to be set forth on Schedule 1.3.19 attached to this Agreement; and

1.3.21. all assets that are not Purchased Assets.

Section 1.4. Assumed Liabilities. Subject to the terms, conditions, and other provisions of this Agreement, at and effective as of the Closing, the Purchaser shall assume the future payment and performance of the following liabilities (collectively, the “**Assumed Liabilities**”):

1.4.1. All liabilities arising from or related to the Assumed Contracts, with respect to (i) matters occurring thereunder on or after the Closing Date, and (ii) any Cure Amounts, all of which shall be satisfied by Buyer pursuant to § 365 of the Bankruptcy Code. “Cure Amounts” means the amounts, if any, determined by an order of the Bankruptcy Court to be necessary to cure all defaults and to pay all actual or pecuniary losses that have resulted from such defaults under the Assumed Contracts.

1.4.2. All liabilities to be paid by the Purchaser pursuant to Section 3.4 of this Agreement; and

1.4.3. All transfer taxes.

Notwithstanding anything to the contrary contained in this Agreement, the Purchaser shall be responsible for all liabilities relating to or arising out of the Purchased Assets or operation of the Business by the Purchaser on and after the Closing Date.

Section 1.5. Excluded Liabilities Not Assumed. Except as set forth in Section 1.4 or otherwise set forth in this Agreement, Purchaser will not assume any debts, liabilities, obligations, expenses, taxes, contracts or commitments of the Seller of any kind, character or description, whether accrued, absolute, contingent or otherwise, no matter whether arising before or after the Closing, and whether or not reflected or reserved against in the financial statements, books of accounts or records of the Seller. With the exception of those items as specifically set forth in Section 1.4 or otherwise set forth in this Agreement, Seller will retain all liabilities directly or indirectly arising out of or related to the ownership of the Purchased Assets and operation of the Business before or on the date of the Closing.

ARTICLE 2 PURCHASE PRICE

Section 2.1. Purchase Price. At Closing, in consideration of the sale and transfer of the Purchased Assets, Purchaser shall pay to Seller a purchase price of \$_____ (the “**Purchase Price**”).

Section 2.2. Payment of Purchase Price. Purchaser shall pay the Purchase Price as follows:

2.2.1 Purchaser shall pay a deposit of \$_____ (the “**Deposit**”) by wire transfer of good and immediately available funds to Stichter, Riedel, Blain & Postler, P.A., 110 E Madison Street, Suite 200, Tampa, Florida 33602 (the “**Escrow Agent**”) by the Bid Deadline (as defined herein).

2.2.2 Purchaser shall pay the balance of the Purchase Price (i.e. the Purchase Price, *less* the Deposit), by wire transfer of good and immediately available funds to the Escrow Agent, at the Closing.

2.2.3 Escrow Agent shall deposit all escrow funds in a non-interest bearing trust account maintained by the Escrow Agent. All funds delivered to Escrow Agent pursuant to this Agreement shall be held by said Escrow Agent in trust. The funds held in the trust account may be commingled with other funds that Escrow Agent holds as escrow agent or as trustee in the trust account. In the event of any dispute regarding any action taken, or proposed to be taken by Escrow Agent with respect to the Deposit held by Escrow Agent pursuant to this Agreement, Escrow Agent in its sole discretion may: a) refuse to comply with any demands on it and continue to hold the Deposit, or any portion thereof, until it receives either (i) written instructions signed by Purchaser and Seller, or (ii) an order of the Bankruptcy Court directing the disbursement of the Deposit; b) on two (2) days prior written notice to Seller and Purchaser, take such affirmative action as it may deem appropriate to determine its duties as Escrow Agent including, but not limited to, posting of the Deposit with the Bankruptcy Court and/or the commencement of an action for interpleader; or c) if Purchaser or Seller shall have commenced litigation with respect to the Deposit, to post the Deposit with the Bankruptcy Court. Escrow Agent shall not be responsible for the genuineness of any certificate or signature, and may rely exclusively upon and shall be protected when acting upon any written notice, affidavit, request, consent or other instrument believed by Escrow Agent, in good faith, to be genuine or to be signed or presented by the proper person, or to be otherwise duly authorized or properly made. Escrow Agent shall have no responsibility under this Agreement except for the performance of its express duties hereunder. No amendment or modification of this Agreement or waiver of its terms by Purchaser or Seller shall affect the rights and duties of Escrow Agent hereunder unless Escrow Agent's written consent thereto shall have been first obtained. Upon disbursing the Deposit under the provisions of this Section, Escrow Agent shall be released from all liability with respect to the Deposit, except for an accounting thereof. The Purchaser agrees to pay directly or reimburse Escrow Agent for any and all expenses incurred by Escrow Agent in any such action. Purchaser, Seller, and Escrow Agent acknowledge that Escrow Agent is acting hereunder solely as a fiduciary to the Parties. The Parties agree that Escrow Agent shall not be liable to any party or person whomsoever for misdelivery to Purchaser or Seller of the Deposit, unless such misdelivery shall be due to willful breach of this Agreement or gross negligence on the part of Escrow Agent. Purchaser hereby expressly acknowledges that Escrow Agent also serves as counsel to the Seller in connection with this Agreement and the transaction contemplated herein and Purchaser specifically acknowledges and agrees that the duties of Escrow Agent, as Escrow Agent hereunder, shall not prohibit its representation of the Seller, as the Seller's counsel, in any matter which arises under or which is a result of this Agreement, including, without limitation, a dispute relating to the Deposit. Any reference in this Section 2.2.3 to the Deposit shall refer to the Deposit on hand with the Escrow Agent.

Section 2.3. Allocation of Purchase Price. Prior to the Closing, the Parties shall mutually agree upon an allocation of the Purchase Price among the Purchased Assets (the “**Allocation**”). The Allocation shall be made in compliance with Section 1060 of the Internal Revenue Code of 1986, as amended. Except as otherwise required by applicable laws, (a) neither Purchaser nor Seller shall take a position on any tax return or in any administrative or judicial proceeding relating to taxes inconsistent with the Allocation, and (b) both Purchaser and Seller shall file all tax returns and forms consistent with the Allocation.

