

PATENT ASSIGNMENT

Electronic Version v1.1

Stylesheet Version v1.1

SUBMISSION TYPE:

NEW ASSIGNMENT

NATURE OF CONVEYANCE:

ASSIGNMENT

CONVEYING PARTY DATA

Name	Execution Date
Milford Coleman	04/05/2006

RECEIVING PARTY DATA

Name:	True Cut Tool & Machine, LLC
Street Address:	11800 Sleeman Creek Road
City:	Lolo
State/Country:	MONTANA
Postal Code:	59847

PROPERTY NUMBERS Total: 1

Property Type	Number
Patent Number:	6752119

CORRESPONDENCE DATA

Fax Number: (406)523-2595  
*Correspondence will be sent via US Mail when the fax attempt is unsuccessful.*  
Phone: 406-523-2500  
Email: rclukes@garlington.com  
Correspondent Name: Robert C. Lukes  
Address Line 1: 199 West Pine St.  
Address Line 4: Missoula, MONTANA 59802

NAME OF SUBMITTER:

Robert C. Lukes

Total Attachments: 12

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## SALE AND PURCHASE AGREEMENT

THIS AGREEMENT is made this 5 day of April, 2006, by and between **THUNDERHORSE PERFORMANCE, LLC**, a Colorado limited liability company, whose mailing address is 309 South Summit View Drive, Suite 18, Fort Collins, Colorado 80524 ("Seller"), **MILFORD COLEMAN**, whose mailing address is 309 South Summit View Drive, Suite 18, Fort Collins, Colorado 80524 (sometimes referred to as "Seller Coleman" and sometimes referred to as "Principal"), and **TRUE CUT TOOL & MACHINE, L.L.C.**, a Montana limited liability company, whose mailing address is 11800 Sleeman Creek Road, Lolo, Montana 59847 ("Buyer").

### **RECITALS:**

A. Seller and Seller Coleman desire to sell to Buyer, and Buyer desires to purchase from Seller and Seller Coleman, certain tangible and intangible assets used in connection with Seller's business, which operates under the name and style of "Thunder Horse Performance" (the "Business") upon the terms and conditions set forth in this Agreement.

B. In addition, Buyer desires to ensure that Principal will not compete with Buyer as more particularly described in Section 13 of this Agreement.

C. Principal owns all of the outstanding Membership Interests of Seller, has the right to vote all of those Membership Interests and stands to benefit from Seller selling the assets described herein to Buyer.

D. Seller, Seller Coleman, Principal and Buyer desire to reduce their respective rights and obligations to writing.

**NOW THEREFORE**, the parties hereto, for and in consideration of the covenants and stipulations herein contained to be kept and performed by the respective parties, mutually agree as follows:

1. **Personal Property.** Seller and Seller Coleman shall convey to Buyer the following-described personal property:

(a) All equipment, inventory, supplies, and miscellaneous tangible personal property used in the Business, including *but not limited to* the assets more particularly described in Exhibit "A" attached hereto and incorporated herein (the "Tangible Personal Property"); and

(b) All lists, books and records of the Business, and goodwill (the "Intangible Personal Property"), including *but not limited to* the following:

- (1) All registered trademarks and similar names used in connection with the Business, including but not limited to: "Thunder Horse Performance" and "Thunderhorse Performance";
- (2) The Patent described in Exhibit "B" (Seller Coleman is the owner of said Patent (hereinafter the "Patent"));
- (3) Seller's goodwill;
- (4) All wholesale accounts, customer lists, including but not limited to all telephone numbers, credit histories, transaction histories and other documents relating to Seller's customers;
- (4) All internet trade names, website domain names (including but not limited to www.thunderhorseperformance.com), and all related email accounts pertaining to all website domain names;
- (5) All available blueprints for the Business;
- (6) All CAD/CAM files and drawings and all Cutter path programs used in the Business;
- (7) All GCODE computer software programs pertaining to the Business; and
- (8) All of Seller's other intangibles used in the Business.

