

PATENT ASSIGNMENT COVER SHEET

Electronic Version v1.1
 Stylesheet Version v1.2

EPAS ID: PAT4022954

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNMENT		
CONVEYING PARTY DATA			
Name			Execution Date
INSTRUMENTATION NORTHWEST, INC.			01/07/2015
RECEIVING PARTY DATA			
Name:	SEATTLE METRICS, INC.		
Street Address:	19026 72ND AVENUE SOUTH		
City:	KENT		
State/Country:	WASHINGTON		
Postal Code:	98032		
PROPERTY NUMBERS Total: 3			
Property Type	Number		
Patent Number:	5460049		
Patent Number:	5033297		
Patent Number:	5857714		
CORRESPONDENCE DATA			
Fax Number:	(202)420-2201		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
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ATTORNEY DOCKET NUMBER:	F8800.3707 (200423-03707)		
NAME OF SUBMITTER:	MEGAN R. WOOD		
SIGNATURE:	/MRW/		
DATE SIGNED:	08/25/2016		
Total Attachments: 32			
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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "**Agreement**") is made and entered into as of January __, 2015, by and between Seattle Metrics, Inc., a Washington corporation ("**Buyer**") and Instrumentation Northwest, Inc., a Washington corporation ("**Seller**"). Each of Buyer and Seller is a "**Party**" and together are the "**Parties**" to this Agreement.

RECITALS

A. Seller is engaged in the business of manufacturing and selling water resource tools and environmental monitoring products (the "**Business**").

B. Seller desires to sell, and Buyer desires to purchase, all of Seller's right, title, and interest in and to substantially all of the operating assets of the Business, subject to the terms and conditions of this Agreement.

AGREEMENT

NOW, THEREFORE, the Parties agree as follows:

1. BASIC TRANSACTION.

1.1. **Purchase and Sale of Assets.** On and subject to the terms and conditions set forth in this Agreement, at Closing (as defined below), Seller shall sell, transfer, convey, assign, and deliver to Buyer, and Buyer shall purchase, acquire, assume, and accept from Seller, all of Seller's right, title, and interest in and to substantially all of Seller's assets, including without limitation, all of the following assets associated with the Business (collectively, the "**Acquired Assets**");

1.1.1. cash and cash equivalents;

1.1.2. all accounts or notes receivable held by Seller, and any security, claim, remedy or other right related to the foregoing ("**Accounts Receivable**");

1.1.3. all inventory, finished goods, raw materials, work in progress, packaging, supplies, parts and other inventories ("**Inventory**");

1.1.4. (i) all intangible property and related proprietary rights, interests and protections, however arising, pursuant to the laws of any jurisdiction throughout the world, including, but not limited to: (a) trademarks, service marks, trade names, brand names, logos, trade dress and other proprietary indicia of goods and services, whether registered, unregistered or arising by law, and all registrations and applications for registration for such trademarks, including intent-to-use applications, and all issuances, extensions and renewals of such registrations and applications; (b) internet domain names, whether or not trademarks, registered in any generic top level domain by any authorized private registrar or governmental authority; (c) original works of authorship in any medium of expression, whether or not published, all copyrights, whether registered, unregistered or arising by law, all registrations and applications for registrations of such copyrights, and all issuances, extensions, and renewals of such registrations and applications; (d) confidential information, formulas, designs, devices, technology, know-how, research and development, data, test results, inventions, methods, processes, techniques, compositions, and other non-public information and trade secrets,

whether or not patentable; and (e) patented and patentable designs and inventions, all design, plant and utility patents, letters patent, utility models, pending patents and applications, provisional patent applications, nonprovisional patent applications converted from provisional patent applications, all expired patents and all issuances, divisionals, continuations-in-part, reissues, extensions, re-examinations, renewals of such patents and patent applications, and any and all patents and patent applications which issue from, claim a priority date from, or claim the benefit of any of the foregoing (collectively, the "**Intellectual Property Assets**") and (ii) all licenses, sublicenses and other agreements by and through which other persons, including Seller's affiliates, grant Seller exclusive or nonexclusive rights or interests in or to any intellectual property that is used in or necessary for the conduct of the Business as currently conducted (collectively, the "**Intellectual Property Licenses**");

1.1.5. all furniture, fixtures, equipment, machinery, tools, vehicles, office equipment, supplies, computers, telephones and other tangible personal property, whether owned or leased by Seller, as set forth on Schedule 1.1.5 of the Disclosure Schedules (the "**Tangible Personal Property**");

1.1.6. all real property leased by Seller pursuant to that certain Lease with JBP Kirkland LLC, dated October 20, 2000, as amended (the "**Lease**"), together with all rights, title and interest of Seller in and to leasehold improvements and personally related thereto, including, but not limited to, security deposits, reserves or prepaid rents paid in connection therewith (collectively, the "**Leased Real Property**");

1.1.7. all permits which are held by Seller and required for the conduct of the Business as currently conducted or for ownership and use of the Acquired Assets, including, without limitation, those listed on Section 1.1.7 of the Disclosure Schedules;

1.1.8. all of Seller's rights under warranties, indemnities, and all similar rights against third parties to the extent related to any Acquired Assets;

1.1.9. originals, or where not available, copies of all books and records, including but not limited to, machinery and equipment maintenance files, customer lists, customer purchasing histories, price lists, distribution lists, supplier lists, customer lists, control records and procedures, customer complaints and inquiry files, research and development files, records and data (including all correspondent with any governmental authority), sales material and records (including pricing history, total sales, terms and conditions of sale, sales and pricing policies and practices), strategic plans, marketing and promotional surveys, material and research and intellectual property files related to the Acquired Assets ("**Books and Records**");

1.1.10. to the extent assignable, all of Seller's rights under the agreements, contracts, and personal property leases listed as such on Section 1.1.10 of the Disclosure Schedules (collectively, the "**Assigned Contracts**"); and

1.1.11. all goodwill and the going concern value of the Business.

