


FORM PTO-1595 (Rev. 3/01) OMD NO. 0651-0011 exp. 5/31/2002		<b>Recordation Form Cover Sheet</b> <b>PATENTS ONLY</b>		U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office	
To the Honorable Commissioner of Patents and Trademarks. Please record the attached original documents or copy thereof.					
1. Name of conveying party(ies): <b>High Voltage Engineering (HVE)</b> (Physical Electronics is a subsidiary of HVE) Additional name(s) of conveying party(ies) attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			2. Name and address of receiving party(ies): Name: <u>ReVcra Incorporated</u> Internal Address: _____ Street Address: <u>810 Kifer Road</u> City: <u>Sunnyvale</u> State/Province: <u>CA</u> Zip: <u>94086</u> Country: <u>USA</u> Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
3. Nature of Conveyance <input checked="" type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other: Execution Date(s): <u>01/23/2004</u>					
4. Application Number(s) or patent number(s): If this document is being filed together with a new application, the execution date of the application is: _____					
A. Patent Application No.(s)			B. Patent No.(s) <b>5,025,144</b>		
Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
5. Name and address of party to whom correspondence concerning document should be mailed: <b>Michael A. Bernadicou</b> Name: <u>Blakely, Sokoloff, Taylor &amp; Zafman LLP</u> Internal Address: _____ Street Address: <u>12400 Wilshire Boulevard, 7<sup>th</sup> Floor</u> City: <u>Los Angeles</u> State: <u>California</u> Zip: <u>90025</u>			6. Total number of applications and patents involved: <input type="text" value="1"/>		
			7. Total Fee (37 CFR 3.41).....\$40.00 <input checked="" type="checkbox"/> Enclosed <input checked="" type="checkbox"/> Authorized to be charged to deposit account		
			8. Deposit Account Number: <u>02-2666</u> (Attach duplicate copy of this page if paying by deposit account)		
DO NOT USE THIS SPACE					
9. Statement and signature. <i>To the best of my knowledge and believe, the foregoing is true and correct and any attached copy is a true copy of the original document</i>					
<u>Michael A. Bernadicou</u> Reg No. <u>35,934</u>				<u>2/10/05</u>	
Name of Person Signing		Signature		Date	
Total number of pages including cover sheet, attachments, and document: <input type="text" value="28"/>					

Mail documents to be recorded with required cover sheet information to:  
Commissioner of Patents, Mail Stop: Assignments  
P.O. Box 1450, Alexandria, VA 22313-1450

Attorney Docket No.: 7029P017

## ASSET SALE AGREEMENT

THIS ASSET SALE AGREEMENT (this "*Agreement*") is dated as of January 23, 2004 (the "*Effective Date*"), and is entered into by and between High Voltage Engineering Corporation, a Massachusetts corporation ("*HVE*"), and ReVera Incorporated, a Delaware corporation ("*ReVera*").

### ARTICLE I DEFINITIONS

1. **Definitions.** The following terms will have the meanings ascribed to them below:

"*Agreement*" has the meaning given in the preamble hereto.

"*Assets*" means the following assets, collectively:

- (i) the tangible assets identified on Schedule 1.1 hereto (to the extent the transfer of the software set forth on Schedule 1.1 does not require the consent of any third party) (the "*Tangible Assets*");
- (ii) the contracts, leases, licenses (to the extent the transfer of HVE's software licenses set forth on Schedule 1.2 does not require the consent of any third party), agreements, customer purchase orders, purchase orders to suppliers, and understandings set forth on Schedule 1.2 hereto (the "*Assigned Contracts*");
- (iii) the intangible assets, properties and rights listed on Schedule 1.3 hereto including the Intellectual Property Rights therein and thereto, all rights to enforce such Intellectual Property Rights, and all causes of action and rights of recovery for past infringement of such Intellectual Property Rights (the "*Intangible Assets*");
- (iv) the System Receivables;
- (v) the inventory set forth on Schedule 1.4 hereto (the "*Inventory*"); and
- (vi) the books and records of HVE which relate to the Assets described in clauses (i) through (v) above.

"*Assumed Employees*" has the meaning given in Section 6.8 hereof.

"*Assumed Liabilities*" means the liabilities and obligations set forth on Schedule 1.5 hereto.

"*Bill of Sale*" has the meaning given in Section 2.2 hereof.

"*Business*" means the business of designing, developing, marketing and selling advanced semiconductor metrology tools and equipment.

**"CERCLA"** means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

**"Code"** means the Internal Revenue Code of 1986.

**"Effective Date"** has the meaning given in the preamble hereto.

**"Effective Time"** means immediately prior to the Closing (as such term is defined in the Series A Agreement).

**"Evans"** means the Evans Analytical Group, a unit of HVE, with operations in California, Minnesota, Boston and Taiwan and its affiliate labs, of which HVE owns a minority stake, with operations in Texas and New Jersey. The principal business of Evans is to provide laboratory services utilizing commercial analytical techniques which uses beams of ions, electrons or x-rays to probe the surface and micro-regions of high-technology materials in order to provide information on composition and chemistry, which services are used primarily by the following industries: semiconductors (manufacturers of integrated circuits and their suppliers of capital equipment and materials), optoelectronics, data storage and biomedical devices.

**"Facilities"** means the real property located at (i) 810 Kifer Road, Sunnyvale, California 94086, and (ii) 18725 Lake Drive East, Chanhassen, Minnesota 55317.

**"Governmental Authority"** means any federal, state, local, foreign or international court, government, department, commission, board, bureau, agency, official or other regulatory, administrative or governmental authority.

**"Hazardous Materials"** means any hazardous or toxic substance, material or waste that is, or becomes prior to the Effective Time, regulated or defined as a "hazardous substance," "pollutant", "contaminant", "toxic chemical", "hazardous material", "toxic substance" or "hazardous chemical" or similar hazardous substance under CERCLA, or any other similar state or federal law, statute, ordinance, rule or regulation having a scope of purpose similar to that of CERCLA.

**"HVE"** has the meaning given in the preamble hereto.

**"HVE Compliance Certificate"** has the meaning given in Section 8.1 hereof.

**"HVE Indemnitee"** has the meaning given in Section 7.1 hereof.

**"HVE Related Agreements"** means the Related Agreements to which HVE is a party.

**"HVE Clerk's Certificate"** has the meaning given in Section 8.1 hereof.

**"Indemnified Party"** has the meaning given in Section 7.6 hereof.

**"Indemnifying Party"** has the meaning given in Section 7.6 hereof.

**"Intellectual Property"** means (i) Intellectual Property Rights and (ii) works of authorship, inventions, know-how, customer lists, supplier lists, proprietary processes and formulae, software source code and object code, algorithms, net lists, architectures, structures, screen displays, layouts, development tools, designs, blueprints, specifications, technical drawings (or similar information in electronic format) and all documentation and media constituting, describing or relating to the foregoing, including manuals, programmers' notes, memoranda and records.

**"Intellectual Property Rights"** means, collectively, all of the following intangible worldwide legal rights, whether or not filed, perfected, registered or recorded: (i) patents, patent applications, and patent rights, including any and all continuations, continuations-in-part, divisions, reissues, reexaminations or extensions thereof, whether now existing or hereafter filed, issued or acquired; (ii) rights associated with works of authorship (including audiovisual works), including copyrights, copyright applications, and copyright registrations, moral rights, mask work rights, mask work applications and mask work registrations; (iii) rights relating to the protection of trade secrets and confidential information; (iv) design rights and industrial property rights; (v) any rights analogous to those set forth in the preceding clauses and any other proprietary rights relating to intangible property including trademarks, service marks, trademark and service mark registrations and applications therefor, trade names, rights in trade dress and packaging and all goodwill associated with the same; (vi) rights in customer and prospect lists, trade secrets, know-how, designs, plans and specifications; and (vii) all rights to sue for any past, present or future infringement of any of the foregoing rights and the right to all income, royalties, damages and payments now or hereafter due or payable with respect to any of the foregoing rights, including without limitation damages for past, present or future infringement thereof.