The Tangible Personal Property and the Intangible Personal Property described in this Section 1 shall hereinafter be collectively referred to as the "Property."

**EXCEPTING AND RESERVING TO SELLER** the following assets and records used in the Business:

- (a) All cash and bank accounts;
- (b) All accounts receivable;
- (c) All outstanding delayed deposit checks; and
- (d) Seller's original income tax returns.

2. **Purchase Price.** The agreed purchase and sale price for the Property and for Principal's Covenant Not to Compete which is more particularly described in Section 13 shall be Eleven Thousand and No/100 Dollars (\$11,000.00), which shall be paid as follows: Buyer shall pay Seller Five Thousand Five Hundred and No/100 Dollars

(\$5,500.00) cash concurrently with the execution of this Agreement. The remaining balance, Five Thousand Five Hundred and No/100 Dollars (\$5,500.00), shall be paid in cash immediately following the five (5) day training period described in the first sentence of Section 14.

**3. Purchase Price Allocation.** The purchase price for the Property and for Principal's Covenant Not to Compete which is more particularly described in Section 13 shall be allocated as follows:

Tangible Personal Property	\$750.00.00
Intangible Personal Property (Excluding the Patent)	\$500.00
The Patent	\$8,750.00
Principal's Covenant Not to Compete Described in Section 13	<u>\$1,000.00</u>
<b>TOTAL</b>	<b>\$11,000.00</b>

Seller, Seller Coleman, Principal and Buyer agree to file IRS Form 8594 reflecting the purchase price allocation set forth in this Section 3.

**4. Closing.** This transaction shall close on April 11, 2006 at a mutually agreeable location. Seller shall pay all fees in connection with all lien releases (and any related matters) in connection with the Property.

**5. Closing Documents.** Seller and Seller Coleman (as the case may be) shall deliver to Buyer at the closing:

(a) A Bill of Sale substantially similar to that attached hereto and incorporated herein as Exhibit "C," conveying and warranting to Buyer valid, marketable title to the Tangible Personal Property free and clear of all title defects and all liens and encumbrances, except liens, if any, for current personal property taxes which are not delinquent;

(b) An Assignment document substantially similar to that attached hereto and incorporated herein as Exhibit "D," assigning, transferring and conveying to Buyer all of Seller's right, title and interest in and to the Intangible Personal Property free and clear of all liens and encumbrances;

(c) All customer lists, books and records of the Business (except for Seller's original income tax records, which Seller shall retain). Seller may, prior to or immediately after the closing, make copies of all of the documents described in the preceding sentence at its expense;

(d) Evidence of an on-line assignment of all of Seller's website domain names via Seller's applicable domain registration company or companies, executed by Seller (with any assignment fee to be paid by Seller);

(e) An assignment of the Patent, executed by Seller Coleman and suitable for recording with the U.S. Patent and Trademark Office (with any recording or filing fee to be paid by Buyer); and

(f) All other documents necessary to carry out the terms and conditions of this Agreement.

6. **Possession; Risk of Loss.** Buyer shall be entitled to possession of the Property concurrently with the closing of this transaction. Seller shall assume the risk of loss for all loss or damage to the Property from any cause prior to the closing.

7. **Personal Property Taxes.** At or prior to the closing, Seller shall discharge all taxes and assessments on the Property for 2006 and prior years.

8. **Buyer's Additional Warranties and Representations.** Buyer warrants and represents to Seller and Seller Coleman, which warranties and representations shall be correct and complete as of the date of this Agreement and as of the closing date, as follows:

(a) This Agreement constitutes a valid and binding obligation of Buyer in accordance with its terms; and

(b) Buyer enters into this Agreement in full reliance upon its independent investigation and judgment, and there are no verbal or other agreements which modify or affect this Agreement. Buyer agrees to take the Property "AS IS" with its faults, if any, as of the closing date and will not claim that Seller has made any promises, representations or warranties as to the condition of the Property, it being understood by Buyer that any such promises, representations, or warranties must be contained in this Agreement.