1.2. **Excluded Assets.** Notwithstanding anything to the contrary contained in Section 1.1, the following are excluded from the Acquired Assets and shall not be purchased by Buyer (collectively, the "**Excluded Assets**");

1.2.1. the corporate charter, taxpayer and other identification numbers, seals, minute books, stock transfer books, blank stock certificates, and other documents relating to the organization, maintenance, and existence of Seller as a corporation;

1.2.2. any of the rights of Seller under this Agreement;

1.2.3. any contract that is not an Assigned Contract;

1.2.4. all financial records and tax returns of Seller and all work papers, files or documents relating hereto (provided that Buyer shall have the right to make copies of all such records to the extent that they relate to the Acquired Assets or Assumed Liabilities);

1.2.5. all personal records and other records that Seller is required by law to retain in its possession; and

1.2.6. any assets described as an Excluded Asset in Section 1.2.6 of the Disclosure Schedules.¹

1.3. **Assumption of Liabilities.** Buyer shall assume and become responsible for all of the Assumed Liabilities at the Closing. Buyer shall not assume or have any responsibility, however, with respect to any other obligation or liability of Seller not included within the definition of Assumed Liabilities, including obligations or liability with respect to the Excluded Liabilities. For purposes of this Agreement, "**Assumed Liabilities**" means all liabilities and obligations arising out of or relating to Buyer's ownership or operation of the Acquired Assets on or after the Closing Date, including performance obligations first arising after the Closing Date under the Assigned Contracts; provided, however, that the Assumed Liabilities shall not include any Excluded Liabilities.

1.4. **Excluded Liabilities.** Notwithstanding the provision of Section 1.3 or any other provision in this Agreement to the contrary, Buyer shall not assume and shall not be responsible to pay, perform or discharge any liabilities of Seller or any of its affiliates of any kind or nature whatsoever other than the Assumed Liabilities (the "**Excluded Liabilities**"). Seller shall, and shall cause its affiliates to, pay and satisfy in due course all Excluded Liabilities which they are obligated to pay and satisfy. Without limiting the generality of the foregoing, the Excluded Liabilities shall include, but not be limited to, the following:

1.4.1. any liabilities of Seller arising or incurred in connection with the negotiation, preparation, investigation and performance of this Agreement, the Transaction Documents (as defined below) and the transactions contemplated hereby and thereby, including without limitation, fees and expenses of counsel, accountants, consultants, advisors and others;

1.4.2. any liability (i) for taxes of Seller or any affiliated group of which Seller is or has been a member; (ii) of any person for taxes relating to the Business, the Acquired Assets or the Assumed Liabilities for any tax period prior to the Closing Date; (iii) for taxes that are the responsibility of Seller pursuant to Section 1.8; and (iv) for other taxes of Seller of any kind or description (including any liability for taxes of Seller that becomes a liability of Buyer under any common law doctrine of de facto merger or transferee or successor liability or otherwise by operation of contract or law);

¹ NTD: Geotech earn-outs should be included on the Disclosure Schedule.

1.4.3. any liabilities relating to or arising out of the Excluded Assets;

1.4.4. any liabilities with respect of any pending or threatened action arising out of, relating to or otherwise in respect of the operation of the Business or the Acquired Assets to the extent such action relates to the operation on or prior to the Closing Date;

1.4.5. any product liability or similar claim for injury to a person or property which arises out of or is based upon any express or implied representation, warranty, agreement or guaranty made by Seller, or by reason of the improper performance or malfunctioning of a product, improper design or manufacture, failure to adequately package, label or warn of hazards or other related product defects of any products at any time manufactured or sold or any service performed by Seller;

1.4.6. any recall, design defect or similar claims of any products manufactured or sold or any service performed by Seller;

1.4.7. any environmental claims or liabilities under any Environmental Laws (as defined below), to the extent arising out of or relating to facts, circumstances or conditions existing on or prior to the Closing Date or otherwise to the extent arising out of any actions or omissions of Seller;

1.4.8. any liability or obligation under any of Seller's employee benefit plans, including any liability under any employment, severance, retention or termination agreement with any employee of Seller or for retirement or other post-employment benefits;

1.4.9. any liability or obligation with respect to workers' compensation claims related to injuries incurred prior to the Closing Date;

1.4.10. any trade accounts payable of Seller (i) to the extent not accounted for on the Most Recent Financial Statements (as defined below); (ii) which constitute debt, loans or credit facilities to financial institutions or the shareholders; or (iii) which did not arise in the ordinary course of business;

1.4.11. any liabilities of the Business relating or arising from unfulfilled commitments, quotations, purchase orders, customer orders or work orders that (i) do not constitute part of the Acquired Assets issued by the Business' customers to Seller on or before the Closing Date; (ii) did not arise in the ordinary course of business; or (iii) are not validly and effectively assigned to Buyer pursuant to this Agreement; and

1.4.12. any liabilities arising out of, in respect of or in connection with the failure by Seller or any of its affiliates to comply with any law or governmental order.

1.5. **Purchase Price.** Subject to adjustment as set forth in Section 1.7, the total consideration to be paid by Buyer for the Acquired Assets shall be [REDACTED] (the "**Purchase Price**").

1.6. **Payment of Purchase Price.** The Purchase Price is payable by Buyer's delivery to Seller of (i) [REDACTED] minus any amounts paid to creditors of Seller as set forth on Schedule 1.6 (the "**Cash Payment**"), and (ii) a promissory note issued by Buyer in the [REDACTED]

payable to the order of Seller (the "**Promissory Note**"), in the form of that certain promissory note attached hereto as **Exhibit A**. The Promissory Note shall be secured by a grant of a security interest in the Acquired Assets and shall be recorded on a form UCC-1.

1.7. **Adjustment of Purchase Price.** The payments required under the Promissory Note shall be offset dollar for dollar by any amounts related to the impairment of hard assets that make up the Acquired Assets, including but not limited to obsolete inventory. Buyer shall provide Seller a statement of the adjustment, if any (the "**Adjustment Statement**") within forty-five (45) days after the Closing. Seller shall provide to Buyer any comments on the Adjustment Statement within 5 days after receiving the Adjustment Statement. Any adjustment shall be reflected as a decrease in the gross purchase price.

1.8. **Apportionments of Personal Property Taxes.** Personal property taxes assessed on any equipment that makes up the Acquired Assets, and any other taxes assessed for a specific period of time and identified with a particular Acquired Asset, shall be apportioned and prorated between Seller and Buyer as of the Closing Date, based on the number of days in the relevant tax period that occur prior to and after the Closing Date.

1.9. **Allocation of Purchase Price.** The Purchase Price shall be allocated to the Acquired Assets as set forth on Schedule 1.9 of the Disclosure Schedules (the "**Asset Allocation**"), in accordance with Section 1060 of the internal revenue code and the U.S. Treasury regulations issued thereunder. Buyer and Seller shall file all tax returns (including any amended returns) and all information reports in a manner consistent with such Asset Allocation. Neither Buyer nor Seller shall take any position (whether in audits, tax returns or otherwise) that is inconsistent with the Asset Allocation unless required to do so by applicable law.