**"Liens"** means all title defects or objections, mortgages, liens, claims, charges, pledges, or other encumbrances of any nature whatsoever, including without limitation licenses, leases, chattel or other mortgages, collateral security arrangements or assignments, pledges, title imperfections, defect or objection liens, security interests, conditional and installment sales agreements, easements, encroachments or restrictions, of any kind and other title or interest retention arrangements, reservations or limitations of any nature.

**"License Agreement"** means the Technology License Agreement, by and between HVE and ULVAC-PHI, Inc., dated as of January 31, 2003.

**"Loss"** has the meaning given in Section 7.1 hereof.

**"Minnesota Facility"** has the meaning given in Section 6.1 hereof.

**"person"** means any individual, corporation (including any non-profit corporation), general partnership, limited partnership, limited liability partnership, joint venture, estate, trust, company (including any limited liability company or joint stock company), firm or other enterprise, association, organization, entity or governmental entity.

**"PHI USA"** means Physical Electronics USA, Inc., a Minnesota corporation.

**"Pre-Closing Expenses"** has the meaning given in Section 6.2 hereof.

**"Quantum System"** means the Quantum XPS Analytical Instrument System owned by HVE and currently used by Evans at its Chanhassen facility.

**"Related Agreements"** means the Bill of Sale, Assignment and Assumption Agreement and the Sunnyvale Sublease Agreement.

**"Release Date"** has the meaning given in Section 7.4 hereof.

**"Restricted Area"** has the meaning given in Section 6.4 hereof.

**"Restricted Business"** has the meaning given in Section 6.4 hereof.

**"Restricted Period"** has the meaning given in Section 6.4 hereof.

**"ReVera"** has the meaning given in the preamble hereto.

**"ReVera Compliance Certificate"** has the meaning given in Section 8.2 hereof.

**"ReVera Indemnitee"** has the meaning given in Section 7.1 hereof.

**"ReVera Related Agreements"** means the Related Agreements to which ReVera is a party.

**"ReVera Secretary's Certificate"** has the meaning given in Section 8.2 hereof.

**"Series A Agreement"** means the Series A-1 and A-2 Preferred Stock Purchase Agreement dated as of January 23, 2004, by and among ReVera, Crosslink Capital, David Ring, David Perloff and Clifford Press.

**"Subject Systems"** means those certain alpha and beta systems set forth on Schedule 1.6 hereto that shall be included in the Assets for all purposes of this Agreement and which are currently either installed, under evaluation by or deliverable to the customers.

**"Sunnyvale Sublease Agreement"** means the Sublease Agreement substantially in the form attached hereto as Exhibit B with respect to HVE's sublease to ReVera a portion of the space at that certain facility located at 810 Kifer Road, Sunnyvale, California 94086.

**"System Receivables"** means all cash, cash equivalents, credits, and/or rights to receive same, relating to or arising from the sale, license or other use of the Subject Systems.

**"Third-Party Claim"** has the meaning given in Section 7.6 hereof.

## ARTICLE 2 SALE AND TRANSFER OF ASSETS

2.1 Sale, Transfer and Assignment of Assets. Subject to the terms and conditions of this Agreement, at and as of the Effective Time, HVE hereby agrees to sell, assign, transfer,

deliver and convey to ReVera, and ReVera hereby agrees to purchase, receive, assume, acquire and accept from HVE, all of HVE's right, title and interest in and to the Assets.

2.2 Bill of Sale, Assignment and Assumption Agreement. Upon the Effective Date, HVE will execute and deliver to ReVera the Bill of Sale, Assignment and Assumption Agreement in substantially the form of Exhibit A attached hereto (the "Bill of Sale").

### ARTICLE 3

#### CONSIDERATION; OBLIGATIONS ASSUMED

3.1 Assumed Liabilities. At and after the Effective Time, ReVera shall assume, pay, perform and discharge the Assumed Liabilities and shall indemnify, reimburse, discharge and hold harmless HVE from the Assumed Liabilities.

3.2 No Obligations to Third Parties. The execution, delivery and performance of this Agreement shall not be deemed to make any person or entity a third-party beneficiary of this Agreement. Assumption by ReVera of the Assumed Liabilities shall in no way expand the rights or remedies of third parties against ReVera as compared to the rights and remedies such parties would have against HVE prior to the date of this Agreement.

3.3 Taxes. HVE shall be responsible for paying, shall promptly discharge when due, and shall reimburse, indemnify and hold harmless ReVera and each subsidiary of ReVera from, any sales or use, transfer, real property gains, excise, stamp, or other taxes which are in the nature of sales, use, or property tax, imposed on HVE, any HVE subsidiary, ReVera or any subsidiary of ReVera (and specifically excluding income taxes or taxes in the nature of income taxes imposed on ReVera or any subsidiary of ReVera) resulting from the sale of Assets to ReVera contemplated by this Agreement.

3.4 No Other Liabilities Assumed. As a material consideration and inducement to ReVera to enter into this Agreement, HVE will retain, and will be solely responsible for paying, performing and discharging when and if due, and ReVera will not assume or otherwise have any responsibility or liability for, any and all liabilities of HVE (whether now existing or hereafter arising) other than the Assumed Liabilities.

3.5 Bill of Sale, Assignment and Assumption Agreement. Upon the Effective Date, ReVera will execute and deliver to HVE the Bill of Sale.

### ARTICLE 4

#### REPRESENTATIONS AND WARRANTIES OF HVE

HVE makes the following representations and warranties to ReVera, each of which shall be true and correct as of the Effective Time:

4.1 Incorporation and Authority. HVE is a corporation duly incorporated, validly existing and in good standing under the laws of The Commonwealth of Massachusetts and has all necessary corporate power and authority to enter into this Agreement and the HVE Related Agreements, to carry out and perform its obligations hereunder and thereunder and to

consummate all of the transactions contemplated hereby and thereby. The execution, delivery and performance by HVE of this Agreement and the HVE Related Agreements, and the sale of the Assets to ReVera and consummation of all the transactions contemplated hereby and thereby on the terms and conditions set forth herein, have been duly and validly authorized by HVE by all necessary corporate action of HVE's Board of Directors. The approval by HVE's stockholders of the execution, delivery and performance by HVE of this Agreement and the HVE Related Agreements, and the sale of the Assets to ReVera and consummation of all the transactions contemplated hereby and thereby on the terms and conditions set forth herein is not required under the laws of The Commonwealth of Massachusetts, HVE's Articles of Organization, HVE's By-laws or otherwise. No authorization, decree or order of any court, bankruptcy court, bankruptcy trustee, creditors' committee, receiver, Governmental Authority or any other person is required in order to authorize or enable HVE to: (i) enter into this Agreement and the HVE Related Agreements; (ii) sell, assign, convey and transfer all the Assets to ReVera as contemplated by this Agreement; or (iii) carry out and perform HVE's obligations under this Agreement and the HVE Related Agreements. This Agreement has been, and at the Effective Time the HVE Related Agreements will be, duly and validly executed and delivered by HVE, and (assuming due authorization, execution and delivery by ReVera) this Agreement constitutes and, upon the execution of each of the HVE Related Agreements by the parties thereto, the HVE Related Agreements will constitute, legal, valid and binding obligations of HVE enforceable against HVE in accordance with their respective terms.

