

ASSET PURCHASE AGREEMENT

THIS AGREEMENT MADE this ___ day of _____, _____.

BETWEEN:

_____ (insert legal name of seller)
(hereinafter the "Seller")

- and -

_____ (insert legal name of purchaser)
(hereinafter the "Purchaser")

RECITALS:

1. The Seller is the owner of the Assets and owns and operates a _____ (insert type of business) business in _____ (insert state) (the "Business").
2. The Purchaser desires to acquire the Assets and the Business and the Seller desires to sell the Assets and the Business to the Purchaser, upon the terms hereinafter set forth.

NOW THEREFORE THIS AGREEMENT WITNESSES:

ARTICLE I - DEFINITIONS

1.01 Definitions. In this Agreement including the Recitals, terms and expressions defined on Annex 1 shall have the meanings ascribed thereto thereon.

1.02 Attachments. Attached to and forming part of this Agreement are the following:

<u>Annex or Schedule</u>	<u>Subject Matter</u>
Annex 1	Definitions
Annex 2	Seller's Representations and Warranties
Annex 3	Miscellaneous
Schedule 1(A)	Assets
Schedule 1(B)	Financial Statements
Schedule 1(C)	Material Contracts
Schedule 1(D)	Material Licenses
Schedule 1(E)	Non-Competition Agreement

ARTICLE II - PURCHASE AND SALE; CLOSING

2.01 Sale of Assets. Upon the terms and conditions of this Agreement, at the Closing, the Purchaser will purchase from the Seller, and the Seller will sell, assign and deliver to the Purchaser, the Assets and the Business as a going concern, including the Goodwill, at and for the Purchase Price determined in respect thereof.

2.02 Purchase Price.

- (a) The Purchase Price payable by the Purchaser to the Seller for the Assets shall, subject to Section 2.03 hereof, be the sum of _____ (insert dollar value in words) **Dollars** (\$_____) (insert dollar value).

- (b) The Seller acknowledges receipt of the sum of _____ (*insert dollar value in words*) Dollars (\$ _____) (*insert dollar value*) as and by way of a deposit to be applied against the Purchase Price (the "Deposit").
- (c) At the Closing the Purchaser will pay or cause to be paid to the Seller in cash or by way of bank draft or certified check, subject to adjustment as per Section 2.03 hereof, the further amount of _____ (*insert dollar value in words*) Dollars (\$ _____) (*insert dollar value*) .

2.03 Allocation and Adjustment of Purchase Price.

- (a) The parties agree that the Purchase Price shall be allocated as follows:

Equipment	\$
Inventory	\$
Leasehold Improvements & Goodwill	\$
Total Purchase Price	\$ _____

- (b) The amount of the Purchase Price allocated to Inventory in Section 2.03(a) above shall be adjusted prior to Closing on the basis of a physical count of inventory actually located at the Building and Premises taken by representatives of the Purchaser and Seller. The Inventory shall be valued at the Seller's retail price on _____ less _____ (*insert number in words*) percent (____%) (*insert number*) except to the extent of those items listed below which shall be valued as follows:

(list items)

To the extent the total value of the Inventory as per the physical inventory (i) exceeds the amount allocated in Section 2.03(a) the Purchaser will be entitled to reduce the value of Inventory by not including in the Inventory to be purchased pursuant to this Agreement by _____ and not including such amount of such _____ in this purchase, or (ii) is less than the amount allocated in Section 2.03(1) the Purchaser will be entitled to reduce the amount of the payment pursuant to Section 2.02(c) on Closing to the Purchaser.

2.04 Time and Place of Closing. Upon the terms and conditions of this Agreement, the closing of the transactions contemplated by this Agreement (the "Closing") will take place at the offices of _____ (*insert name of company*) at _____ (*insert complete address of company*) or at such other place as the parties may agree. The time and date of the Closing will be at noon (local time at the place of Closing) on _____ (*insert date*) (or such earlier date as the Purchaser and Seller may agree upon) if the Seller has then fulfilled all conditions to the Purchaser's obligations hereunder or, if not, on a date as soon as practicable following the fulfillment or waiver of all conditions to the Purchaser's obligations hereunder but in any case not later than the tenth (10th) Business Day following the fulfillment or waiver of all conditions to the Purchaser's obligations hereunder unless the Purchaser otherwise agrees (the "Closing Date").