1.10. **Closing.** The closing of the sale and purchase of the Acquired Assets (the "**Closing**") shall take place on January 31, 2015 at the close of business at such location as the parties may mutually agree or such other date, location and time as the parties mutually agree (the "**Closing Date**").

1.11. **Closing Deliveries by Seller.** At the Closing, Seller shall deliver or shall cause to be delivered to Buyer the following:

1.11.1. Exclusive possession of and title to the Acquired Assets;

1.11.2. A Bill of Sale, Assignment and Assumption Agreement, duly executed by Seller, in the form attached hereto as **Exhibit B** (the "**Bill of Sale, Assignment and Assumption**");

1.11.3. Non-competition agreements, according to terms mutually agreed to by the respective parties (the "**Non-competition Agreements**"), duly executed by Gregg Gustafson ("**Gustafson**"), Chris Waldorf ("**Waldorf**") and Paul Eaton ("**Eaton**"), respectively.

1.11.4. Such employment or consulting agreements, according to terms as mutually agreed to by the respective parties (collectively, the "**Employment Agreements**"), duly executed by Gustafson, Waldorf, and Eaton, respectively;

1.11.5. A written consent to assignment of the Lease, executed by the landlord with respect to the Leased Real Property, in forms satisfactory to Buyer in its sole discretion (the "**Lease Consent**");

1.11.6. A side agreement (the "**Side Agreement**", together with the Promissory Note, the Bill of Sale, Assignment and Assumption Agreement, the Non-competition Agreements, the Employment Agreements, and the Lease Consent, the "**Transaction Documents**"), duly executed by Seller and Geotech Environmental Equipment, Inc., in the form attached hereto as **Exhibit C**;

1.11.7. Such organizational and authorizing documents of Seller as are reasonably required by Buyer to evidence Seller's power and authority to enter into this Agreement and to consummate the transactions contemplated hereby, including, without limitation, a certificate, executed by an authorized officer of Seller, certifying to the foregoing;

1.11.8. Evidence that Seller has terminated the employment of each of its employees, as of the Closing Date, and has paid all amounts due to those employees for services performed through the Closing Date, including, but not limited to, earned but unpaid salaries and wages, unused vacation, and incentives accrued through the Closing Date; and

1.11.9. Such other documents and instruments as reasonably may be required to close this Agreement and to consummate the transactions contemplated by this Agreement.

1.12. **Closing Deliveries by Buyer.** At Closing, Buyer shall deliver or shall cause to be delivered to Seller the following:

1.12.1. The Cash Payment;

1.12.2. The Promissory Note and Form UCC-1, duly executed by Buyer;

1.12.3. The Bill of Sale, Assignment and Assumption, duly executed by Buyer;

1.12.4. The Non-competition Agreements, duly executed by Buyer;

1.12.5. The Employment Agreements, duly executed by Buyer;

1.12.6. The Side Agreement, duly executed by Buyer;

1.12.7. Such organizational and authorizing documents of Buyer as are reasonably required by Seller to evidence Buyer's power and authority to enter into this Agreement and to consummate the transactions contemplated hereby, including, without limitation, a certificate, executed by an authorized officer of Buyer, certifying to the foregoing; and

1.12.8. Such other documents and instruments as reasonably may be required to close this Agreement and to consummate the transactions contemplated by this Agreement.

2. REPRESENTATIONS AND WARRANTIES.

2.1. Seller's Representations and Warranties. Seller represents and warrants to Buyer that the following statements are true and correct on the date of this Agreement and as of the Closing Date:

2.1.1. Organization and Standing. Seller is a corporation duly organized and validly existing under the laws of the State of Washington. Seller is duly qualified as a foreign corporation and is in good standing under the laws of each jurisdiction set forth in Section 2.1.1 of the Disclosure Schedules and is not required to be licensed or qualified to conduct its Business or own its property in any other jurisdiction.

2.1.2. Power and Authority. Seller has the power to enter into and carry out its obligations under this Agreement. The execution, delivery and performance by Seller of this Agreement and the Transaction Documents, to which Seller is a party, and the consummation of the transactions contemplated hereby and thereby have been duly and validly authorized by all requisite corporate action on the part of Seller, and no other corporate (including shareholder) proceedings on the part of Seller is necessary to authorize the execution, delivery or performance of this Agreement or the consummation of the transactions contemplated by this Agreement and such Transaction Documents to which Seller is a party. This Agreement has been duly executed and delivered by Seller, and (assuming due authorization, execution and delivery by Buyer), this Agreement constitutes the valid and legally binding obligation of Seller, enforceable in accordance with its terms and conditions, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally.

2.1.3. Governmental Approvals and Filings. The execution, delivery and performance by Seller of this Agreement and the Transaction Documents and the consummation of the transactions contemplated by this Agreement and such Transaction Documents, do not and will not: (i) conflict with or result in a violation or breach of, or default under, any provision of the articles of incorporation, bylaws or other organizational or governing documents of Seller; (ii) conflict with or result in a violation or breach in any material respect of any provision of any law or governmental order applicable to Seller; (iii) except as set forth in Section 2.1.3 of the Disclosure Schedules, require the consent, notice or other action by any person under, conflict with, result in a violation or breach of, constitute a default or an event that, with or without notice or lapse of time or both, would constitute a default under, result in the acceleration of or create in any party the right to accelerate, terminate, modify or cancel any contract to which Seller is a party or by which Seller is bound or to which any of the Acquired Assets are subject or any permit affecting the Acquired Assets or the Business; or (iv) result in the creation or imposition of any Lien (as defined below) other than Permitted Liens (as defined below) on any of the Acquired Assets or the Business. No consent, approval, permit, governmental order, declaration or filing with, or notice to, any governmental authority is required by or with respect to Seller in connection with the execution and delivery of this Agreement and the Transaction Documents and the consummation of the transactions contemplated by this Agreement and the Transaction Documents. Prior to the Closing Date, Seller obtained such consents and delivered such notices as are required in connection with this Agreement and as set forth on Section 2.1.3 of the Disclosure Schedules.

2.1.4. Title to and Condition of Assets.

2.1.4.1. **Title.** Except for Permitted Liens, Seller has good and valid title to, or a valid leasehold interest in the Acquired Assets. All personal property leased to Seller and included in the Acquired Assets is identified in Section 2.1.4.1 of the Disclosure Schedules and will be fully transferable under this Agreement on the Closing Date. All of the Acquired Assets are free and clear of any charge, claim, community property interest, pledge, condition, equitable interest, lien (statutory or other), option, security interest, mortgage, easement, encroachment, right of way, right of first refusal, or restriction of any kind (collectively, "**Liens**"), except for the Liens set forth in Section 2.1.4.1 of the Disclosure Schedules (collectively, the "**Permitted Liens**").