**4.2 No Conflict.** Except as set forth on Schedule 4.2 hereto, the execution, delivery and performance of this Agreement and the HVE Related Agreements by HVE, do not and will not: (i) conflict with or violate the Articles of Organization or By-laws of HVE; (ii) conflict with or violate any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award applicable to the Assets; (iii) result in any breach of, or constitute a default (or event which with the giving of notice or lapse of time, or both, would become a default) under, or give to others any rights of termination, rescission, amendment, acceleration or cancellation of, any of the Assigned Contracts or any material note, bond, mortgage, indenture, contract, agreement, lease, license, permit, franchise or other instrument relating to any of the Assets to which HVE is a party or is bound or by which any of the Assets are bound or affected; or (iv) result in the creation of any Lien on any of the Assets.

**4.3 Consents and Approvals.** Except as set forth on Schedule 4.3 hereto, the execution and delivery of this Agreement and the HVE Related Agreements by HVE do not, and the performance of this Agreement and the HVE Related Agreements by HVE (including HVE's assignment of any Assigned Contracts to ReVera) will not, require any consent, approval, authorization or other action by, or filing with or notification to, any third party, including but not limited to any Governmental Authority. Without limitation of anything else in this Agreement, HVE has obtained the consent of Ableco Finance LLC ("Ableco") to the transactions contemplated by this Agreement and the Related Agreements under all applicable agreements between HVE and Ableco and HVE has obtained the consent of Ableco to release any lien or interests, if any, held by Ableco on or to the Assets effective as of the Effective Date.

**4.4 Title to and Condition of Assets.** Except as set forth on Schedule 4.4 hereto, HVE owns all the Assets and HVE has good and marketable title in and to all the Assets, free and clear

of all Liens whatsoever. None of the Assets is licensed from any third party and, except as set forth in the License Agreement, none of the Assets is licensed to any third party. All of the tangible personal property included in the Assets is in good working condition and repair, ordinary wear and tear excepted. Except as set forth on Schedule 4.4 hereto, title to all the Assets is freely transferable from HVE to ReVera free and clear of all Liens without obtaining the consent or approval of any person or party.

**4.5 Litigation.** There is no claim, action, suit, investigation or proceeding of any nature pending or, to HVE's knowledge, threatened, at law or in equity, by way of arbitration or before any court, governmental department, commission, board, agency or other Governmental Authority that: (i) may adversely affect, contest or challenge HVE's authority, right or ability to sell or convey any of the Assets to ReVera hereunder or otherwise perform HVE's obligations under this Agreement or any of the HVE Related Agreements; (ii) challenges or contests HVE's right, title or ownership of any of the Assets; (iii) asserts that any Asset, or any action taken by any employee of HVE with respect to any Asset, infringes any Intellectual Property Rights of any third party or constitutes a misappropriation or misuse of any Intellectual Property Rights, trade secrets or proprietary rights of any party; (iv) seeks to enjoin, prevent or hinder the consummation of any of the transactions contemplated by this Agreement or the HVE Related Agreements; or (v) would impair or have an adverse effect on ReVera's right or ability to use or exploit any of the Assets or impair or have an adverse effect on the value of any Asset. There are no judgments, decrees, injunctions or orders of any court, governmental department, commission, agency, instrumentality or arbitrator pending or binding against HVE which affect the Assets.

**4.6 Compliance with Laws.** HVE has complied with and has not received any notices of violation with respect to, any federal, state or local statute, law or regulation (including but not limited to environmental laws), domestic or foreign, applicable to the Assets.

**4.7 Intellectual Property.**

(a) The Assets include all Intellectual Property Rights necessary to enable ReVera to conduct the Business in the manner in which such business was conducted prior to the Effective Time, without the need for any license from any person (other than "shrink-wrap" and similar widely available binary code and commercial end-user licenses).

(b) The Assets, including but not limited to Intellectual Property Rights, do not infringe upon any Intellectual Property Rights of any third party and no third party has asserted or threatened to assert against HVE any claim of infringement of Intellectual Property Rights.

(c) Except as set forth in the License Agreement, HVE owns, possesses, has the exclusive right to make, use, sell, license, has the right to bring actions for the infringement of, and where necessary, has made timely and proper applications for, the Intellectual Property Rights that are included in the Assets. The patents, copyrights and trademarks relating to the Intellectual Property Rights are in full force and effect, and have not been cancelled, expired or abandoned and are valid and enforceable.



(d) Except as set forth in the License Agreement, HVE has not granted any third party any outstanding licenses or other rights to any of the Assets and none of the Assets is held or used pursuant to a license or similar grant of rights by any third party. (e) Neither HVE nor any of its affiliates is liable for, nor has made any contract or arrangement whereby it may become liable to, any person for any royalty, fee or other compensation for the ownership, use, license, sale, distribution, manufacture, reproduction or disposition of any Asset.

(f) Except as set forth on Schedule 4.7(f) hereto, all current and former employees and consultants of HVE and any other third parties who have been involved in the product development of the Intellectual Property Rights have executed invention assignment agreements in the form delivered to ReVera's counsel and all current and former employees and consultants of HVE who have or previously had access to confidential information or trade secrets which relate to Assets have executed appropriate nondisclosure agreements.

(g) Except to the extent of any ownership of capital stock of ReVera or options to purchase capital stock of ReVera, no current or former HVE employee, consultant, officer or director will, after giving effect to the transactions contemplated herein, own or retain any rights to use any of the Assets.

(h) HVE has taken reasonable steps, consistent with industry standards, to protect the secrecy and confidentiality of all the Intellectual Property Rights.

4.8 Product Warranties: Defects. To HVE's knowledge, each Subject System is and has been in substantial conformity with all applicable contractual commitments and all express warranties made by HVE and there is, to HVE's knowledge, no basis for any present or future action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand against any such contractual commitments or express warranties for replacement or repair thereof or other damages in connection therewith. Except as set forth on Schedule 4.8 hereto, none of the Subject Systems is subject to any guaranty, warranty, or other indemnity beyond HVE's applicable standard terms and conditions of sale, lease or licensing (as set forth in written agreements that HVE has delivered to ReVera) or beyond that imposed by applicable law.

4.9 Adequate Consideration. HVE's Board of Directors has determined in good faith that the consideration HVE will receive in connection with the transactions contemplated by this Agreement represents the fair market value of the Assets and that the Assets represent an immaterial portion of all of the assets of HVE. No order has been made, no petition presented, or resolution passed for the winding-up of HVE, nor has any resolution been passed, agreement entered into, or term sheet or letter of intent approved by HVE with respect to a future sale or disposition of material assets of HVE. The consummation of the transactions contemplated by this Agreement do not and will not give rise to any claim of any creditor of HVE whatsoever against the Assets.

4.10 Environmental Matters. To the knowledge of HVE, the Facilities are not in violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene, disposal of Hazardous Materials or the environmental conditions on or under such properties or facilities, including but not limited to, soil and groundwater conditions. During the time HVE has owned, leased or occupied the Facilities, HVE has not used, generated, manufactured or

stored on or under any part of the Facilities, or transported to or from any part of the Facilities, any Hazardous Materials in violation of CERCLA or any other applicable state or federal environmental law. To HVE's knowledge, during the time HVE's predecessors-in-interest owned, leased or occupied the Facilities, such predecessors did not use, generate, manufacture or store on or under any part of the Facilities, or transport to or from any part of the Facilities, any Hazardous Materials in violation of CERCLA or any other applicable state or federal environmental law. HVE has no knowledge of any presence, disposal, release or threatened release of any Hazardous Materials on, from or under any part of the Facilities.