9. **Principal's, Seller's and Seller Coleman's Additional Warranties and Representations.** Principal, Seller and Seller Coleman, respectively, warrant and represent to Buyer, which warranties and representations shall be correct and complete as of the date of this Agreement and as of the closing date, as follows:

(a) Seller is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Colorado, and is duly qualified to do business in the State of Colorado. Seller has full power and authority to carry on its business and to own, use, and sell the Property (excluding the Patent, which is owned by Seller Coleman);

(b) Seller has taken all necessary action to approve the execution and delivery of this Agreement and prior to the closing shall take all necessary action to approve the performance of this Agreement and the consummation of this transaction. This Agreement constitutes a valid and binding obligation of Seller in accordance with its terms;

(c) Neither the execution and delivery of this Agreement, nor the consummation by Seller or Seller Coleman of any of the transactions contemplated hereby, will result in a breach of any applicable statute or regulation, or of any administrative or court order or decree, nor conflict with or result in the breach of any term, provision, covenant, or condition of any agreement or other instrument to which Seller and/or Seller Coleman is a party or by which they may be bound, or which with the giving of notice or lapse of time or both would constitute an event of default thereunder;

(d) Seller and Seller Coleman have good and marketable title to the Property, which shall be conveyed to Buyer at the closing free and clear of all title defects and all liens and encumbrances except for liens where current tax is not yet due and payable. To the best of Principal's and Seller's knowledge, the Tangible Personal Property is in good condition and repair;

(e) Seller and Seller Coleman have filed with the appropriate governmental agencies all required tax returns and tax reports. Seller and Seller Coleman have paid all taxes, assessments, fees and other governmental charges levied upon their assets and income, other than those not yet due and payable;

(f) Exhibit "B" contains a true, correct and complete list of all patents owned by Seller Coleman and all re-examinations, re-issues, divisions, continuations in part and extensions thereof and all pending applications owned by Seller Coleman, including for each patent the serial or patent number, country, filing and expiration date and title. To the best of Seller's and Seller Coleman's knowledge, (i) each of such patents is in compliance in all material respects with all legal requirements (including payment of filing, examination and maintenance fees), (ii) each of such patents is valid and enforceable, and (iii) no such patent has been or is involved in any interference, re-examination, re-issue or opposition proceedings. Seller and Seller Coleman have no notice or knowledge of any potentially interfering patent or patent application of any third party. Seller and Seller Coleman have no notice or knowledge that any patent is infringed, or has been challenged or threatened in any way. To the best of Seller's and Seller Coleman's knowledge, none of any processes or know-how used in the Business, infringe or are alleged to infringe any patent or other proprietary right of any third party; and

(g) No suit, action, or legal, administrative, arbitration, or other proceeding or governmental investigation is pending or, to the best of Principal's, Seller's and Seller Coleman's knowledge, is threatened against Seller, Seller Coleman or the

Property. There is no outstanding judgment, decree, or order against Principal, Seller or Seller Coleman which affects the Property in any way.

**10. No Brokers' Commissions.** None of the parties to this Agreement have employed any broker, finder or agent, nor otherwise become obligated for any broker's, finder's, agent's or similar fee or commission with respect to the transaction contemplated by this Agreement.

**11. Liabilities.** Buyer will not in any way or manner assume any debt, liability, or obligation of Seller or Seller Coleman, whether known or unknown, whether asserted or unasserted, whether absolute or contingent.

**12. Indemnification:**

(a) Principal, Seller and Seller Coleman shall indemnify and hold Buyer harmless from and against any debt, liability or obligation (including reasonable attorneys' fees) relating to the Business (in contract, tort or otherwise), which arises after the closing and which is based upon or arises from any act, omission, transaction, sale of goods or services, state of facts or other conditions which occurred or existed on or before the closing.