ARTICLE 3 CLOSING; CLOSING DELIVERIES

Section 3.1. Closing. Subject to the terms and conditions of this Agreement, and provided that the other conditions set forth in Sections 7.1, 7.2 and 7.3 have been satisfied, other than (i) those conditions which are waived in accordance with the terms of this Agreement by the party or parties for whose benefit such conditions exist, and (ii) any such conditions, which by their terms, are not capable of being satisfied until the Closing, the sale and purchase of the Purchased Assets and the consummation of the Transaction (the “**Closing**”) will take place at a mutually agreeable location, or by such other means, including but not limited to the delivery of the relevant documents by means of facsimile, email, mail, or courier as Seller and Purchaser may mutually agree, no later than two (2) business days after entry of the Sale Order, or at such other time and place as the parties mutually agree upon orally or in writing (the day on which the Closing takes place being referred to herein as the “**Closing Date**”).

Section 3.2. Seller’s Deliveries at Closing. At or prior to the Closing, Seller shall deliver the following to Purchaser:

3.2.1. A Bill of Sale in form and substance reasonably acceptable to Purchaser (the “**Bill of Sale**”), executed by Seller;

3.2.2. An assignment and assumption agreement from Seller with respect to all (a) Assumed Liabilities and (b) Assumed Contracts (the “**Assignment and Assumption Agreement**”), and any and all additional instruments of assignment and assumption which are required to be executed by Seller;

3.2.3. A closing statement evidencing receipt by Seller of the Purchase Price in accordance with Section 2.2 and accounting for the payment of any closing expenses (the “**Closing Statement**”), executed by Seller;

3.2.4. To the extent a subsidiary of the Seller owns any of the Intellectual Property Assets set forth in Section 1.2.2. above, such subsidiary will execute such instrument of sale or transfer as is necessary or appropriate to sell, assign and transfer to Purchaser;

3.2.5. Any and all such other instruments of sale, assignment and transfer as are necessary or appropriate to sell, assign and transfer to Purchaser and to vest in Purchaser good and marketable title to the Purchased Assets (in recordable form, where appropriate), free and clear of all encumbrances other than the Permitted Encumbrances, all executed by Seller;

3.2.6. the Sale Order, which shall release all encumbrances, except for the Permitted Encumbrances and as set forth in the Sale Order, encumbering any of the Purchased Assets;

3.2.7. A certificate of an authorized officer of Seller dated the Closing Date certifying that (i) each of the representations and warranties of Seller contained in this Agreement are true and correct in all material respects (except to the extent that they are qualified as to materiality in which case they are true and correct in all respects) on and as of the Closing Date as though made on and as of the Closing Date; and (ii) all covenants and agreements of Seller to be performed or complied with on or prior to the Closing under this Agreement have been performed or complied with in all material respects; and

3.2.8. All such other documents and instruments as Purchaser or its counsel shall reasonably request in connection with the consummation of the transactions contemplated by this Agreement.

Section 3.3. Purchaser's Deliveries at Closing. At or prior to the Closing, Purchaser shall deliver the following to Seller:

3.3.1. an amount in good and immediately available funds equal to Purchase Price, *less* the Deposit;

3.3.2. The Bill of Sale, executed by Purchaser

3.3.3. Assignment and Assumption Agreement, executed by Purchaser

3.3.4. The Closing Statement, executed by Purchaser;

3.3.5. Any and all such other instruments of sale, assignment and transfer as are necessary or appropriate to sell, assign and transfer to Purchaser and to vest in Purchaser good and marketable title to the Purchased Assets (in recordable form, where appropriate), free and clear of all encumbrances other than the Permitted Encumbrances, all executed by Purchaser;

3.3.6. copies of resolutions duly adopted by the board of directors of Purchaser authorizing and approving Purchaser's performance of the transactions contemplated hereby and the execution and delivery of this Agreement and the documents described herein, certified as true and in full force as of Closing by an appropriate officer of Purchaser;

3.3.7. certificates of existence and good standing for Purchaser, certified by the Secretary of State of Florida, dated within ten (10) business days of Closing;

3.3.8. A certificate of an authorized officer of Purchaser dated the Closing Date certifying that (i) each of the representations and warranties of

Purchaser contained in this Agreement are true and correct in all material respects (except to the extent that they are qualified as to materiality in which case they are true and correct in all respects) on and as of the Closing Date as though made on and as of the Closing Date; and (ii) all covenants and agreements of Purchaser to be performed or complied with on or prior to the Closing under this Agreement have been performed or complied with in all material respects; and

3.3.9. All such other documents and instruments as Seller or its counsel shall reasonably request in connection with the consummation of the transactions contemplated by this Agreement.

Section 3.4. Closing Expenses. Purchaser shall be responsible for all costs and expenses due to any third parties (excepting costs and expenses due to Seller's legal counsel and Cassel Salpeter & Co, LLC to be paid by Seller) and associated with the Closing including, without limitation: (i) to the extent applicable, any and all sales or transfer taxes incurred in connection with the sale, transfer and assignment of the Purchased Assets from Seller to Purchaser; (ii) any recording fees with respect to clearing public records of items that are not Permitted Encumbrances; (iii) any financing related expenses, (iv) any Cure Claims, and (v) any and all other costs and fees incurred in connection with the sale, transfer and assignment of the Purchased Assets from Seller to Purchaser hereunder at Closing or otherwise.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby makes the following representations and warranties to Purchaser as of the Closing Date. Purchaser shall be entitled to rely on such representations and warranties which shall expire at the Closing, with the exception of those representations and warranties set forth in Sections 4.1 and 4.2 which shall survive for a period of one (1) year following the Closing.

Section 4.1. Organization and Standing. The Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Florida. Seller is duly qualified to do business and is in good standing in every jurisdiction in which the character of the Purchased Assets requires such qualification.

Section 4.2. Power and Authority. Subject to the entry of the Sale Order, Seller has the requisite power and authority to enter into this Agreement and all other agreements referenced herein or ancillary hereto, and perform its obligations thereunder. Subject to the entry of the Sale Order, Seller's execution, delivery and performance of this Agreement and all other agreements referenced herein or ancillary hereto to which it is a party, and Seller's consummation of the transactions contemplated hereby or thereby are within its corporate powers and are not in contravention of the terms of its articles of incorporation and bylaws, and have been approved by all requisite corporate action.