4.11 Contracts. Except as set forth on Schedule 4.11, the Assigned Contracts are valid and enforceable in accordance with their terms. Except as set forth on Schedule 4.11, HVE is not, and to HVE's knowledge, no other party thereto is, in material default in the performance, observance or fulfillment of any obligation under the Assigned Contracts, and no event has occurred which with or without the giving of notice or lapse of time, or both, would constitute a material default thereunder.

4.12 System Receivables. The System Receivables are bona fide accounts receivables (or collections thereof) created in the ordinary course of business, have arisen out of bona fide sales and deliveries of goods, performance of services and other business transactions in the ordinary course of business consistent with past practice, and were not, and are not, subject to any valid defenses, right of offset or counterclaim, except with respect to any such valid defenses, rights of offset or counterclaims that may arise as a result of the consummation of the transactions contemplated by this Agreement.

4.13 Inventory. As of the Effective Date, all of the Inventory (including raw materials, parts and work-in-process included in the Inventory) is of good quality and is readily usable and salable in the ordinary course of HVE's business consistent with its past practices and fit for the purpose for which it was procured or manufactured and none of which is below-standard quality, obsolete, damaged, defective or missing. HVE is not aware that in the foreseeable future there may be difficulty in obtaining, in commercial quantity and quality and at a reasonable price and upon reasonable terms and conditions, the raw materials, supplies or component products required for the manufacture, assembly or production of the products used in the Business.

4.14 Brokers and Finders. HVE has not retained any investment banker, broker or finder in connection with the transactions contemplated hereby, other than East Peak Advisors. HVE owes no broker's or finder's fee other than any fee owed to East Peak Advisors, which fee HVE shall satisfy (subject to certain reimbursement from ReVera, as set forth on Schedule 1.5 hereto).

4.15 Full Disclosure. All of the representations and warranties made by HVE in this Agreement are true, correct and complete in all material respects and do not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make such representations, warranties or statements, in light of the circumstances under which they are made, not misleading. ReVera and HVE have engaged in a due diligence process, and in connection with that process HVE has made available to ReVera all the information reasonably available to HVE that ReVera has requested for deciding whether to acquire the Assets and all

information that HVE believes is reasonably necessary to enable ReVera to make such a decision.

**4.16 Payment of Taxes.** All taxes of HVE and any other person for which ReVera could bear successor liability or become a charge or lien against the Assets have been or will be paid on a timely basis. HVE has duly and timely filed (or will file prior to the Effective Time) such returns and reports of taxes required to be filed prior to the Effective Time, and all such returns and reports are true, correct, and complete in all material respects. There are no liens for taxes on any of the Assets. HVE is not a "foreign person" within the meaning of Section 1445(f)(3) of the Code. There are no pending or, to HVE's knowledge, threatened proceedings with respect to taxes for which ReVera could bear successor liability or which could become a charge against the Assets, and there are no outstanding waivers or extensions of statutes of limitations with respect to assessments of taxes of HVE for which ReVera could bear successor liability or which could become a charge against the Assets.

#### ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF REVERA

ReVera makes the following representations and warranties to HVE, each of which shall be true and correct as of the Effective Time:

**5.1 Incorporation and Authority.** ReVera is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware and has all necessary corporate power and authority to enter into this Agreement and the ReVera Related Agreements, to carry out and perform its obligations hereunder and thereunder and to consummate all of the transactions contemplated hereby and thereby. The execution, delivery and performance by ReVera of this Agreement and the ReVera Related Agreements and the consummation of all the transactions contemplated hereby and thereby on the terms and conditions set forth herein, have been duly and validly authorized by ReVera by all necessary corporate action of ReVera's Board of Directors. No authorization, decree or order of any court, bankruptcy court, bankruptcy trustee, creditors' committee, receiver, Governmental Authority or any other person is required in order to authorize or enable ReVera to: (i) enter into this Agreement and the ReVera Related Agreements; or (ii) carry out and perform ReVera's obligations under this Agreement and the ReVera Related Agreements. This Agreement has been, and at the Effective Time the ReVera Related Agreements will be, duly and validly executed and delivered by ReVera, and (assuming due authorization, execution and delivery by ReVera) this Agreement constitutes and, upon the execution of each of the ReVera Related Agreements by the parties thereto, the ReVera Related Agreements will constitute, legal, valid and binding obligations of ReVera enforceable against ReVera in accordance with their respective terms.

**5.2 No Conflict.** The execution, delivery and performance of this Agreement and the ReVera Related Agreements by ReVera, do not and will not: (i) conflict with or violate the Certificate of Incorporation or By-laws of ReVera; or (ii) conflict with or violate any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award applicable to the Assets.

5.3 Consents and Approvals. The execution and delivery of this Agreement and the ReVera Related Agreements by ReVera do not, and the performance of this Agreement and the ReVera Related Agreements by ReVera will not, require any consent, approval, authorization or other action by, or filing with or notification to, any third party, including but not limited to any Governmental Authority.

5.4 Litigation. There is no claim, action, suit, investigation or proceeding of any nature pending or, to ReVera's knowledge, threatened, at law or in equity, by way of arbitration or before any court, governmental department, commission, board, agency or other Governmental Authority that: (i) may adversely affect, contest or challenge ReVera's ability to perform ReVera's obligations under this Agreement or any of the ReVera Related Agreements; or (ii) seeks to enjoin, prevent or hinder the consummation of any of the transactions contemplated by this Agreement or the ReVera Related Agreements.

5.5 Brokers and Finders. ReVera has not retained any investment banker, broker or finder in connection with the transactions contemplated hereby.

5.6 Full Disclosure. All of the representations and warranties made by ReVera in this Agreement are true, correct and complete in all material respects and do not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make such representations, warranties or statements, in light of the circumstances under which they are made, not misleading.

## ARTICLE 6 COVENANTS

### 6.1 Use of Facilities.

(a) Immediately prior to, or simultaneously with, the Effective Date, HVE and ReVera shall execute and deliver to the other party to this Agreement the Sunnyvale Sublease Agreement. It is acknowledged that the execution of a sub-sublease agreement between PHI USA or HVE, as the case may be, and ReVera in a form acceptable to ReVera and under which PHI USA or HVE, as the case may be, will sublet to ReVera certain segregated space at that certain facility located at 18725 Lake Drive East, Chanhassen, Minnesota 55317 (the "*Minnesota Facility*") is a condition to the closing of the transactions contemplated by this Agreement.

(b) Immediately prior to, or simultaneously with, the Effective Date, HVE and ReVera shall execute and deliver to the other party to this Agreement the Agreement Regarding Landlord Consents in the form attached hereto as Exhibit C, which HVE and ReVera acknowledge is a condition to the closing of the transactions contemplated by this Agreement.

6.2 Pre-Closing Expenses Reimbursement. Within thirty (30) days of the Effective Time, ReVera will reimburse HVE for all documented Pre-Closing Expenses; provided, however, that, notwithstanding the foregoing, such Pre-Closing Expenses will be subject to set-off against amounts to be paid to ReVera by HVE on the Effective Date in accordance with Schedule 6.2 hereto. For these purposes "*Pre-Closing Expenses*" will mean all reasonable direct

operating expenses (or the applicable pro rated portions thereof, as the case may be) of ReVera that (i) were incurred by ReVera during (and are allocable to) the period commencing on (and including) January 1, 2004 and terminating on (and including) the Effective Date and (ii) were paid by HVE (including, without limitation, salary, benefits, cost of operating supplies, inventory, costs associated with the Minnesota Facility and capital expenditures and excluding, without limitation, any accounting, audit or legal fees or charges).