(b) Principal, Seller and Seller Coleman shall indemnify and hold Buyer harmless from and against any and all damage or deficiency resulting from any misrepresentation, breach of title to the Property, any warranty or covenant, or non-fulfillment of any agreement on the part of Principal, Seller and Seller Coleman under this Agreement (including reasonable attorneys' fees).

(c) Buyer shall indemnify and hold Seller, Seller Coleman and Principal harmless from and against any debt, liability or obligation (including reasonable attorneys' fees) relating to the Business (in contract, tort or otherwise), which arises after the closing and which is based upon or arises from any act, omission, transaction, sale of goods or services, state of facts or other conditions which occurs or exists subsequent to the closing.

(d) Buyer shall indemnify and hold Seller, Seller Coleman and Principal harmless from any and all damage or deficiency resulting from any misrepresentation, breach of warranty or covenant, or non-fulfillment of any agreement on the part of Buyer under this Agreement (including reasonable attorneys' fees).



**13. Principal's Covenant Not to Compete.**

(a) Commencing on the closing date and ending on the date which is five (5) years thereafter, Principal agrees to refrain from directly or indirectly engaging or participating as a principal, officer, director, employee, shareholder, partner, member, equity owner, joint venturer, investor, consultant, agent or in any other capacity whatsoever in the Business or in any business which engages in business activity which is similar to that carried on by Seller in any state in the United States. The parties understand and agree that due to the nature of the Seller's business, it does not have a "principal office" within the meaning of MCA Section 28-2-704(2).

(b) The parties understand and agree that a breach by Principal of this Section 13 will cause irreparable injury to Buyer for which monetary damages and other remedies at law may be inadequate, and that Buyer shall be entitled as a matter of right to obtain, without posting any bond whatsoever and without proof of any actual damages, a restraining order, an injunction, specific performance, or similar relief from any court of competent jurisdiction to restrain any threatened or further breach of this paragraph or to require Principal to perform his obligations under this Section 13.

(c) Principal enters into this Agreement with full understanding of the nature and extent of the restrictive agreements contained in this paragraph, and he realizes that because of the unique nature of Buyer's business, this Agreement would not have been entered into without the provisions of this paragraph. Principal acknowledges that the geographical boundaries, the scope of the prohibited activities, and the term of this covenant are reasonable and are no broader than necessary to protect Buyer from the damages and/or harm it will sustain in the event of a breach of this covenant.

**14. Seller's Name Change; Related Matters.** Within forty-eight (48) hours after the closing, Seller shall amend its Articles of Organization by filing Articles of Amendment (or a similar document) with the Colorado Secretary of State's office. Buyer shall approve the name Seller chooses prior to the filing of such document with the Colorado Secretary of State's office. As consideration for the goodwill purchased by Buyer, neither Seller, Seller Coleman or Principal shall register the name "Thunderhorse Performance" or "Thunder Horse Performance" with any state or federal agency or otherwise use either of said names at any time after the closing.

**15. Principal's Assistance After Closing.** Principal agrees to make himself available to Buyer, at no cost or expense to Buyer, at the Business during regular business hours, commencing on April 17, 2006 and ending five (5) days thereafter, to assist Buyer in the transition of the ownership of the Business. If Buyer desires Principal's assistance after said (5) day period, then Buyer may negotiate with Principal for payment of a salary for such assistance. Principal shall also make himself available,

to the greatest extent practicable, at no cost or expense to Buyer, by email and telephone for consultation for up to ninety (90) days following the expiration of the above-described five (5) day period to further assist Buyer in the transition of the ownership of the Business.

*for existing products*

*no design*

16. **Notice.** Any notice to be given hereunder shall be in writing and shall either be served upon a party personally, or served by registered or certified mail, return receipt requested, directed to the party to be served at its addresses set forth on the first page of this Agreement. Notice served by mail shall be deemed completed when deposited in the United States mail, postage prepaid. A party wishing to change its designated address shall do so by notice in writing to the other party. Rejection or other refusal to accept notice, or the inability to deliver notice because of changed address of which no notice was given, shall be deemed to be receipt of the notice.