Section 4.3. Title and Sufficiency of Assets.

4.3.1. Seller owns all of the Purchased Assets and has good and marketable title in and to all the Purchased Assets, and, subject to and upon approval of the Transaction by the Bankruptcy Court and entry of the Sale Order in

the Bankruptcy Case, will sell such Purchased Assets free and clear of all encumbrances other than Permitted Encumbrances and except as set forth in the Sale Order.

4.3.2. The Purchased Assets are sold “AS IS, WHERE IS” and without warranty regarding the condition of the Purchased Assets.

Section 4.4. Brokers. Except for a fee to be paid to Cassel Salpeter & Co., LLC as investment banker at Closing pursuant to a separate written agreement approved by order of the Bankruptcy Court, Seller is not obligated for the payment of any fees or expenses of any investment banker, broker, finder or similar party in connection with the origin, negotiation or execution of this Agreement or in connection with the transactions contemplated by this Agreement.

Section 4.5. Binding Agreement. Subject to the entry of the Sale Order, this Agreement has been and, on the Closing Date, all of the agreements and documents to which Seller shall be a party in connection with this Agreement shall have been, duly executed and delivered by Seller, and shall be the valid and legally binding obligation of Seller, enforceable in accordance with its respective terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors’ rights and remedies generally and subject to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

Section 4.6. Legal Proceedings. Except as disclosed in the Seller’s Bankruptcy Schedules or otherwise known to the Purchaser, there is no arbitration, audit, hearing, investigation, litigation suit or other similar action by or before a Governmental Authority (each a “**Proceeding**”) or any judgment, order, writ, injunction, decree, determination, or award of any Governmental Authority (each an “**Order**”) pending or, to the knowledge of Seller, threatened against or affecting Seller or any of its properties or rights. To Seller’s knowledge, there are no Proceedings or Orders currently pending that challenge or may otherwise have the effect of preventing, delaying, making illegal or otherwise interfering with the transactions contemplated by this Agreement. To the knowledge of Seller, no event has occurred or circumstance exists that may give rise to a basis for such a Proceeding or Order.

Section 4.7. Anti-Terrorism Laws.

4.7.1. Neither Seller, nor any of Seller’s affiliates, is in violation of any applicable laws relating to terrorism or money laundering (the “**Anti-Terrorism Laws**”), including Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the “**Executive Order**”), and the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56, signed into law October 26, 2001 (the “**USA Patriot Act**”).

4.7.2. Neither Seller, nor, to Seller’s knowledge, any of Seller’s affiliates, is any of the following:

(a) A person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(b) A person owned or controlled by, or acting for or on behalf of, any person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(c) A person that commits, threatens or conspires to commit or supports “terrorism” as defined in the Executive Order; or

(d) A person that is named as a “specially designated national and blocked person” on the most current list published by the USA Treasury Department Office of Foreign Assets Control (“OFAC”) at its official website or any replacement website or other replacement official publication of such list.

4.7.3. Seller does not (i) conduct any business or engage in making or receiving any contribution of funds, goods or services to or for the benefit of any person described in Section 4.7.2(b), above, (ii) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order, or (iii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser hereby makes the following representations and warranties to Seller as of the Effective Date. Seller shall be entitled to rely on such representations and warranties which shall expire at the Closing, with the exception of those representations and warranties set forth in Sections 5.1 and 5.2 which shall survive for a period of one (1) year following the Closing.

Section 5.1. Organization and Standing. The Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of _____. Purchaser is duly qualified to do business and is in good standing in every jurisdiction in which the character of the Purchased Assets requires such qualification.

Section 5.2. Power and Authority. Subject to the entry of the Sale Order, Purchaser has the requisite power and authority to enter into this Agreement and all other agreements referenced herein or ancillary hereto, and perform its obligations thereunder. Subject to the entry of the Sale Order, Purchaser's execution, delivery and performance of this Agreement and all other agreements referenced herein or ancillary hereto to which it is a party, and Purchaser's consummation of the transactions contemplated hereby or thereby are within its corporate powers and are not in contravention of the terms of its articles of incorporation and bylaws, and have been approved by all requisite corporate action.

Section 5.3. Brokers. Except for any commission or fees due to an advisor of the Purchaser to be paid by Purchaser at Closing, Purchaser is not obligated for the payment of any fees or expenses of any investment banker, broker, finder or similar party in connection with the

origin, negotiation or execution of this Agreement or in connection with the transactions contemplated by this Agreement.

Section 5.4. No Conflict. Neither the execution, delivery and performance of this Agreement, nor the consummation of the Transaction, shall: (i) conflict with or violate the corporate documents of Purchaser; (ii) conflict with or violate any Applicable Laws applicable to the Purchaser or its assets and will not violate any judgment, decree, writ, or injunction of any court or Government Authority to which it or its assets may be subject; (iii) conflict with, or result in any breach, default (with or without notice or lapse of time or both) or contravention of, or the creation of any Encumbrance under, or result in the acceleration of or create in any party the right to accelerate, terminate, modify or cancel any contract to which Purchaser is a party or by which it is bound; (iv) give rise to, or trigger the application of, any rights of any third party that would come into effect upon the execution or delivery of this Agreement or the consummation of the transactions contemplated hereby, (v) require Purchaser to notify or obtain any License from, or make any registration, declaration or filing with, any Governmental Authority, (vi) render Purchaser insolvent or otherwise unable to pay its debts as they become due, and (vii) not be subject to any financing contingency.

Section 5.5. Binding Agreement. Subject to the entry of the Sale Order, this Agreement has been and, on the Closing Date, all of the agreements and documents to which Purchaser shall be a party in connection with this Agreement shall have been, duly executed and delivered by Purchaser, and shall be the valid and legally binding obligation of Purchaser, enforceable in accordance with their respective terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally and subject to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

Section 5.6. Legal Proceedings. To Purchaser's knowledge, there is no Proceedings or Orders currently pending that challenge or may otherwise have the effect of preventing, delaying, making illegal or otherwise interfering with the transactions contemplated by this Agreement. To the knowledge of Purchaser, no event has occurred or circumstance exists that may give rise to a basis for such a Proceeding or Order.