2.1.4.2. **Tangible Assets.** The Tangible Personal Property (i) are in good operating condition and repair, and are adequate for the uses to which they are being put, and none of such Tangible Personal Property is in need of maintenance or repairs except for ordinary, routine maintenance and repairs that are not material in nature or cost and (ii) together with all other properties and assets of Seller included in the Acquired Assets, are sufficient for the continued conduct of the Business after the Closing in the same manner as conducted prior to the Closing and constitute all of the rights, property and assets necessary to conduct the Business as currently conducted.

2.1.4.3. **Inventory.** The Inventory consists of (i) finished goods, all of which is merchantable and fit for the purpose for which procured or manufactured, and, except as disclosed in Section 2.1.4.3 of the Disclosure Schedules, none of which is materially obsolete, damaged or defective; and (ii) raw materials and other materials and supplies and work in process, all of which is usable by Seller in the manufacture of such finished goods. The quantities of each item of inventory owned by Seller (including raw materials, work in process and finished goods) are free and clear of any Liens other than Permitted Liens and are not excessive and are reasonable in the present circumstances of Seller. Seller is not in possession of inventory not owned by Seller except for customer owned inventory disclosed in Section 2.1.4.3 of the Disclosure Schedules.

2.1.5. **Financial Statements.** Section 2.1.5 of the Disclosure Schedules includes true and correct copies of the following financial statements (collectively, the "**Financial Statements**"): (i) compiled balance sheets and related statements of income, changes in shareholders' equity, and cash flow as of and for the fiscal years ended December 31, 2013 and 2012, (the "**Most Recent Fiscal Year End**"); and (ii) a compiled balance sheet and related statements of income, changes in shareholders' equity, and cash flow (the "**Most Recent Financial Statements**") as of and for the nine months ended September 30, 2014, for Seller. The Financial Statements (including the notes to the Financial Statements, if any) have been prepared on a consistent basis throughout the periods covered by such Financial Statements, present fairly the financial condition of Seller as of such dates and the results of operations of Seller for such periods, are true and correct in all material respects and are consistent with the books and records of Seller; provided, however, that the Most Recent Financial Statements are subject to normal year-end adjustments (which will not be material individually or in the aggregate, and lack footnotes and other presentation items).

2.1.6. **Developments.** Since September 30, 2014, and except as otherwise stated in Section 2.1.6 of the Disclosure Schedules, to the knowledge of Gustafson, Waldorf and Eaton (collectively, "**Seller's Knowledge**"), there has not been, with respect to Seller, any:

2.1.6.1. issuance, sale or other disposition of any of its capital stock, or grant of any options, warrants or other rights to purchase or obtain (including upon conversion, exchange or exercise) any of its capital stock;

2.1.6.2. material change in any method of accounting or accounting practice, except as disclosed in the notes to the Financial Statements;

2.1.6.3. material change in its cash management practices and its policies, practices and procedures with respect to collection of accounts receivable, establishment of reserves for uncollectible accounts, accrual of accounts receivable, inventory control, prepayment of expenses, payment of trade accounts payable, accrual of other expenses, deferral of revenue and acceptance of customer deposits;

2.1.6.4. entry into any contract for the provision of goods or services or the purchase of the same, the annual value or cost of which exceeds \$25,000;

2.1.6.5. transfer, assignment, sale or other disposition of any of the assets shown or reflected in the Most Recent Balance Sheet or cancellation of any debts or entitlements except in the ordinary course of business;

2.1.6.6. transfer, assignment or grant of any license or sublicense of any material rights under or with respect to any Intellectual Property Assets;

2.1.6.7. material damage, destruction or loss (whether or not covered by insurance) to its property or any of the Acquired Assets;

2.1.6.8. acceleration, termination, material modification to or cancellation of any contract to which it is a party or by which it is bound;

2.1.6.9. amendment, termination or cancellation of any claims of Seller related to the Business or waiver of any rights of Seller related to the Business;

2.1.6.10. any capital expenditures in excess of \$10,000 individually or \$30,000 in the aggregate;

2.1.6.11. imposition of any Lien upon any of its properties, capital stock or assets, tangible or intangible, including the Acquired Assets, other than Permitted Liens;

2.1.6.12. (i) grant of any bonuses, whether monetary or otherwise, or increase in any wages, salary, severance, pension or other compensation or benefits in respect of its employees, officers, directors, consultants or independent contractors, other than as provided for in any written agreements executed prior to the Most Recent Financial Statements or required by applicable law, (ii) change in the terms of employment for any employee or any termination of any employees, or (iii) action to accelerate the vesting or payment of any compensation or benefit for any employee, member, manager, consultant or independent contractor;

2.1.6.13. adoption, modification or termination of any: (i) employment, severance, retention or other agreement with an employee, or (ii) employee benefit plan, in each case whether written or oral;

2.1.6.14. entry into a new line of business or abandonment or discontinuance of existing lines of business;

2.1.6.15. adoption of any plan of merger, consolidation, reorganization, liquidation or dissolution or filing of a petition in bankruptcy under any provisions of federal or state bankruptcy law or consent to the filing of any bankruptcy petition against it under any similar law;

2.1.6.16. purchase, lease or other acquisition of the right to own, use or lease any property or assets for an amount in excess of \$10,000 individually (in the case of a lease, per annum) or \$25,000 in the aggregate (in the case of a lease, for the entire term of the lease, not including any option term), except for purchases of inventory or supplies in the ordinary course of business;

2.1.6.17. issuance of any sales orders relating to the Business in value in excess of \$50,000 individually or \$250,000 in the aggregate;

2.1.6.18. entry into any contract the cost of performance of which by Seller will exceed the revenues to be derived from such contract;

2.1.6.19. acquisition by merger or consolidation with, or by purchase of a substantial portion of the assets or stock of, or by any other manner, any business or any person or any division of a business; or

2.1.6.20. any contract to do any of the foregoing, or any action or omission that would result in any of the foregoing.

2.1.7. **Undisclosed Liabilities.** To Seller's Knowledge, Seller does not have any liability, obligation or commitment of any nature whatsoever, whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become due, including any liability for taxes (each, a "**Liability**"), except for Liabilities reflected or reserved against on the Financial Statements or set forth on Section 2.1.7 of the Disclosure Schedules.

2.1.8. **Subsidiaries.** Seller does not have any subsidiaries.