17. **Document Preparation.** This Agreement and related documents shall be deemed to have been jointly prepared by Seller, Seller Coleman, Principal and Buyer, and no ambiguity herein shall be construed against any party hereto based upon the identity of the author of this Agreement or any portion hereof. Each party shall pay its own costs and expenses, including its attorneys' fees, incurred to prepare and review this Agreement and any related closing documents.

18. **Governing Law; Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Montana. Venue for any dispute arising out of this Agreement shall be in Missoula County, Montana.

19. **Attorneys' Fees and Court Costs.** In case suit or action is instituted to enforce compliance with any of the terms, covenants or conditions of this Agreement, there shall be paid, upon demand, to the prevailing party in such suit or action, by the non-prevailing party, the prevailing party's costs and such further sum as the Court shall adjudge as reasonable attorneys' fees; and, in the event any appeal is taken from any judgment or decree in such suit or action, the prevailing party on such appeal shall likewise recover, upon demand, from the non-prevailing party, costs and reasonable attorneys' fees on such appeal.

20. **Severability.** If any portion of this Agreement is held to be void or unenforceable, then the balance of this Agreement shall nevertheless be effective and enforceable.

21. **Time.** Time is of the essence of this Agreement.

22. **Headings.** The headings of the particular Sections of this Agreement are intended for guidance only, and will not be relied upon in the construction or interpretation of this Agreement, nor will they restrict the scope of the particular Sections to which they refer.


23. **Counterparts.** This Agreement may be executed simultaneously 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. As used herein, "counterparts" shall include full copies of this Agreement signed and delivered by facsimile transmission, as well as photocopies of such facsimile transmission.


24. **Binding Effect.** This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, legal representatives, successors and assigns.

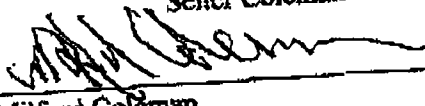
25. **Entire Agreement.** This Agreement embodies the entire agreement between the parties, and supersedes all prior negotiations, understandings and agreements, if any, relating to the subject matter hereof. This Agreement may be amended, modified, or supplemented only by an instrument in writing duly executed by all parties hereto.

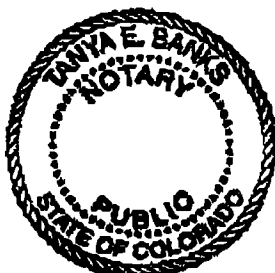
IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

**THUNDERHORSE PERFORMANCE, LLC,**  
a Colorado limited liability company

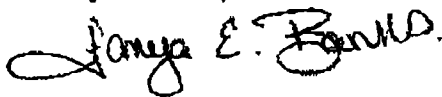
By   
Mike Coleman, Member  
"Seller"

  
Milford Coleman  
"Seller Coleman"

  
Milford Coleman  
"Principal"

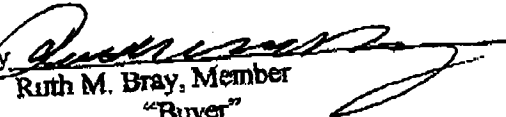


My Commission Expires 01/28/2010



**TRUE CUT TOOL & MACHINE, L.L.C.,**  
a Montana limited liability company

By   
Mike D. Bray, Member

By   
Ruth M. Bray, Member  
"Buyer"

**Exhibit "B"**

U.S. Patent No. 6,752,119 B2 (mechanical, utility and design patent) issued June 22,  
2004 for "Timing Chain Cover."

**Exhibit "C"****BILL OF SALE**

**FOR VALUABLE CONSIDERATION**, the receipt of which is hereby acknowledged, **THUNDERHORSE PERFORMANCE, LLC**, a Colorado limited liability company, d/b/a "**THUNDER HORSE PERFORMANCE**" ("Seller"), for good and valuable consideration, the receipt and sufficiency of which are acknowledged, assigns, transfers and conveys unto **TRUE CUT TOOL & MACHINE, L.L.C.**, a Montana limited liability company ("Buyer"), all Tangible Personal Property described in the Sale and Purchase Agreement dated April \_\_\_, 2006 attached hereto and incorporated herein.