5.6.1. Neither Purchaser nor any of Purchaser's Affiliates are in violation of any Anti-Terrorism Laws, including the Executive Order and the USA Patriot Act.

5.6.2. Neither Purchaser, nor, to Purchaser's Knowledge, any of Purchaser's Affiliates, is any of the following:

(a) A person that it listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(b) A person owned or controlled by, or acting for or on behalf of, any person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(c) A person that commits, threatens or conspires to commit or supports “terrorism” as defined in the Executive Order; or

(d) A person that is named as a “specially designated national and blocked person” on the most current list published by the OFAC at its official website or any replacement website or other replacement official publication of such list.

5.6.3. Purchaser does not (i) conduct any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Person described in Section 4.7.2(b), above, (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order, or (iii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

Section 5.7. No Financing Contingency. On the Effective Date and on the Closing Date, Purchaser has, and will have, funds necessary to (i) pay the Purchase Price, (ii) pay any and all fees and expenses required to be paid by Purchaser in connection with the Transaction, and (iii) satisfy all of its other payment obligations payable under this Agreement and any Transaction Documents.

ARTICLE 6 ADDITIONAL COVENANTS

Section 6.1. Bankruptcy Court Approval.

6.1.1. Purchaser acknowledges that the Seller’s interest in the Purchased Assets are a part of the Seller’s chapter 11 bankruptcy estate in the Bankruptcy Case. Unless and until the Bankruptcy Court approves the Transaction, the Seller has no right to convey any interest in the Purchased Assets. This Agreement is contingent upon the Bankruptcy Court entering a final, non-appealable order in the Bankruptcy Case approving the Transaction (the “**Sale Order**”).

6.1.2. On April 24, 2020, the Seller filed in the Bankruptcy Case the Debtor’s Expedited Motion for Entry of an Order (I) Approving Bid Procedures in Connection with the Sale of Substantially All of the Debtor’s Assets, (II) Establishing Procedures for the Assumption and/or Assignment of Certain Executory Contracts and Unexpired Leases, (III) Approving Procedures for Selection of Stalking Horse Bidder and Establishing Break Up Fee, (IV) Approving Form and Manner of Notice of Bidding Procedures, and (V) Setting Objection Deadlines (Doc. No. 93) (the “**Bid Procedures Motion**”), seeking the entry of an order approving the sale of the Purchased Assets to a purchaser pursuant to the terms of this Agreement, subject to higher and better bids, and approving certain

bidding procedures (the “Bid Procedures Order”), as set forth in the Bid Procedures Motion (the “Bid Procedures”).

6.1.3. The Bid Procedures Order shall prescribe the procedures that shall govern an auction sale of the Purchased Assets (the “Auction”), including but not limited to (i) establishing the date of the Auction (the “Auction Date”) and the location of the Auction; (ii) a requirement that in order to be qualified to bid on the Purchased Assets at the Auction, prospective bidders must deposit the cash amount equal to 10% of the bid with Escrow Agent as an earnest money deposit (the “Bidder’s Deposit”) and submit a signed asset purchase agreement in substantially the same form as this Agreement (black-lined to show the changes against this Agreement), in each case by no later than 5:00 p.m. (Eastern Standard Time) on May 22, 2020 (or such later date agreed to by the Seller) (the “Bid Deadline”); (iii) the nature of the financial information that prospective bidders must submit to establish their financial capacity to consummate a successful bid for the Purchased Assets, which shall be delivered by no later than the Bid Deadline; (iv) the nature of the notice of the Auction and the Bid Procedures Motion that must be disseminated to creditors of the Seller, parties in interest in the Bankruptcy Case, and potential interested prospective bidders; (v) the minimum upset bid required to start the Auction which in any event shall be: (a) in the event that a bidder is selected by the Seller and approved by the Bankruptcy Court as a stalking horse bidder (a “Stalking Horse Bidder”), no less than (i) an amount which nets increased consideration in the amount of \$250,000.00 to Seller or in an amount determined by Seller at the Auction (the “Overbid Amount”) plus (ii) the break up fee and expense reimbursement as may be approved by the Bankruptcy Court (the “Break Up Fee”), collectively, above the highest bid commencing the Auction, and (b) in the event that no Stalking Horse Bidder is selected by the Seller and approved by the Bankruptcy Court, no less than the Overbid Amount above the highest bid commencing the Auction (the “Initial Upset Bid”); (vi) following an Initial Upset Bid, the incremental amount by which each bid must exceed the prior bid shall be the Overbid Amount; (vii) setting the date for the hearing to be held by the Bankruptcy Court on a motion (the “Sale Motion”) to approve (a) the Transaction with the successful bidder at the Auction (such successful bidder, the “Successful Bidder”), (b) the bidder with the next highest bid to the bid of the Successful Bidder (the “Back-Up Bidder”), which Back-Up Bidder shall be permitted to close on the Transaction in the event the Successful Bidder does not close, and (c) such other relief as may be granted by the Sale Order; (viii) setting the deadline for the filing with the Bankruptcy Court of objections to the Sale Motion, which is on or before the Bid Deadline; and (ix) such other procedures as requested by the Seller and approved by the Bankruptcy Court as reasonable under the circumstances of the Bankruptcy Case.

6.1.4. The Seller may, subject to obtaining Bankruptcy Court approval after notice and hearing, select a Stalking Horse Bidder and seek Bankruptcy Court approval for the payment of the Break Up Fee in the event said Stalking Horse Bidder is not the Successful Bidder. The Seller may seek Bankruptcy Court approval of any bidder as a Stalking Horse Bidder on an

expedited basis; provided, however that neither the selection nor the approval of the Purchaser as a Stalking Horse Bidder and/or any Break Up Fee shall be a condition to Purchaser's obligations under this Agreement. If the Purchaser is a Stalking Horse Bidder, payment of the Deposit and the Break Up Fee to the Purchaser shall be the sole remedy of Purchaser for the failure of Seller to complete the sale of the Purchased Assets to Purchaser as a result of the approval by the Bankruptcy Court of a Successful Bidder that is not the Purchaser.