**6.3 Rights to Use Quantum System.** For a period of nine months beginning December 1, 2003 and ending August 30, 2004, HVE hereby grants to ReVera the non-assignable right to use the Quantum System (without an operator for such system), including an irrevocable, exclusive, fully paid up, royalty-free, worldwide license under all of HVE's Intellectual Property Rights in and to the Quantum System.

**6.4 Noncompetition.** Subject to the following provisions of this Section 6.4, as a material inducement and consideration for ReVera to enter into this Agreement, for a period of ten (10) years from and after the Effective Date (such period of time being hereinafter called the "*Restricted Period*"), HVE will not, within the Restricted Area (as defined below) carry on any business that would, or own (in whole or in part), operate, advise, assist or lend funds to or invest funds in, any person, firm, partnership, business, corporation or other entity in any manner that would aid or assist any person, firm, partnership, business, corporation or other entity to, compete, in any material respect, with the Business or any substantially similar business (the "*Restricted Business*"). As used herein, the term "*Restricted Area*" means any state of the United States of America or any geographic area within any other country in which ReVera or its respective affiliates, directly or indirectly carries on or engages in business or currently plans to carry on or engage in business. During the Restricted Period, HVE further agrees not to interfere with, disrupt or attempt to disrupt the relationship between ReVera and any third party, including without limitation any customer, supplier or employee of ReVera, with respect to the Restricted Business. In the event of a breach of any of the covenants set forth in this Section 6.4, ReVera will be entitled to an injunction against HVE restraining such breach in addition to any other remedies provided by law or equity. In the event that any covenant in this Section 6.4 is held to be invalid, illegal or unenforceable by any court of competent jurisdiction or any other Governmental Authority, it is agreed and understood that such covenant will not be voided but rather will be construed to impose limitations upon the activities of HVE no greater than allowable under then applicable law and shall be construed as a series of separate covenants, one for each country, province, state, city or other political subdivision. For the avoidance of doubt, and without limitation of any other provision of this Agreement, the parties acknowledge and agree that their mutual intent is that the provisions of this Section 6.4 and Section 6.5 below be binding upon any successor to any of HVE (or all or substantially all of its assets), any subsidiary of HVE or any business unit of HVE, including without limitation, Evans. Any agreement that HVE may from time to time enter into with respect to the foregoing shall be subject to the provisions of this Section 6.4 and Section 6.5 below. HVE and ReVera acknowledge that the business of each of Evans and High Voltage Engineering Europa BV as conducted as of the Effective Date will not be deemed to compete with the Restricted Business in violation of this Section 6.4.

**6.5 Nonsolicitation.**

(a) HVE agrees that during the Restricted Period that neither it nor any officer, director, employee or agent of HVE will directly or indirectly solicit away employees or consultants of ReVera or any of its subsidiaries for HVE's own benefit or for the benefit of any other person or entity including any HVE subsidiary or business unit (including Evans) or PHI USA.

(b) Other than the Assumed Employees, David Perloff, David Reed and Aniruddha Deshpande, ReVera agrees that during the Restricted Period neither it nor any officer, director, employee or agent of ReVera will directly or indirectly solicit away employees or consultants of HVE or any of its subsidiaries for ReVera's own benefit or for the benefit of any other person or entity.

**6.6 Further Actions.** From and after the Effective Date, each of the parties hereto will execute and deliver such documents and other papers and take such further actions as may be reasonably required to carry out the provisions of this Agreement or any other agreements required to be entered into by such party pursuant to this Agreement and give effect to the transactions contemplated by this Agreement and such other agreements.

**6.7 Assigned Contracts.** Without limiting the generality of the foregoing covenants, and without limitation whatsoever of any representation or warranty made by HVE hereunder, HVE shall use commercially reasonable efforts, and ReVera shall cooperate in all reasonable respects with HVE, to obtain and satisfy all consents and to resolve all restrictions with respect to the assignment or transfer to ReVera of all the Assigned Contracts. If any such consents are not obtained and satisfied prior to the Effective Time or if an attempted assignment or transfer of any Assigned Contract would be ineffective or would constitute a breach thereof, following the Effective Time, (i) HVE and its appropriate affiliates shall enter into such commercially reasonable arrangements (including related written agreements) as ReVera and HVE may agree to provide to ReVera the benefit of any such Assigned Contract, and (ii) ReVera shall perform all of HVE's obligations with regard to such Assigned Contracts. Notwithstanding any provision of this Agreement to the contrary, if any party to an Assigned Contract terminates such Assigned Contract (or otherwise causes the alteration of such Assigned Contract) as a result of the transactions contemplated by this Agreement, HVE shall have no liability to ReVera therefor.

**6.8 No Waiver of Severance.** Without the prior written consent of HVE, ReVera agrees not to waive, amend or otherwise alter any applicable provisions existing as of the Effective Date relating to the waiver by any of the persons set forth on Schedule 6.8 hereto (the "Assumed Employees") and each of David Reed and Aniruddha Deshpande of HVE's severance obligations (if any) with respect to each such Assumed Employee contained in those certain restricted stock purchase agreements by and between ReVera and certain of the Assumed Employees.

**6.9 Employees.** HVE and ReVera acknowledge and agree that it is anticipated that, effective and simultaneously with the Effective Date, each of the Assumed Employees will have resigned their employment from HVE and accepted offers of full-time employment with ReVera. ReVera hereby agrees to offer employment to each Assumed Employee, with such employment to commence as of the Effective Date. ReVera hereby agrees to notify HVE of each Assumed

Employee who accepts an offer of employment with ReVera, including the initial annualized salary for such Assumed Employee and the expected initial job responsibilities for such Assumed Employee.

**6.10 Knowledge of Breach.** Notwithstanding any other provisions of this Agreement to the contrary, to the extent that (i) as of the Effective Date any of the persons set forth on Schedule 6.10 hereto had actual knowledge that any statement contained in the representations and warranties contained in Sections 4.4 (with respect to the second and third sentences thereof only), 4.7, 4.8, 4.11 - 4.13 and 4.15 hereof was untrue (provided that, in making such determination, notwithstanding any provisions in such representations and warranties to the contrary, such representations and warranties shall be deemed to have no HVE knowledge qualifiers) and (ii) HVE does not have actual knowledge (which actual knowledge of HVE shall not include the knowledge (actual or otherwise) of the persons set forth on Schedule 6.10 hereto) that such statement contained in the representations and warranties contained in Sections 4.4 (with respect to the second and third sentences thereof only), 4.7, 4.8, 4.11 - 4.13 and 4.15 hereof was untrue, then to such extent ReVera shall not be entitled to seek indemnification from HVE under Article 7 below for breach of such representation and warranty.

**6.11 Public Statements.** The parties hereto each agree that both prior to and following the consummation of the transactions contemplated herein no party to this Agreement shall make, issue or release any public announcement, statement or acknowledgment of the existence of, or reveal the status of, this Agreement or the transactions provided for herein, without first giving prior notice to the other party hereto. Nothing contained in this Section 6.11 shall prevent any party from making such public announcements as such party may consider necessary in order to satisfy such party's legal obligations, provided that such disclosing party shall to the extent practicable give prior notice to the other party of the contents of, and requirement for, such disclosure.