2.1.9. **Real Property.** Seller does not own any real property. Seller has delivered to Buyer a correct and complete copy of the Lease and any amendments thereto for real properties located at 8902 122nd Avenue Northeast, Kirkland, Washington 98033 and 8770 122nd Avenue Northeast, Kirkland, Washington 98033, which are the only leasehold or subleasehold interests Seller has in any real property. With respect to the Lease:

2.1.9.1. Seller has good and marketable leasehold title (insurable as such) to the Leased Real Property described in the Lease, free and clear of all encumbrances;

2.1.9.2. subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally, the Lease is legal, valid, binding, enforceable, and in full force and effect and will continue to be legal, valid, binding, enforceable and in full force and effect on identical terms and conditions following the consummation of the transactions contemplated by this Agreement;

2.1.9.3. Seller is not, nor is any third party to the Lease, in material breach or default, and no event has occurred which, with notice or lapse of time, would constitute a material breach or default or permit termination, modification, or acceleration under the Lease;

2.1.9.4. there are no disputes, oral agreements or forbearance programs in effect as to the Lease;

2.1.9.5. Seller has not assigned, transferred, conveyed or granted any Lien in any such leasehold or subleasehold interest in the Lease;

2.1.9.6. Seller has not granted a subleasehold interest to any third party in the Lease;

2.1.9.7. all facilities leased or subleased under the Lease have received all approvals of governmental authorities (including licenses and permits) required to be obtained by Seller in connection with the operation of such facilities and have been operated and maintained by Seller in accordance with applicable laws, covenants, conditions, restrictions, easements, licenses, permits or agreements in all material respects;

2.1.9.8. all facilities leased or subleased are supplied with utilities and other services necessary for the operation of the Business at such facilities;

2.1.9.9. Seller possesses, is in compliance with, and, except for Seller's licenses which, by operation of law, cannot be legally transferred, is capable of transferring to Buyer the full benefit of, all licenses, permits, easements and rights of way, including any conditional use permits applicable to the Leased Real Property, required from all governmental authorities having jurisdiction over the Acquired Assets or the Business necessary for the use of the Acquired Assets and the operation of the Business; and

2.1.9.10. the Leased Real Property is sufficient for the continued conduct of the Business after the Closing in substantially the same manner as conducted prior to the Closing and constitutes all of the real property necessary to conduct the Business as currently conducted.

2.1.10. Intellectual Property.

2.1.10.1. Section 2.1.10.1 of the Disclosure Schedules sets forth all of the Intellectual Property Assets that are material to the operation of the Business. All required filings and fees related to the registered Intellectual Property Assets have been timely filed with and paid to the relevant governmental authorities and authorized registrars, and all registrations are otherwise in good standing. Seller has

provided Buyer with true and complete copies of the file histories, documents, including ownership documents, whether or not recorded, certificates, office actions, correspondence and other materials related to the registered Intellectual Property Assets.

2.1.10.2. Except as set forth on Section 2.1.10.2 of the Disclosure Schedules, Seller owns all right, title and interest in and to the Intellectual Property Assets, free and clear of any encumbrances. Seller has provided Buyer with true and complete copies of all ownership documents, whether or not recorded, related to all Intellectual Property Assets. Without limiting the generality of the foregoing, Seller has entered into binding, written contracts with every current and former employee of Seller, and with every current and former independent contractor, whereby such employees and independent contractors (i) assign to Seller any ownership interest and right they may have in the Intellectual Property Assets; and (ii) acknowledge Seller's exclusive ownership of all Intellectual Property Assets. Seller has made available to Buyer true and complete copies of all such contracts. Seller is in full compliance with all requirements of law applicable to the Intellectual Property Assets and Seller's ownership and use thereof.

2.1.10.3. Section 2.1.10.3 of the Disclosure Schedules sets forth all Intellectual Property Licenses. Seller has made available to Buyer true and complete copies of all such Intellectual Property Licenses. All such Intellectual Property Licenses are valid, binding and enforceable between Seller and the other parties thereto, and Seller and such other parties are in full compliance with the terms and conditions of such Intellectual Property.

2.1.10.4. The Intellectual Property Assets and Intellectual Property Licenses as currently or formerly owned, licensed or used by Seller or proposed to be used by Buyer, and the conduct of the Business as currently and formerly conducted by Seller and proposed to be conducted by Buyer have not, do not and will not infringe, violate or misappropriate the intellectual property of any person. Seller has not received any communication, and no action has been instituted, settled or threatened that alleges any such infringement, violation or misappropriation, and none of the Intellectual Property Assets or Intellectual Property Licenses are subject to any outstanding governmental order.

2.1.10.5. Section 2.1.10.5 of the Disclosure Schedules lists all licenses, sublicenses and other agreements pursuant to which Seller grants rights or authority to any person with respect to any Intellectual Property Assets or Intellectual Property Licenses. Seller has provided Buyer with true and complete copies of all such agreements. All such agreements are valid, binding and enforceable between Seller and the other parties thereto, and Seller and such other parties are in full compliance with the terms and conditions of such agreements. No person has infringed, violated or misappropriated, or is infringing, violating or misappropriating any Intellectual Property Assets.

2.1.10.6. The Intellectual Property Assets and the Intellectual Property Licenses constitute all of the intellectual property assets and rights that are required for the continued conduct of the Business after the Closing in substantially the same manner as conducted prior to the Closing and constitute all of the intellectual property assets and rights necessary to conduct the Business as currently conducted.

2.1.11. **Contracts.** The Assigned Contracts include all contracts necessary for the operation of the Business as presently conducted by Seller. Seller has delivered to Buyer a correct and complete copy of each written Assigned Contract. With respect to each such Assigned Contract, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally: (i) the Assigned Contract is legal, valid, binding, enforceable, and in full force and effect; (ii) the Assigned Contract will continue to be legal, valid, binding, enforceable and in full force and effect on identical terms following the consummation of the transactions contemplated by this Agreement (including the assignment and assumption referred to in Section 1.3); (iii) neither Seller nor any other party is in material breach or default, and no event has occurred which with notice or lapse of time would constitute a material breach or default, or permit termination, modification, or acceleration, under the Assigned Contract; and (iv) no party has repudiated any material provision of the Assigned Contract.

2.1.12. **Legal Compliance.** Seller has complied, and is now complying, with all laws applicable to it or its Business, properties or assets, including the Acquired Assets. There is not any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity (each an "**Action**") pending or threatened (i) against or by Seller affecting any of its properties or assets (or by or against any affiliate and relating to Seller); or (ii) against or by Seller or any affiliate of Seller that challenges or seeks to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement. No event has occurred or circumstances exist that may give rise to, or serve as a basis for, any such Action.