Section 6.2. Condition of Title. The Purchased Assets shall be conveyed to Purchaser by Bill of Sale to be delivered to Purchaser at Closing, free and clear of all liens, claims, and encumbrances, except (i) those caused by or on behalf of Purchaser, (ii) matter set forth on Schedule 6.2 hereto, and (iii) other matters of record acceptable to Purchaser in its sole discretion (the foregoing exceptions being herein collectively referred to as the "**Permitted Exceptions**").

Section 6.3. Access; Further Assurances. From and after the Effective Date of this Agreement, Purchaser and its representatives and agents will have the right to access the premises of the Seller during regular business hours to review, inspect and copy any and all books, records, documents or other information concerning the Purchased Assets as Purchaser or its representatives or agents may reasonably request and subject to the execution of a confidentiality agreement if requested by the Seller. At any time and from time to time after the Closing, at Purchaser's request and without further consideration, the Seller will execute and deliver such other instruments of sale, transfer, conveyance, assignment, and delivery and confirmation and take such action as Purchaser may reasonably deem necessary or desirable in order more effectively to transfer, convey and assign to Purchaser and to place Purchaser in possession and control of, and to confirm Purchaser's title to, the Purchased Assets.

Section 6.4. Confidentiality. Purchaser shall, and shall use its reasonable best efforts to cause its employees, representatives and agents to, hold in confidence, as if it were confidential information of Purchaser, all information of any kind concerning Seller, the Purchased Assets, or the Business, obtained directly or indirectly from Seller or its agents or representatives in connection with the transactions contemplated by this Agreement except information (a) ascertainable or obtained from public or published information, (b) received from a third party not known by Purchaser to be under an obligation to Seller to keep such information confidential, (c) which is or becomes known to the public (other than through a breach of this Agreement), or (d) which was in Purchaser's possession prior to disclosure thereof to Purchaser in connection herewith (the "Confidential Information"), unless compelled to disclose such information by judicial or administrative process or, in the opinion of counsel, by other legal requirements, and Purchaser shall not disclose Confidential Information to any Person, except as otherwise may be reasonably necessary to carry out the transactions contemplated by this Agreement, including any business or the diligence review by or on behalf of Purchaser. If this Agreement is terminated, then upon Seller's written request, Purchaser shall within ten (10) days return or cause to be returned to Seller all documents and all copies thereof furnished by Seller and held by Purchaser, its representatives or agents containing such Confidential Information. Purchaser recognizes that any breach of this Section would result in irreparable harm to Seller and that therefore Seller shall be entitled to an injunction to prohibit any such breach or anticipated breach, without the necessity of posting a bond, cash or otherwise, in addition to all of their other legal and equitable remedies.

Section 6.5. Taxes. Purchaser will be responsible for, and hereby agrees to assume and pay, all sales and use or similar taxes that may be due to any jurisdiction or governmental body as a result of the sale and transfer of the Purchased Assets.

Section 6.6. As-Is Where-Is Sale; Seller's Disclaimers. IT IS EXPRESSLY UNDERSTOOD AND AGREED BY THE PURCHASER THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF THE SELLER SET FORTH IN ARTICLE 4 OF THIS AGREEMENT, THE PURCHASED ASSETS ARE BEING SOLD BY THE SELLER AND PURCHASED BY THE PURCHASER IN THEIR THEN PRESENT CONDITION AT THE CLOSING "AS IS" AND "WHERE IS", "WITHOUT RECOURSE", AND WITH ALL FAULTS AND DEFECTS, LATENT OR OTHERWISE, AND THAT THE SELLER IS MAKING NO ADDITIONAL REPRESENTATIONS OR WARRANTIES TO THE PURCHASER OF ANY KIND, EITHER EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, INCLUDING AS TO (A) THE VALUE, NATURE, LOCATION, QUALITY, OR CONDITION OF THE PURCHASED ASSETS; (B) THE INCOME TO BE DERIVED FROM THE PURCHASED ASSETS OR THE OPERATIONS OR RESULTS OF OPERATIONS OR ECONOMIC FORECASTS OR PROJECTIONS CONCERNING EARNINGS OR PROFITS; (C) THE SUITABILITY OF THE PURCHASED ASSETS FOR ANY AND ALL ACTIVITIES AND USES THAT THE PURCHASER MAY CONDUCT; (D) THE COMPLIANCE OF OR BY THE PURCHASED ASSETS OR THE BUSINESS WITH ANY LAWS, RULES, ORDINANCES, OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY; (E) THE HABITABILITY, SUITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OR ANY PURPOSE OF THE PURCHASED ASSETS; (F) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PURCHASED ASSETS; (G) THE PHYSICAL CONDITION OF THE PURCHASED ASSETS, OR THE MANNER, QUALITY, STATE OF REPAIR, OR LACK OF REPAIR OF THE PURCHASED ASSETS; (H) THE ENFORCEABILITY OF ANY ASSUMED CONTRACT OR RIGHT ASSIGNED HEREUNDER; OR (I) ANY OTHER MATTER WITH RESPECT TO THE PURCHASED ASSETS. THE PURCHASER ACKNOWLEDGES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH IN ARTICLE 4 OF THIS AGREEMENT, IT IS FULLY RELYING ON THE PURCHASER'S (OR THE PURCHASER'S REPRESENTATIVES') INDEPENDENT INSPECTIONS, INVESTIGATIONS, AND FINDINGS OF THE PURCHASED ASSETS, AND NOT UPON ANY STATEMENT (ORAL OR WRITTEN) WHICH MAY HAVE BEEN MADE OR MAY BE MADE (OR PURPORTEDLY MADE) BY THE SELLER OR ANY OF ITS AGENTS OR REPRESENTATIVES. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH IN ARTICLE 4 OF THIS AGREEMENT, THE PURCHASER WILL RELY SOLELY UPON ITS OWN (OR ITS REPRESENTATIVES') INDEPENDENT INSPECTION, EXAMINATION AND EVALUATION OF THE PURCHASED ASSETS AND THEIR CONDITION. THE PURCHASER ACKNOWLEDGES THAT ANY CONDITION OF THE PURCHASED ASSETS THAT THE PURCHASER DISCOVERS OR DESIRES TO CORRECT OR IMPROVE PRIOR TO OR AFTER THE CLOSING SHALL BE AT THE PURCHASER'S SOLE EXPENSE. THE PURCHASER HEREBY ACKNOWLEDGES THAT THE SELLER WOULD NOT AGREE TO SELL THE PURCHASED ASSETS ON THE TERMS AND CONDITIONS THAT ARE SET FORTH IN THIS AGREEMENT IF THE PURCHASER DID NOT AGREE TO EACH AND EVERY PROVISION IN THIS SECTION 6.5. THE

PROVISIONS OF THIS SECTION 6.5 SHALL SURVIVE THE CLOSING OR EARLIER EXPIRATION OR THE TERMINATION OF THIS AGREEMENT.