**6.12 Certain Agreements Regarding Texas Instruments System Receivables and Subject System.** The parties hereto acknowledge that Texas Instruments is a Subject System and that on January 14, 2004 HVE invoiced Texas Instruments, Inc. for such Subject System. Without limitation on anything else herein, on the Effective Date (or such other subsequent date that ReVera may determine to specify to HVE) HVE shall provide corrected wire transfer instructions to Texas Instruments, Inc. for the remission of all System Receivables payable by Texas Instruments, Inc. with respect to such Subject System to a bank account of ReVera (which bank account number will be provided to HVE by ReVera) and take such other actions as ReVera may reasonably request to cause the direct payment of such System Receivables directly to a bank account of ReVera.

#### ARTICLE 7 INDEMNIFICATION

**7.1 Loss Defined: Indemnitees.** For purposes of this Agreement, the term "Loss" will mean and include any and all liability, loss, damage, claim, expense, cost, fine, fee, penalty, obligation or injury actually incurred including, without limitation, those resulting from any and

all claims, actions, suits, demands, assessments, investigations, judgments, awards, arbitrations or other proceedings, together with reasonable costs and expenses including the reasonable attorneys' fees and other legal costs and expenses relating thereto. As used in this Article 7, the term "*ReVera Indemnitee*" means and includes ReVera and any present or future officer, director, employee, affiliate, stockholder or agent of ReVera; and the term "*HVE Indemnitee*" means and includes HVE and any present or future officer, director, employee, affiliate, stockholder or agent of HVE.

**7.2 Indemnification by HVE.** HVE agrees, subject to the other terms, conditions and limitations of this Agreement, to indemnify any ReVera Indemnitee against, and to hold each ReVera Indemnitee harmless from, all Loss arising out of:

- (a) the failure of any representation or warranty of HVE contained in this Agreement to be true and correct as of the Effective Date or the breach or violation of any covenant of HVE made herein;
- (b) any liabilities of HVE, other than the Assumed Liabilities;
- (c) the use of the Assets by HVE at any time or times on or prior to the Effective Date (including without limitation any and all taxes arising out of, or payable with respect to, HVE's business operations through the Effective Date), other than any Losses subject to indemnification under Sections 7.2(a), 7.2(b), 7.2(d), 7.2(e) and 7.2(f);
- (d) any failure of HVE to pay the sales taxes arising from the transactions contemplated by this Agreement;
- (e) liability for noncompliance with any bulk sales, bulk transfer or similar laws applicable to the transactions contemplated by this Agreement or any claims asserting that any transactions contemplated by this Agreement constitute a fraudulent conveyance or similar claim; or
- (f) any demand, claim, debt, suit, cause of action or proceeding made or asserted by a shareholder, creditor, receiver, or trustee in bankruptcy of HVE, or of the property or assets of HVE, asserting that the transfer of the Assets to ReVera hereunder constitutes a fraudulent conveyance, fraudulent transfer or a preference under any applicable state or federal law, including but not limited to the United States Bankruptcy Code.

**7.3 Indemnification by ReVera.** ReVera agrees, subject to the other terms, conditions and limitations of this Agreement, to indemnify any HVE Indemnitee against, and hold each HVE Indemnitee harmless from, all Loss arising out of:

- (a) the Assumed Liabilities;
- (b) the failure of any representation or warranty of ReVera contained in this Agreement to be true and correct as of the Effective Date or the breach or violation of any covenant of ReVera made herein;



(c) the use of the Assets by ReVera at any time or times after the Effective Date (including without limitation any and all taxes arising out of, or payable with respect to, ReVera's business operations after the Effective Date); or

(d) any failure of ReVera to pay any sales taxes arising from the sale(s) of the Subject Systems.

#### 7.4 Survival; Time Limitations for Claims.

(a) All representations and warranties of ReVera and HVE contained in this Agreement and the Related Agreements shall remain operative and in full force and effect, regardless of any investigation or disclosure made by or on behalf of any of the parties to this Agreement, until that date which is twelve months following the Effective Date (the expiration of such representations and warranties, the "*Release Date*"); provided, however, that such expiration shall not affect the rights of any Indemnified Party to seek recovery, under this Article 7 or otherwise, of Losses arising out of any fraud or willful breach by ReVera or HVE (as applicable) until the expiration of the applicable statute of limitations. All covenants of the parties shall survive according to their respective terms.

(b) Any claim for indemnification made by an Indemnified Party under this Article 7 must be specified in a notice delivered to the Indemnifying Party by no later than the Release Date and, if specified by such date, such claim shall survive the Release Date until final resolution thereof.

#### 7.5 Limitations of Indemnification.

(a) No Indemnifying Party shall be required to indemnify an Indemnified Party hereunder unless and until the aggregate amount of Loss for which the applicable Indemnifying Party is otherwise obligated to make payment pursuant to this Article 7 exceeds \$50,000, whereupon such Indemnifying Party shall be obligated to pay the entire aggregate amount of all such Losses. The amount of any Losses recoverable by an Indemnified Party under this Section 7.5 shall be calculated net of any insurance proceeds or other third-party recoveries received by such Indemnified Party with respect thereto.

(b) After the Effective Date, the maximum liability of either party to this Agreement for any breach of such party's representations, warranties and covenants under this Agreement (except for any such breach involving fraud) shall be \$1,175,000.

7.6 Procedures for Indemnification. As used herein, an "*Indemnified Party*" means a party seeking indemnification pursuant to Sections 7.2 or 7.3 hereof, as applicable, and the term "*Indemnifying Party*" means the party who is obligated to provide indemnification under Section 7.2 or Section 7.3, as applicable. The Indemnified Party agrees to give the Indemnifying Party prompt written notice of any event, or any claim, action, suit, demand, assessment, investigation, arbitration or other proceeding by or in respect of a third party (a "*Third-Party Claim*") of which it has knowledge, for which such Indemnified Party is entitled to indemnification under this Article 7. In the case of a Third-Party Claim, the Indemnifying Party will have the right to direct, through counsel of its own choosing, the defense or settlement of

any such Third-Party Claim at its own expense. In such case the Indemnified Party may participate in such defense, but in such case the expenses of the Indemnified Party will be paid by the Indemnified Party. The Indemnified Party will promptly provide the Indemnifying Party with access to the Indemnified Party's records and personnel relating to any such Third-Party Claim during normal business hours and will otherwise cooperate with the Indemnifying Party in the defense or settlement of such Third-Party Claim, and the Indemnifying Party will reimburse the Indemnified Party for all its reasonable out-of-pocket costs and expenses incurred in providing such access, personnel and cooperation. Upon assumption of the defense of any such Third-Party Claim by the Indemnifying Party, the Indemnified Party will not pay, or permit to be paid, any part of any claim or demand arising from such Third-Party Claim, unless the Indemnifying Party consents in writing prior to such payment (which consent will not be unreasonably withheld) or unless a final judgment from which no appeal may be taken by or on behalf of the Indemnified Party is entered against the Indemnified Party for such liability. No such Third-Party Claim may be settled by the Indemnifying Party without the prior written consent of the Indemnified Party, which consent will not be unreasonably withheld. If the Indemnifying Party fails to defend or fails to prosecute within a reasonable timeframe, or withdraws from such defense, then the Indemnified Party will have the right to undertake the defense or settlement thereof, at the Indemnifying Party's expense. If the Indemnified Party assumes the defense of any such Third-Party Claim pursuant to this Section 7.6 and proposes to settle such Third-Party Claim prior to a final judgment thereon or to forgo appeal with respect thereto, then the Indemnified Party will give the Indemnifying Party prompt written notice thereof and the Indemnifying Party will have the right to participate in the settlement or assume or reassume the defense of such Third-Party Claim.