2.1.13. **Customers and Suppliers.**

2.1.13.1. Section 2.1.13.1 of the Disclosure Schedules sets forth (i) for the most recent fiscal year, each customer who has paid aggregate consideration to Seller for goods or services rendered in an aggregate amount greater than or equal to \$10,000 (collectively, the "**Material Customers**"); and (ii) the amount of consideration paid by each Material Customer during such period. Seller has not received any notice, and has no reason to believe, that any of its Material Customers has ceased, or intends to cease after the Closing Date, to use its goods or services or to otherwise terminate or materially reduce its relationship with Seller.

2.1.13.2. Section 2.1.13.2 of the Disclosure Schedules sets forth (i) for the most recent fiscal year, each supplier to whom Seller has paid consideration for goods or services rendered in an aggregate amount greater than or equal to \$10,000 (collectively, the "**Material Suppliers**"); and (ii) the amount of purchases from each Material Supplier during such period. Seller has not received any notice, and has no reason to believe, that any of its Material Suppliers has ceased, or intends to cease, to supply goods or services to Seller or to otherwise terminate or materially reduce its relationship with Seller.

2.1.14. **Accounts Receivable.** The Accounts Receivable reflected on the Most Recent Financial Statements and the Accounts Receivable arising after the date thereof (i) have arisen from bona fide transactions entered into by Seller involving the sale of goods or the rendering of services in the ordinary course of business consistent with past practice; (ii) constitute only valid, undisputed claims of Seller not subject to claims of off-set or other defenses or counterclaims other than normal cash discounts accrued in the ordinary

course of business consistent with past practice; and (iii) subject to a reserve for bad debts shown on the Most Recent Financial Statements or, with respect to Accounts Receivables arising after the Most Recent Financial Statements, on the accounting records of the Business, are collectible in full within ninety (90) days after billing.

2.1.15. Product Warranty. Each product manufactured, sold, leased, or delivered by Seller has been in conformity with all applicable contractual commitments and all express and implied warranties, and Seller has no Liability (and there is no basis for any present or future action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand against any of them giving rise to any Liability) for replacement of such product or other damages in connection with such product. Section 2.1.15 of the Disclosure Schedules includes copies of the standard terms and conditions of sale for Seller (containing applicable guaranty, warranty, and indemnity provisions). Except as disclosed on Section 2.1.15 of the Disclosure Schedules, no product manufactured, sold or delivered by Seller is subject to any guaranty, warranty, or other indemnity beyond the applicable standard terms and conditions of sale or lease set forth in Section 2.1.15 of the Disclosure Schedules.

2.1.16. Product Liability. Seller does not have any Liability (and there is no basis for any present or future action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand against any of Seller giving rise to any Liability) arising out of the sale or consumption of any product manufactured, sold or delivered by Seller.

2.1.17. Employees. Seller is and has been in compliance with the terms of any collective bargaining agreements and other material contracts relating to labor and employment and all applicable laws pertaining to employment and employment practices, including all laws relating to labor relations, equal employment opportunities, fair employment practices, employment discrimination, harassment, retaliation, reasonable accommodation, disability rights or benefits, immigration, wages, hours, overtime compensation, child labor, hiring, promotion and termination of employees, working conditions, meal and break periods, privacy, health and safety, workers' compensation, leaves of absence and unemployment insurance. All individuals characterized and treated by Seller as consultants or contractors are properly treated as independent contractors and not employees under all applicable laws.

2.1.18. Environmental.

2.1.18.1. Seller is currently and has been in compliance with all Environmental Laws and has not received from any person any: (i) notice concerning an alleged breach of any Environmental Law; or (ii) written request for information pursuant to Environmental Law, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements as of the Closing Date. For purposes of this Agreement, "**Environmental Laws**" means any applicable law, and any governmental order or binding agreement with any governmental authority: (i) relating to pollution (or the cleanup of pollution) or the protection of natural resources, endangered or threatened species, human health or safety, or the environment (including ambient air, soil, surface water or groundwater, or subsurface strata); or (ii) concerning the presence of, exposure to, or the management, manufacture, use, containment, storage, recycling, reclamation, reuse, treatment, generation, discharge, transportation, processing, production, disposal or remediation of any hazardous materials (as such term is defined under any Environmental Laws). The term "**Environmental Laws**" includes, without limitation, the following (including their implementing regulations and any state analogs): the Comprehensive Environmental Response, Compensation, and

Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601 et seq.; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901 et seq.; the Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1977, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. §§ 2601 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 et seq.; the Clean Air Act of 1966, as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. §§ 7401 et seq.; and the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §§ 651 et seq.

2.1.18.2. There has been no release of hazardous materials in contravention of any Environmental Laws with respect to the Business or the Acquired Assets or any real property currently or formerly owned, leased or operated by Seller.

2.1.18.3. Seller has not retained or assumed, by contract or operation of law, any liabilities or obligations of third parties under any Environmental Laws.

2.1.19. **Broker's Fees.** No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any of the Transaction Documents based upon arrangements made by or on behalf of Seller or its affiliates.

2.1.20. **Disclosure.** No representation or warranty by Seller in this Agreement and no statement contained in the Disclosure Schedules or any of the Transaction Documents or any certificate or other document furnished or to be furnished to Buyer pursuant to this Agreement contains any untrue statement of a material fact, or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.

2.2. **Buyer's Representations and Warranties.** Buyer represents and warrants to Seller that the following statements are true and correct on the date of this Agreement and as of the Closing Date:

2.2.1. **Organization and Standing.** Buyer is a corporation, validly existing and authorized to transact business under the laws of the State of Washington.

2.2.2. **Power and Authority.** Buyer has the power to enter into and carry out its obligations under this Agreement. The execution, delivery and performance by Buyer of this Agreement and the Transaction Documents to which Buyer is a party and the consummation of the transactions contemplated hereby and thereby have been duly and validly authorized by all requisite company action on the part of Buyer, and no other corporate (including shareholder) proceedings on the part of Buyer is necessary to authorize the execution, delivery or performance of this Agreement or the consummation of the transactions contemplated by this Agreement and such Transaction Documents to which Buyer is a party. This Agreement has been duly executed and delivered by Buyer, and (assuming due authorization, execution and delivery by Seller), this Agreement constitutes the valid and legally binding obligation of Buyer, enforceable in accordance with its terms and conditions, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally.

2.2.3. **Brokers' Fees.** No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any of the Transaction Documents based upon arrangements made by or on behalf of Buyer or its affiliates.