ARTICLE 7
CONDITIONS TO THE CLOSING

Section 7.1. Conditions to Obligations of Seller. The obligations of Seller to consummate the sale, transfer and delivery of the Purchased Assets to Purchaser and the other transactions contemplated by this Agreement will be subject to the fulfillment (or waiver in writing by Seller), at or prior to the Closing, of each of the following conditions:

7.1.1. The representations and warranties made by Purchaser in this Agreement and the statements contained in any instrument, list, certificate or writing delivered by the Purchaser pursuant to this Agreement shall be true when made and at and as of the time of the Closing as though such representations and warranties were made at and as of the Closing Date.

7.1.2. All the covenants contained in this Agreement to be performed or complied with by Purchaser on or before the Closing will have been performed or complied with in all material respects.

7.1.3. The Sale Order shall have been entered by the Bankruptcy Court in the Bankruptcy Case.

7.1.4. Purchaser shall have performed and complied with all agreements, obligations and conditions required by this Agreement and any exhibits thereto, to be so complied with or performed.

7.1.5. No suit, claim, cause of action, arbitration, investigation or other proceeding contesting, challenging or seeking to alter, prohibit, or enjoin or adversely affect the sale and purchase of the Purchased Assets, or any other transaction contemplated hereby, will be pending or threatened.

7.1.6. Purchaser shall have timely paid the Deposit, the balance of the Purchase Price and all other amounts due from Purchaser in connection with the Closing to the Escrow Agent and shall have delivered to Seller the items to be delivered under Section 3.3.

Section 7.2. Conditions to Obligations of Purchaser. The obligations of Purchaser to consummate the transactions contemplated by this Agreement will be subject to the fulfillment (or waiver in writing by Purchaser), at or prior to the Closing, of each of the following conditions:

7.2.1. The representations and warranties made by Seller in this Agreement and the statements contained in any instrument, list, certificate or writing delivered by the Seller pursuant to this Agreement shall be true when made and at and as of the time of the Closing as though such representations and warranties were made at and as of the Closing Date.

7.2.2. All the covenants contained in this Agreement to be performed or complied with by Seller on or before the Closing will have been performed or complied with in all material respects.

7.2.3. The Bid Procedures Order shall have been entered by the Bankruptcy Court in the Bankruptcy Case.

7.2.4. The Sale Order shall have been entered by the Bankruptcy Court in the Bankruptcy Case.

7.2.5. No suit, claim, cause of action, arbitration, investigation or other proceeding contesting, challenging or seeking to alter or enjoin or adversely affect the sale and purchase of the Purchased Assets, or any other transaction contemplated hereby, will be pending or threatened.

7.2.6. Seller shall have delivered to Purchaser the items to be delivered under Section 3.2.

Section 7.3. Bankruptcy Court Approval. This Agreement and the transactions under this Agreement shall be subject to the Bid Procedures Order and the Sale Order. Purchaser acknowledges and agrees that if this Agreement is not approved by the Bankruptcy Court pursuant to the Bid Procedures Order and the Sale Order, the Purchased Assets shall not be sold to Purchaser and this Agreement shall terminate with no liability to Seller.

ARTICLE 8 DEFAULT, TERMINATION, REMEDIES

Section 8.1. Termination of Agreement. This Agreement may be terminated and the Transaction contemplated hereby may be abandoned at any time prior to the Closing:

8.1.1. by the mutual written agreement of the Parties. To the extent Purchaser and Seller terminate this Agreement in accordance with this Section 8.1.1, the Escrow Agent shall promptly return the Deposit to the Purchaser and no party to this Agreement shall bear any further liability or obligation to the other Party under this Agreement;

8.1.2. by the Seller at any time prior to the Closing, in the event the Purchaser has materially breached any representation, warranty or covenant contained in this Agreement and the Purchaser has not cured the breach within ten (10) Business Days after receipt of written notice of the breach. To the extent the Seller terminate this Agreement in accordance with this Section 8.1.2, the Seller shall have the right to retain the Deposit, if paid, as liquidated damages and the Escrow Agent shall promptly deliver the Deposit to the Seller;

8.1.3. by the Seller in the event the Purchaser fails to proceed to and consummate the Closing (unless the Purchaser shall have properly terminated this Agreement pursuant to this Section 8.1 or any condition precedent in Section 7.2 has not been satisfied and not waived) without making any reasonable effort to

do so within one (1) day after receipt of written notice of such failure. To the extent the Seller terminates this Agreement in accordance with this Section 8.1.3, the Seller shall have the right to retain the Deposit as liquidated damages and the Escrow Agent shall promptly deliver the Deposit to the Seller;

8.1.4. by the Purchaser at any time prior to the Closing, in the event the Seller have materially breached any representation, warranty or covenant contained in this Agreement and the Seller have not cured or made reasonable efforts to cure the breach within ten (10) Business Days after receipt of written notice of the breach. To the extent the Purchaser terminates this Agreement in accordance with this Section 8.1.4, the Escrow Agent shall promptly return the Deposit to the Purchaser and no Party shall bear any further liability or obligation to the other Parties under this Agreement;

8.1.5. by the Purchaser in the event the Seller fail to proceed to and consummate the Closing (unless the Seller shall have properly terminated this Agreement pursuant to this Section 8.1 or any condition precedent in Section 7.1 has not been satisfied and not waived) without making any reasonable effort to do so within one (1) day after receipt of written notice of such failure. To the extent the Purchaser terminates this Agreement in accordance with this Section 8.1.5, the Escrow Agent shall promptly return the Deposit to the Purchaser and no party to this Agreement shall bear any further liability or obligation to the other parties under this Agreement; or

8.1.6. by the Seller if a party other than the Purchaser is selected as the Successful Bidder by the Bankruptcy Court. To the extent the Purchaser terminates this Agreement in accordance with this Section 8.1.6, the Escrow Agent shall promptly return the Deposit to the Purchaser and no Party shall bear any further liability or obligation to the other Party under this Agreement.