#### 7.7 Insurance Proceeds.

(a) No Indemnified Party shall be obligated to pursue or collect from any insurer prior to making a claim for indemnification pursuant to this Article 7 and no Indemnifying Party shall be entitled to postpone performance of any indemnification obligation under this Article 7 while an insurance claim is pending. However, without limiting any of the provisions of Sections 7.1 through 7.8 in connection with any matter subject to indemnification under this Article 7, all parties shall cooperate with each other in giving notice of any claim to any insurer (including an insurer of an Indemnified Party) and shall provide reasonable assistance in the collection of any such claim.

(b) If an Indemnified Party actually receives insurance proceeds, the amount for which such Indemnified Party is entitled to indemnification under this Article 7 shall be reduced appropriately. In the event an Indemnified Party receives insurance proceeds after being paid by the Indemnifying Party with respect to an indemnifiable matter under this Article 7, the Indemnified Party will remit such proceeds to the Indemnifying Party, up to the amount previously paid by the Indemnifying Party with respect to such matter. Nothing in this Section 7.7 shall be deemed to waive or limit the subrogation rights of any insurer.

7.8 Satisfaction of Payment. HVE may satisfy payment with respect to its indemnification obligations, if any, pursuant to this Article 7 by using any of the following methods, or a combination thereof, in the sole discretion of HVE: (i) a check

payable to ReVera's order, (ii) wire transfer of funds to ReVera, and/or (iii) if HVE then holds shares of ReVera's common stock, the transfer and assignment to ReVera of all right, title and interest (including the execution by HVE of a customary stock power) of such number of shares of ReVera's common stock having a value equal to the amount of such indemnification obligations (with any deficiency thereof to be paid by HVE as provided in this Section 7.8(i) or 7.8(ii)). For purposes of determining the value per share of ReVera's common stock under clause (iii) of this Section 7.8, such shares shall be valued at the then current fair market value per share thereof as determined by the board of directors of ReVera in good faith; *provided, however*, that if HVE disputes such valuation, HVE and ReVera agree to have ReVera's common stock appraised by a mutually acceptable third party (such valuation of ReVera's common stock to be binding upon HVE and ReVera solely for purposes of this Section 7.8), and the cost of the services of such third party to be shared equally by HVE and ReVera.

**7.9 Scope of this Article 7.** The parties hereto agree that (a) except for injunctive relief, including specific performance, its and their sole and exclusive remedy with respect to any and all claims relating to the subject matter of this Agreement shall be subject to this Article 7, and (b) under no circumstances shall a party be liable for incidental, consequential or punitive damages. The foregoing sentence shall in no way limit damages or relief with respect to claims of fraud.

#### ARTICLE 8 CERTIFICATES; MISCELLANEOUS

**8.1 Certificates of HVE.** At the Effective Date, HVE shall deliver to ReVera:

(a) A certificate signed on HVE's behalf by a duly authorized officer of HVE (the "*HVE Compliance Certificate*") certifying that (A) each of the representations and warranties of HVE contained in Article 4 of this Agreement are true and complete on and as of the Effective Date with the same effect as though such representations and warranties had been made on and as of the Effective Date and (B) HVE has performed and complied with all agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by it on or before the Effective Date.

(b) A certificate signed by the Clerk of HVE (the "*HVE Clerk's Certificate*"), certifying that attached thereto is a true and complete copy of each of (i) the Articles of Organization of HVE, including all amendments thereto, as in full force and effect on and as of the Effective Date, (ii) the By-laws of HVE including all amendments thereto, as in full force and effect on and as of the Effective Date, and (iii) the resolutions duly adopted by the Board of Directors approving this Agreement, the HVE Related Agreements and the transactions contemplated hereby and thereby, as in full force and effect on and as of the Effective Date.

**8.2 Certificates of ReVera.** At the Effective Date, ReVera shall deliver to HVE:

(a) A certificate signed on ReVera's behalf by a duly authorized officer of ReVera (the "*ReVera Compliance Certificate*") certifying that (A) each of the representations

and warranties of ReVera contained in Article 5 of this Agreement are true and complete on and as of the Effective Date with the same effect as though such representations and warranties had been made on and as of the Effective Date and (B) ReVera has performed and complied with all agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by it on or before the Effective Date.

(b) A certificate signed by the Secretary of ReVera (the "*ReVera Secretary's Certificate*"), certifying that attached thereto is a true and complete copy of each of (i) the Articles of Incorporation of ReVera, including all amendments thereto, as in full force and effect on and as of the Effective Date, (ii) the By-laws of ReVera including all amendments thereto, as in full force and effect on and as of the Effective Date, and (iii) the resolutions duly adopted by the Board of Directors and the stockholders of ReVera approving this Agreement, the ReVera Related Agreements and the transactions contemplated hereby and thereby, as in full force and effect on and as of the Effective Date.

**8.3 Entire Agreement; Captions.** This Agreement, the Related Agreements and the schedules hereto (which are incorporated herein by reference) and the agreements and instruments to be executed and delivered in connection herewith, together constitute the entire agreement and understanding between the parties and supersede any prior offer, agreement or understanding between the parties with respect to the transactions contemplated hereby. The captions in this Agreement are only for convenience and shall not be considered a part of or affect the construction or interpretation of any provision of this Agreement.

**8.4 Amendment; Waiver.** This Agreement may be amended only by a writing signed by HVE and ReVera. The observance of any term or provision of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only by a writing signed by the party to be bound by such waiver. No waiver by a party of any breach of this Agreement will be deemed to constitute a waiver of any other breach or any succeeding breach.

**8.5 Notices.** All notices, demands and other communications hereunder shall be in writing or by written telecommunication, and shall be deemed to have been duly given if delivered personally or if mailed by certified mail, return receipt requested, postage prepaid, or if sent by overnight courier, or sent by written telecommunication, as follows:

If to ReVera:

ReVera Incorporated  
18725 Lake Drive East  
Chanhassen, Minnesota 55317

Attention: President

with a copy sent contemporaneously to:

Fenwick & West LLP  
Silicon Valley Center  
801 California Street  
Mountain View, California 94041

Attention: Daniel A Dorosin, Esq.

If to HVE to:

High Voltage Engineering Corporation  
401 Edgewater Place, Suite 680  
Wakefield, Massachusetts 01880

Attention: Chief Financial Officer

with a copy sent contemporaneously to:

Bingham McCutchen LLP  
150 Federal Street  
Boston, Massachusetts 02110

Attention: Jonah V. Brigham, Esq.

8.6 Execution in Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

8.7 Successors and Assigns; Assignment. The terms and conditions of this Agreement shall be binding upon the respective successors or assigns of each party hereto. Without limitation of the foregoing, this Agreement may not be assigned by ReVera or HVE without the prior written consent of the other party; except that ReVera or HVE may assign this Agreement (and all Related Agreements) by operation of law or in connection with any merger or consolidation of ReVera or HVE (as applicable) with another entity or the sale of all or substantially all of the assets and/or capital stock of ReVera or HVE (as applicable) or in connection with any similar transaction. Upon any such permitted assignment by ReVera or HVE under this Agreement, the term "ReVera" shall be deemed to include a reference to ReVera's successors and permitted assigns or the term "HVE" shall be deemed to include a reference to HVE's successors and permitted assigns, as applicable.

8.8 Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of California (excluding application of any choice of law doctrines that would make applicable the law of any other state or jurisdiction).

8.9 Severability. If any provision of this Agreement is for any reason and to any extent deemed to be invalid or unenforceable, then such provision shall not be voided but rather shall be enforced to the maximum extent then permissible under then applicable law and so as to reasonably effect the intent of the parties hereto, and the remainder of this Agreement will remain in full force and effect.