3. **PRE-CLOSING OPERATION OF BUSINESS BY SELLER.**

3.1. **Preservation of Business.** Seller covenants and agrees that between the date of this Agreement and the Closing Date, Seller shall (i) continue to operate the Business in the ordinary course of business, (ii) not incur any Liens encumbering any of the Acquired Assets, (iii) use reasonable commercial efforts to maintain, develop and preserve its customer, prospective customer, employee, contractor, vendor and industry relationships, on terms materially consistent with its historical practices and (iv) maintain and preserve its assets, and not sell, purchase or lease assets having an aggregate value in excess of \$25,000 (other than sales to customers in the ordinary course); in either case advising Buyer in advance of any exceptions to the above, or of any other adverse change to Seller's business during such period.

3.2. **Full Access.** From the date of this Agreement until the Closing, Seller shall (a) afford Buyer and its representatives reasonable full and free access to and the right to inspect all of the assets, premises, books and records, contracts and other documents and data related to Seller; (b) furnish Buyer and its representatives with such financial, operating and other data and information related to Seller as Buyer or any of its representatives may reasonably request; (c) instruct the representatives of Seller to cooperate with Buyer in its investigation of Seller; and (d) afford Buyer with the opportunity to discuss the business and affairs of Seller with the directors, officers, and, subject to the prior consent (by email or otherwise in writing) of Seller (which consent shall not be unreasonably withheld or delayed), with the independent accountants and the employees, customers and suppliers of Seller. Any investigation pursuant to this Section 3.2 shall be conducted in such manner as not to interfere unreasonably with the conduct of the Business of Seller. No investigation by Buyer or other information received by Buyer shall operate as a waiver or otherwise affect any representation, warranty or agreement given or made by Seller in this Agreement.

3.3. **Notice of Developments.**

3.3.1. From the date of this Agreement until the Closing, Seller shall promptly notify Buyer in writing of:

3.3.1.1. any fact, circumstance, event or action the existence, occurrence or taking of which (i) has had, or could reasonably be expected to have, individually or in the aggregate, a material adverse effect on the Business, (ii) has resulted in, or could reasonably be expected to result in, any representation or warranty made by Seller under this Agreement not being true and correct or (iii) has resulted in, or could reasonably be expected to result in, the failure of any of the conditions set forth in Section 4.1 to be satisfied;

3.3.1.2. any notice or other communication from any person alleging that the consent of such person is or may be required in connection with the transactions contemplated by this Agreement;

3.3.1.3. any notice or other communication from any governmental authority in connection with the transactions contemplated by this Agreement; and

3.3.1.4. any actions commenced or threatened against, relating to or involving or otherwise affecting Seller that relates to the consummation of the transactions contemplated by this Agreement.

3.4. Exclusivity.

3.4.1. Seller shall not, and nor shall Seller authorize or permit any of its affiliates or any of its representatives to, directly or indirectly, (i) encourage, solicit, initiate, facilitate or continue inquiries regarding any inquiry, proposal or offer from any person (other than Buyer or any of its affiliates) concerning (a) a merger, consolidation, liquidation, recapitalization, share exchange or other business combination transaction involving Seller; (b) the issuance or acquisition of shares of capital stock or other equity securities of Seller; or (c) the sale, lease, exchange or other disposition of any significant portion of Seller's properties or assets (each an "**Acquisition Proposal**"); (ii) enter into discussions or negotiations with, or provide any information to, any person concerning a possible Acquisition Proposal; or (iii) enter into any agreements or other instruments (whether or not binding) regarding an Acquisition Proposal; provided, however, that Seller may entertain an Acquisition Proposal to the extent legally required for the discharge of the fiduciary duties of Seller's board of directors. Seller shall immediately cease and cause to be terminated, and shall cause its affiliates and all of its representatives to immediately cease and cause to be terminated, all existing discussions or negotiations with any persons other than Buyer conducted prior to this Agreement with respect to, or that could lead to, an Acquisition Proposal.

3.4.2. Seller shall promptly (and in any event within three (3) business days after receipt of an Acquisition Proposal by Seller or its representatives) advise Buyer orally and in writing of any Acquisition Proposal, any request for information with respect to any Acquisition Proposal, or any inquiry with respect to or which could reasonably be expected to result in an Acquisition Proposal, the material terms and conditions of such request, Acquisition Proposal or inquiry, and the identity of the person making the same.

3.4.3. Seller agrees that the rights and remedies for noncompliance with this Section 3.4 shall include having such provision specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach shall cause irreparable injury to Buyer and that money damages would not provide an adequate remedy to Buyer.

4. CONDITIONS TO CLOSING.

4.1. **Conditions Precedent to Obligations of Buyer.** Notwithstanding any other provision of this Agreement, the obligation of Buyer to purchase the Acquired Assets and to assume the Assumed Liabilities is subject to the satisfaction or waiver in writing, on or before the Closing Date, of the following conditions:

4.1.1. **Closing Deliveries.** Seller shall have made all of the deliveries set of in Section 1.11 of this Agreement.

4.1.2. **No Adverse Proceedings.** No suit or proceeding shall have been instituted or threatened against Seller or Buyer which, in the reasonable judgment of Buyer, could enjoin, restrict, prohibit, or rescind this Agreement or the consummation of the transactions contemplated hereby, and the consummation of the transactions contemplated hereby shall not be in violation of any outstanding order, decree, or judgment of any court or governmental body having competent jurisdiction.

4.1.3. **Accuracy of Representations and Warranties.** Each of the representations and warranties made by Seller in this Agreement shall be true and correct on the Closing Date, as if then made.

4.1.4. **Compliance with Agreement.** Seller shall have performed and complied with all of the terms, conditions, covenants, agreements, and obligations under this Agreement required to be performed or complied with by Seller on or before the Closing Date.

4.1.5. **Diligence.** Buyer and its representatives shall have completed, to Buyer's sole satisfaction, a due diligence investigation of the assets and operations of Seller and the financial, organization, legal, regulatory, employment, environmental and other affairs of Seller.

4.2. **Conditions Precedent to Obligations of Seller.** Notwithstanding any other provision of this Agreement, the obligation of Seller to consummate the transactions contemplated hereby is subject to the satisfaction or waiver in writing, on or before the Closing Date, of the following conditions:

4.2.1. **Closing Deliveries.** Buyer shall have made all of the deliveries set forth in Section 1.12 of this Agreement, including, without limitation, payment of the Purchase Price in accordance with the terms and conditions of this Agreement.

4.2.2. **No Adverse Proceedings.** No suit or proceeding shall have been instituted or threatened against Seller or Buyer which, in the reasonable judgment of Seller, could enjoin, restrict, prohibit, or rescind the consummation of the transactions contemplated hereby, and the consummation of the transactions contemplated hereby shall not be in violation of any outstanding order, decree or judgment of any court or governmental body having competent jurisdiction.