2.05 Effective Time. The effective time and date of the sales and transfers contemplated by this Agreement is 12:01 a.m. (_____ (*insert time zone*) Time) on the Closing Date.

2.06 Deliveries by the Seller.

- (a) At the Closing the Seller will deliver or cause to be delivered to the Purchaser the following:
 - (i) one, or at the option of the Purchaser more, bill of sale in registerable form conveying title to the Assets to the Purchaser free and clear of all Security Interests;
 - (ii) the lease of the Building and Premises described in Annex 1;
 - (iii) the certificate of representations and warranties referred to in Section 3.01;

- (iv) a certified copy of a special resolution of the shareholders of the Seller approving the sale of the Assets to the Purchaser;
 - (v) a non-competition agreement from each of the Seller, _____ (*insert names of principals of Seller*); and
 - (vi) all other documents, instruments and writings (including any required to fulfill the conditions in Section 2.08) required to be delivered by the Seller at the Closing Date pursuant to this Agreement or otherwise required in connection herewith.
- (b) On the Closing Date the Seller will deliver or cause to be delivered to the Purchaser at the Building and Premises in _____ (*insert state*), all original agreements, inventory records and customer lists in the possession of the Seller or any Affiliate of the Seller ("Records") relating to the Assets and the business and operations of the Seller presently conducted at the Building and Premises.

2.07 Deliveries by the Purchaser. At the Closing the Purchaser will deliver the following to the Seller:

- (a) the balance of the Purchase Price, being _____ (*insert dollar value in words*) Dollars (\$____) (*insert dollar value*) by certified check, bank draft, money order or such other means as are agreed upon by the Seller and the Purchaser; and
- (b) the certificate of representations and warranties referred to in Article IV; and
- (c) all other documents, instruments and writings (including any required to fulfill the conditions in Section 2.09) required to be delivered by the Purchaser on the Closing Date pursuant to this Agreement.

2.08 Conditions to the Obligations of the Purchaser to Close. The obligation of the Purchaser to proceed with the Closing is subject to the fulfillment, on or prior to the Closing Date, of all of the following conditions, any one or more of which may be waived, in whole or in part, by the Purchaser:

- (a) the representations and warranties of the Seller contained in Article III shall have been true on and as of the date made and, except as a result of transactions contemplated hereby, on and as of the Closing Date as if made then;
- (b) the Seller shall have performed in all respects all of its agreements and covenants to be performed at or before Closing under this Agreement;
- (c) delivery of all documents by the Seller as set forth in Section 2.06(a) hereof;
- (d) delivery to the Purchaser of a legal opinion, based upon such assumptions or certifications of fact and subject to such qualifications as are customary for legal opinions in connection with commercial transactions of the type contemplated herein, dated the Closing Date, of legal counsel for the Seller, substantially to the effect set forth in Annex 2, and such other matters as counsel to the Purchaser requests, acting reasonably;
- (e) the Closing hereunder shall not violate any order or decree of any court or governmental body of competent jurisdiction and no action or proceeding shall have been commenced, pending or threatened by any governmental body, regulatory agency or other Person whatsoever which seeks or could result in any such order or decree or otherwise affect the ability of the parties to consummate the transactions herein contemplated or the ability of the Purchaser, after the Closing to carry on the Business and own and utilize the in the ordinary course for its own use;
- (f) the Closing shall occur not later than noon, _____; (*insert date*)

- (g) prior to the Closing the Seller shall have obtained, to the extent deemed necessary by the Purchaser's lawyers, the consents of all parties to the Material Contracts to the assumption of the same by the Purchaser;
- (h) prior to or at the Closing, the Seller shall deliver absolute discharges, in registerable form, of all mortgages, liens, encumbrances and other Security Interests affecting the Assets;
- (i) prior to or at the Closing the Seller shall have delivered assignments or transfers of the Material Licenses in favor of the Purchaser in form and substance satisfactory to the Purchaser's counsel; and
- (j) any waivers, consents or approvals, if any, required of third parties for the consummation of the transactions contemplated hereby shall have been obtained.

THIS IS A 25-PAGE FORM.