8.10 Exhibits. The Exhibits shall be construed with and as an integral part of this Agreement to the same extent as if the same had been set forth verbatim herein.

8.11 Legal Enforceability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof. Without prejudice to any rights or remedies otherwise available to any party hereto, each party hereto acknowledges that damages would be an inadequate remedy for any breach of the provisions of this Agreement and agrees that the obligations of the parties hereunder shall be specifically enforceable.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, ReVera and HVE executed and delivered this Agreement by their duly authorized representatives as of the Effective Time.

HIGH VOLTAGE ENGINEERING CORPORATION

REVERA INCORPORATED

By: [Signature]  
Name: Dr. J. A. C. M.  
Title: J. A. C. M.

By: \_\_\_\_\_  
Name:  
Title:

[SIGNATURE PAGE TO ASSET SALE AGREEMENT]

IN WITNESS WHEREOF, ReVera and HVE executed and delivered this Agreement by their duly authorized representatives as of the Effective Time.

HIGH VOLTAGE ENGINEERING CORPORATION

REVERA INCORPORATED

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name: *DAVID KING*  
Title: *Pres. & CEO*

[SIGNATURE PAGE TO ASSET SALE AGREEMENT]



**SCHEDULE 1.3**

**Intangible Assets**

All Intellectual Property and Intellectual Property Rights relating to the Assets or otherwise necessary to conduct the Business in all material respects as presently conducted, including, but not limited to the following:

Patent Number	Country	Description	Status & Date	Products Affected
5025144	USA	RESISTIVE ANODE ENCODER TARGET & METHOD PRODUCING VISUAL IMAGES	FILED OCT 1988 ISSUED JUN. '91 EXP.DT OCT 2008	TRIFT (no longer used)
5128543	USA	PARTICLE ANALYZER APPARATUS AND METHOD	FILED OCT 1989 ISSUED JUL. '92 EXP.DT OCT 2009	TRIFT
5167748	USA	PLASMA ETCHING METHOD AND APPARATUS.	FILED SEPT. 1990 ISSUED DEC. '92 EXP.DT SEPT. 2010	SNMS (not used)
5602899	USA	ANODE ASSEMBLY FOR GENERATING X-RAYS AND INSTRUMENT WITH SUCH ANODE ASSEMBLY	FILED JAN. 1996 ISSUED FEB. 1997 EXP.DT JAN. 2016	QUANTUM QUANTERA
5432345	USA	METHOD AND APPARATUS FOR CONTROL OF SURFACE POTENTIAL	FILED OCT. 1992 ISSUED JULY 1995 EXP.DT OCT. 2012	QUANTUM QUANTERA 5800
5990476	USA	CONTROL OF SURFACE POTENTIAL OF INSULATING SPECIMENS IN SURFACE ANALYSIS	FILED NOV. 1997 ISSUED NOV. 1999 EXP.DT NOV. 2017	QUANTUM QUANTERA 5800
Application # 97120498.7	EUROPE	SAME	FILED NOV. 1997 PENDING	SAME
Applic. # (Div.) 01127723.3	EUROPE	METHOD FOR PROVIDING A SUBSTANTIALLY UNIFORM SURFACE POTENTIAL ON AN INSULATING SPECIMEN	FILED NOV. 2001 PENDING	SAME
Application # 143242/97	JAPAN	SAME	FILED NOV. 1997 PENDING	SAME
4532816	USA	SAMPLE VESSEL	FILED JULY 1983 ISSUED AUG. 1985 EXP.DT JULY 2003	ADEPT 1010 680 5800
144915/88	JAPAN	HIGH LUMINOSITY SPHERICAL ANALYZER-CHARGED PARTICLES	FILED JUNE 1988 PENDING	AUGER SYSTEMS (NOT USED)
4659899	USA	VACUUM-COMPATIBLE AIR-COOLED PLASMA DEVICE	FILED FEB. 1986 ISSUED APR. 1987 EXP.DT FEB. 2006	ADEPT 1010 TRIFT 680
0293924	EUROPE	DIRECT IMAGING MONOCHROMATIC ELECTRON MICROSCOPE	ISSUED (ALL)	AUGER SYSTEMS
2685501	JAPAN	SAME	EXP.DT 2007+2008	(NOT USED)
4810880	USA	SAME		
4882487	USA	SAME		

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PHI-Evans/Physical Electronics Company Confidential

PATENT  
REEL: 015747 FRAME: 0777

Patent Number	Country	Description	Status & Date	Products Affected
4737639	USA	ENERGY AND ANALYSIS DETECTION SYSTEM FOR SURFACE CHEMICAL ANALYSIS	FILED JUNE 1987 ISSUED APR. 1988 EXP.DT JUNE 2007	5800
0470478	EUROPE (FRANCE; GERMANY; U.K.)	MULTICHANNEL CHARGED-PARTICLE ANALYZER	ISSUED (ALL) EXP.DT 2010+2011	S-TOOL 680
03140094	JAPAN	DETECTION W/CYLINDRICAL MIRROR		
5032724	USA	MULTICHANNEL CHARGED-PARTICLE ANALYZER		
5118941	USA	APPARATUS AND METHOD FOR LOCATING TARGET AREA FOR ELECTRON MICRO-ANALYSIS	FILED APR. 1991 ISSUED JUNE 1992 EXP.DT APR. 2011	5800 (Auger/ESCA)
86147/92	JAPAN	SAME	FILED MAR. 1992 PENDING	SAME
5184525	USA	MECHANISM FOR POSITIONING A CARRIER	ISSUED FEB. 1993 EXP.DT APR. 2012	STM (NOT USED)
109750/93	JAPAN	SAME	PENDING	SAME
5218262	USA	APPARATUS FOR RETAINING AN ELECTRODE BY A MAGNETICALLY SHIELDED MAGNET	ISSUED JUNE 1993 EXP.DT APR. 2012	STM (NOT USED)
100116/93	JAPAN	SAME	PENDING	SAME
5213301	USA	SUSPENSION SYSTEM FOR ISOLATION VIBRATIONS	ISSUED MAY 1993 EXP.DT DEC. 2011	STM (NOT USED)
299159/92	JAPAN	SAME	PENDING	SAME
00590308	EUROPE (FRANCE; GERMANY; U.K.)	SCANNING & HIGH RESOLUTION X-RAY PHOTOELECTRON SPECTROSCOPY AND IMAGING	ISSUED MAR. 2002 EXP.DT AUG. 2013	QUANTUM QUANTERA
5315113	USA	SAME	ISSUED MAY 1994 EXP.DT SEPT. 2002	SAME
5444242	USA	SAME	ISSUED AUG. 1995 EXP.DT FEB. 2014	SAME
95101428.1	EUROPE	SAME	PENDING	SAME
01120818.8	EUROPE	SAME (Divisional)	PENDING	SAME
01120822.0	EUROPE	SAME (Divisional)	PENDING	SAME
263036/93	JAPAN	SAME	PENDING	SAME
37084/95	JAPAN	SAME	PENDING	SAME

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PATENT  
REEL: 015747 FRAME: 0778

**Additional Patent Applications:**

NONDESTRUCTIVE CHARACTERIZATION OF THIN FILMS BASED ON ACQUIRED SPECTRUM - Docket M&R 278.00090101

NONDESTRUCTIVE CHARACTERIZATION OF THIN FILMS USING MEASURED BASIS SPECTRA - Docket M&R 278.00070101

SYSTEM AND METHOD FOR CHARACTERIZATION OF THIN FILMS - Docket M&R 278.00060120

SYSTEM AND METHOD FOR DEPTH PROFILING - Docket M&R 278.00060101

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