**TO HAVE AND TO HOLD** the above-described property unto Buyer, its successors and assigns, forever, and Seller covenants to and agrees with Buyer, its successors and assigns, to warrant and defend and does warrant the sale of said Tangible Personal Property and the sale hereby made, to Buyer, its successors and assigns, against all and every person and persons whomever, lawfully claiming or to claim the same.

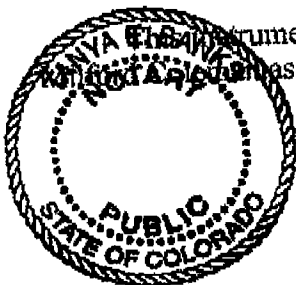
Buyer acknowledge that the sale of said Tangible Personal Property is "**AS IS, WHERE IS, AND IS WITHOUT ANY WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY AND ANY WARRANTY OF FITNESS FOR A PARTICULAR USE.**"

**IN WITNESS WHEREOF**, Seller has executed this Bill of Sale this \_\_\_ day of April, 2006.

**THUNDERHORSE PERFORMANCE, LLC**, a  
Colorado limited liability company

By: [Signature]  
Milford Coleman, Member

STATE OF COLORADO )  
 ) ss.  
County of Larimer )



My Commission Expires 01/26/2010

This instrument was acknowledged before me on the 5<sup>th</sup> day of April, 2006, by \_\_\_\_\_ as Member of Thunderhorse Performance, LLC.

Typed, stamped or printed name of notary Tanya E. Banks  
NOTARY PUBLIC FOR THE STATE OF COLORADO  
Residing at 1830 Green Gables Ct Ft Collins, CO 8052  
My Commission Expires: \_\_\_\_\_

**Exhibit "D"****ASSIGNMENT**

**THUNDERHORSE PERFORMANCE, LLC**, a Colorado limited liability company, d/b/a **"THUNDER HORSE PERFORMANCE"** ("Assignor"), for good and valuable consideration, the receipt and sufficiency of which are acknowledged, assigns, transfers and conveys unto **TRUE CUT TOOL & MACHINE, LLC**, a Montana limited liability company ("Assignee"), all of Assignor's right, title and interest in all Intangible Personal Property described in the Sale and Purchase Agreement dated April \_\_\_, 2006 attached hereto and incorporated herein (excepting the Patent described in Exhibit "B" of said Sale and Purchase Agreement, which is owned by Milford Coleman).

**TO HAVE AND TO HOLD** the same, to Assignee, its successors and assigns, **FOREVER**; and Assignor covenants to and agrees with Assignee, its successors and assigns, to warrant and defend and does warrant the assignment hereby made, to Assignee, its successors and assigns, against all and every person and persons whomever, lawfully claiming or to claim the same.

**IN WITNESS WHEREOF**, Assignor has executed this Assignment this \_\_\_ day of April, 2006.

**THUNDERHORSE PERFORMANCE, LLC**, a  
Colorado limited liability company

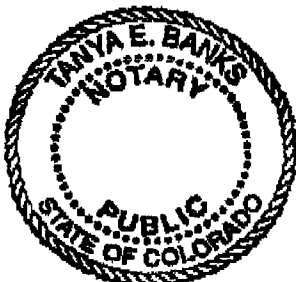
By: \_\_\_\_\_

Milford Coleman, Member

STATE OF COLORADO )

County of Sumner )  
ss.

This instrument was acknowledged before me on the 5<sup>th</sup> day of April, 2006, by Milford Coleman as Member of Thunderhorse Performance, LLC.



My Commission Expires 01/26/2010

Typed, stamped or printed name of notary Tanya E. Banks  
NOTARY PUBLIC FOR THE STATE OF COLORADO  
Residing at 1380 Green Hobbes Rd. Ft. Collins CO 80525  
My Commission Expires: \_\_\_\_\_