ARTICLE 9 GENERAL PROVISIONS

Section 9.1. Assignment. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective heirs, legal representatives, successors and permitted assigns of the parties hereto. No party hereto shall assign this Agreement or any right, benefit or obligation hereunder without the prior written consent of each other party and any purported assignment without such consent will be void, except that Purchaser shall be entitled to assign, with the prior written consent of Seller which consent shall not be unreasonably withheld, any or all of its rights, interests and obligations hereunder to any affiliate of Purchaser.

Section 9.2. Notices. Any notice, request, demand, waiver, consent, approval, or other communication (collectively, a “**Communication**”) that is required or permitted to be given to any party under this Agreement will be valid only if it is in writing (whether or not this Agreement expressly provides for it to be in writing) and given to that party by electronic mail transmission, facsimile transmission, hand delivery, overnight mail, or first-class, postage prepaid, United States mail at the mailing address or electronic mail address or facsimile number set forth

below or to any other mailing address or electronic mail address or facsimile number as a party hereto designates by written notice given in the manner provided in this Section 9.2:

If to Purchaser:

Email: _____

with copies to:

Attention: _____
Email: _____
Telephone: () _____
Facsimile: () _____

If to Seller:

LumaStream, Inc.
2201 1st Avenue South
St. Petersburg, Florida 33712
Attention: President
Email: _____
Telephone: (727) 827-2805
Facsimile: (727) 827-2806

with a copy to:

Stichter, Riedel, Blain & Postler, P.A.
110 East Madison Street
Suite 200
Tampa, Florida 33602
Attention: Scott A. Stichter
Email: sstichter@srbp.com
Facsimile: (813) 229-1811
Telephone: (813) 229-0144

A Communication under this Agreement will be effective and deemed to have been given (i) one (1) Business Day after being sent by hand delivery, electronic mail transmission, facsimile transmission or overnight mail, with confirmation of receipt, or (ii) five (5) Business Days following the date mailed when mailed by first-class, postage prepaid, United States mail. Each party to this Agreement promptly shall notify the other parties hereto of any change in its mailing address, electronic mail address, or facsimile number for Communications. The delivery to a party's legal counsel of a copy of a Communication will not constitute delivery of the Communication to the party, unless so confirmed in writing by the Party's counsel.

Section 9.3. Interpretation. The Parties acknowledge that they have read, understand and have had the opportunity to be advised by legal counsel as to each and every one of the terms, conditions, and restrictions and the effect of all the provisions of this Agreement and they agree to the enforcement of any and all of these provisions and executes this Agreement with full knowledge of the same. Unless the context of this Agreement clearly requires otherwise, (a) references to the plural include the singular, the singular the plural, the part the whole, (b) references to any gender include all genders, (c) "or" has the inclusive meaning frequently identified with the phrase "and/or," (d) "including" has the inclusive meaning frequently identified with the phrase "but not limited to," and (e) references to "hereunder" or "herein" relate to this Agreement. The section and other headings contained in this Agreement are for reference purposes only and shall not control or affect the construction of this Agreement or the interpretation thereof in any respect. Section, subsection, schedule and exhibit references are to this Agreement unless otherwise specified. Any accounting term used herein that is not specifically defined herein shall have the meaning given to it under GAAP. The headings in this Agreement are solely for convenience of reference and shall not constitute a part of this Agreement nor shall they affect its meaning, construction or effect. Each party and its counsel have reviewed and revised (or requested revisions of) this Agreement and have participated in the preparation of this Agreement, and therefore any rules of construction requiring that ambiguities are to be resolved against the party which drafted the Agreement or any exhibits attached hereto shall not be applicable in the construction and interpretation of this Agreement or any exhibits attached hereto. The term "sole discretion" with respect to any determination to be made a party under this Agreement shall mean the sole and absolute discretion of the party, without regard to any standard of reasonableness or other standard by which the determination of the party might be challenged.

Section 9.4. Severability. If any provision of this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof; and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

Section 9.5. No Third-Party Beneficiaries; Joint Venture. Except as otherwise provided in this Agreement, this Agreement is for the sole benefit of the parties hereto, their successors and any permitted assigns, and nothing herein, express or implied, is intended to or will confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement. Nothing contained herein shall be construed as forming a joint venture or partnership between the parties hereto with respect to the subject matter hereof.

Section 9.6. Amendment; Waiver. This Agreement may not be amended or modified except by an instrument in writing duly executed by each of the parties hereto. Any term or provision of this Agreement may be waived at any time by the party entitled to the benefit thereof by a written instrument duly executed by such party. Any waiver so granted will not be construed as a waiver of any subsequent breach or waiver of the same term or condition, or a waiver of any other term or condition of this Agreement.

Section 9.7. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

Section 9.8. Counterparts. This Agreement may be executed in one or more counterparts by the Parties. All counterparts shall be construed together and shall constitute one agreement. Each counterpart shall be deemed an original hereof notwithstanding that fewer than all of the parties may have executed it. The parties hereto are hereby authorized to rely upon the signature of each person on this Agreement that is delivered by facsimile or electronic mail as constituting a duly authorized, actual, current delivery of this Agreement with original ink signatures of each such person. Delivery of a copy of this Agreement bearing an original signature by facsimile transmission (whether directly from one facsimile device to another by means of a dial-up connection or whether mediated by the worldwide web), by electronic mail in “portable document format” (“.pdf”) form, or by any other electronic means of transmission intended to preserve the original graphic and pictorial appearance of a document, shall have the same effect as physical delivery of the paper document bearing the original signature. Any copy of this Agreement reproduced from electronic means that bears the original graphic and pictorial appearance of the parties’ signatures shall be as effective as an original.

Section 9.9. Entire Agreement. This Agreement, the exhibits, the Schedules, and any other related agreements executed by the Parties constitute the entire agreement of the parties hereto with respect to the subject matter hereof and supersede all prior agreements and undertakings with respect to the subject matter hereof, both written and oral.

Section 9.10. Publicity. Purchaser and Seller will coordinate all publicity related to this Agreement and the activities contemplated hereunder and no party will issue any press release, publicity statement, or other written public notice relating thereto without the prior consent of the other.

Section 9.11. Time. Time is of the essence in the performance of this Agreement.

Section 9.12. Attorneys’ Fees. In the event of a dispute arising under this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys’ fees and costs, including attorneys’ fees and costs incurred in litigating entitlement to attorneys’ fees and costs, as well as in determining or quantifying the amount of recoverable attorneys’ fees and costs. The reasonable costs to which the prevailing party is entitled shall include costs that are taxable under any applicable statute, rule or guideline, as well as non-taxable costs, including, but not limited to, costs of investigation, copying costs, electronic discovery costs, telephone charges, mailing and delivery charges, information technology support charges, consultant and expert witness fees, travel expenses, court reporter fees, and mediator fees, regardless of whether such costs are otherwise taxable.

Section 9.13. Further Assurances. On and after the Closing Date, Purchaser and Seller will take all appropriate action and execute all documents, instruments or conveyances of any kind which may be reasonably necessary or advisable to carry out any of the provisions hereof, including putting Purchaser in possession of the Purchased Assets or to convey title to the Purchased Assets to Purchaser.

Section 9.14. Venue; Jurisdiction. The parties acknowledge and agree that the Bankruptcy Court shall have exclusive jurisdiction to hear and determine any claims or disputes between the parties hereto pertaining directly or indirectly to this Agreement or to any matter between the parties hereto arising herefrom or related hereto; provided, however, that if the Bankruptcy Court determines that it lacks or abstains from exercising such jurisdiction the parties agree that the state courts of Hillsborough County, Florida, shall have exclusive jurisdiction. The Parties expressly submit and consent in advance to such jurisdiction and venue in any action or proceeding commenced in any such court, and the Parties hereby waive any objection which either may have based upon the lack of personal jurisdiction and hereby consent to the granting of such legal or equitable relief as is deemed appropriate by any such court. Furthermore, each Party waives, to the extent permitted under applicable law, any right such Party may have to assert the doctrine of “forum non conveniens” or to object to venue to the extent any proceedings are brought in accordance with this Section 9.14.

Section 9.15. Jury Trial Waiver. EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT, ANY ANCILLARY AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY OR THEREBY. EACH PARTY (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THAT FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE ANCILLARY AGREEMENTS, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 9.16. Setoff. Purchaser shall have no right or claim of setoff against the Seller, the Seller’s Bankruptcy estate, or the Purchase Price on account of the transactions contemplated by this Agreement, including any Assumed Liabilities or purchase of any Purchased Assets.

Section 9.17. Non-Exclusivity. Purchaser acknowledges that this Agreement is entered into pursuant to a competitive sale process and Seller shall have the right to continue to market the Purchased Assets until the Closing and to enter into contracts for the sale of all of the aforementioned assets of Seller in the event that the Closing as contemplated in this Agreement does not occur.

[Remainder of page intentionally blank; signature page to follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

PURCHASER:

By: _____
_____, Its _____

SELLER:

LumaStream, Inc.

By: _____
_____, Its _____

SCHEDULES AND EXHIBITS

<u>Schedule 1.2.1</u>	Tangible Personal Property and Equipment
<u>Schedule 1.2.2</u>	Intellectual Property Assets
<u>Schedule 1.2.3</u>	Assumed Contracts
<u>Schedule 1.2.7</u>	Licenses, Permits, Certificates
<u>Schedule 1.3.19</u>	Other Excluded Assets
<u>Schedule 6.2</u>	Permitted Exceptions

Schedule 1.2.1
Tangible Personal Property and Equipment

Item	Description
Brady Printer	Product labeling
Chroma Tester	Custom built Automatic Test System for power products
High Pot Ground Bond Tester	Two testers benchtop
Trinity Burn-In Racks	Diode burn-in racks - 2 carts with fans, plugs
Assembly Desks	6 Electronics assembly desks
Pallet Jack	global hand pallet jack
Clark Electric Forklift	3-wheel 3000lb capacity
Exact Max MRP software & database	Remotely hosted
Local Engineering Server	Dell tower, engineering files current and historical
Engineering project files	Pallet of banker's boxes
Pallet Scale	Yellow 5000lb capacity
WIP & inventory	miscellaneous materials and parts related to production

Schedule 1.2.2
Intellectual Property Assets

[This Schedule to be furnished by Seller]

Schedule 1.2.3
Assumed Contracts

[This Schedule to be furnished by Purchaser]

Schedule 1.2.7
Licenses, Permits, Certificates

TUV Certificate: U8 076087 020 - Luminaire Certification (Accent, Down-light, Models)

TUV Certificate: U8 17 09 76087 018 - Luminaire Certification (Linear/ Pendant Fixture Models)

TUV Certificate: U8 16 11 76087 015 - Luminaire Certification (Retrofit Models)

TUV Certificate: CB 16 10 76087 014 - Power Supply Certification (EON -4 Ch.)

TUV Certificate: CB 16 09 76087 012 - Power Supply Certification (Trinity Supplemental Configurations)

TUV Certificate: CB 17 05 76087 017 - Power Supply Certification (EON single Ch.)

UL Certificate: E330722 - Project 13CA34726 - Power Supply Certification (Thea 92)

UL Certificate: E330722 - Project 09CA14841 - Power Supply Certification (Trinity)

UL Certificate: E330722 - Project 12CA42623 - Power Supply Certification (Thea 56)

Schedule 1.3.19
Other Excluded Assets

[This Schedule may be supplemented by Seller]

Schedule 6.2
Permitted Exceptions

[This Schedule may be supplemented by Seller]