4.2.3. **Accuracy of Representations and Warranties.** Each of the representations and warranties made by Buyer in this Agreement shall be true and correct on the Closing Date in all material respects, as if then made.

4.2.4. **Compliance with Agreement.** Buyer shall have performed and complied with all of the terms, conditions, and obligations under this Agreement required to be performed or complied with by Buyer on or before the Closing Date.

5. **POST-CLOSING COVENANTS OF THE PARTIES.**

5.1. **Transfer Taxes.**

5.1.1. Seller shall pay directly to the State of Washington and any other taxing authority all applicable state and local business and occupation taxes arising out of Seller's sale or payable on Seller's gross income from the sale of the Acquired Assets.

5.1.2. Buyer shall pay directly to the State of Washington and any other taxing authority all applicable state and local retail sales taxes and use taxes arising out of Buyer's purchase or Buyer's use of the Acquired Assets.

5.1.3. Any other taxes payable or assessed upon the purchase and sale of the Acquired Assets will be paid by the party customarily having liability for such tax.

5.2. **Post-Closing Transition.** Seller shall use commercially reasonable efforts to facilitate the transition of the Acquired Assets from Seller's control to Buyer's control, including by providing Buyer with contact information regarding Seller's customers, sales history regarding Seller's customers, and inventory purchase and depletion history, all in electronic format, and by, at Buyer's expense, forwarding phone numbers and electronic mail addresses to Buyer, all for a reasonable period of time following the Closing Date. Neither Seller nor any of its affiliates shall take any action that is designed or intended to have the effect of discouraging any customer, supplier, lessor, licensor, employee, independent contractor, consultant or other person associated with the Business from maintaining the same on-going relationship with the Business after the Closing Date as such person maintained prior to the Closing Date. From and after the Closing Date, Seller and its affiliates shall refer to Buyer any customer inquiries received by them relating to the Business. Further, Buyer, Seller and their affiliates shall cooperate, and shall cause their respective employees and agents to cooperate, with one another, reasonably and in good faith, in order to facilitate the other's post-closing obligations to third parties arising from the transactions contemplated in this Agreement, including, without limitation, by the sharing of books and records necessary for each party to fulfill their respective federal and state tax obligations.

5.3. **Further Assurances.** From time to time, as and when requested by any party to this Agreement and at such requesting party's expense, any other party shall execute and deliver, or cause to be executed and delivered, all such documents and instruments and shall take, or cause to be taken, all such further or other actions as the requesting party may reasonably deem necessary or desirable to evidence and effectuate the transactions contemplated by this Agreement. From time to time following the Closing Date, each Party shall: (i) immediately deliver to the other party any cash or other property that it may receive that is for the account of such other Party; and (ii) at the request of such other Party and without further consideration, execute and deliver to such other Party such other instruments of conveyance and transfer as such other Party may reasonably request or as may be otherwise necessary to more effectively consummate the transactions contemplated by this Agreement.

6. **ADDITIONAL COVENANTS AND AGREEMENTS.**

6.1. **Confidentiality.** Each Party shall treat confidentially and hold as such all confidential information of the other Party, shall not use or disclose any of the confidential information except in connection with the preparation and execution of this Agreement, and shall deliver promptly to such other Party or destroy, at the request and option of such other Party, all tangible embodiments (and all copies) of the confidential information which are in possession of the applicable Party. In the event that a Party is requested or required (by oral question or request for information or documents in any legal proceeding, interrogatory, subpoena, civil investigative demand, or similar process) to disclose any confidential information, that Party shall notify the other Party promptly of the request or requirement so that the other Party may seek an appropriate protective order or waive compliance with the provisions of this Section 6.1. If, in the absence of a protective order or the receipt of a waiver under this provision, a Party is, on the advice of counsel, compelled to disclose any confidential

information to any tribunal or else stand liable for contempt, that Party may disclose the confidential information to the tribunal; provided, however, that the disclosing Party shall use its, his or her best efforts to obtain, at the request of the other Party, an order or other assurance that confidential treatment shall be accorded to such portion of the confidential information required to be disclosed as such other Party shall designate.

6.2. **Survival.** The representations and warranties of the Parties shall survive the Closing Date and the consummation of the transactions contemplated by this Agreement (and any examination or investigation by or on behalf of any party to this Agreement) for a period of twenty four (24) months following the Closing Date; provided, that the representations and warranties contained in Section 2.1.1 (Organization and Standing), Section 2.1.2 (Power and Authority), Section 2.1.4 (Title to and Condition of Assets), and Section 2.1.19 (Brokers' Fees) shall not terminate until ninety (90) days following the expiration of any applicable statute of limitations. The covenants and agreements of the Parties shall survive the Closing Date and remain in full force and effect in accordance with their terms until fully performed. Notwithstanding the foregoing, any claims asserted in good faith with reasonable specificity (to the extent known at such time) and in writing by notice from the Party making the claim to the other Party prior to the expiration date of the applicable survival period shall not thereafter be barred by the expiration of the relevant representation or warranty and such claims shall survive until finally resolved.

6.3. **Indemnification by Seller.** From and after the Closing (but subject to the provisions of this Section 6), Seller shall indemnify the Buyer Indemnitees (as defined below) in respect of any and all losses, claims, damages, diminution in value, lost profits, obligations, liens, assessments, judgments, fines, liabilities, and other costs and expenses (including, without limitation, interest, penalties and any investigation, legal and other expenses), of any kind or nature whatsoever, incurred in connection with, and any amount paid in settlement of, any action, suit or proceeding or any claim asserted, as the same are incurred (a "**Loss**" or "**Losses**") suffered or incurred by Buyer or any of its affiliates, officers, managers, members, employees or agents (together, the "**Buyer Indemnitees**") to the extent such Loss results from or arises out of (i) a breach by Seller of a representation or warranty of Seller in Section 2.1, (ii) a breach of a covenant or agreement by Seller contained in this Agreement or the Transaction Documents, or (iii) any debt, obligation, commitment or liability of Seller, other than the Assumed Liabilities, whether arising prior to, on or after the Closing Date and whether or not disclosed to Buyer in this Agreement, including but not limited to any Excluded Liability. All payments under this Section 6.3 shall be treated by the Parties as an adjustment to the Purchase Price and may be offset by Purchaser against payments required under the Promissory Note.

6.4. **Indemnification by Buyer.** From and after the Closing (but subject to the provisions of this Section 6), Buyer shall indemnify Seller and its affiliates, officers, directors, shareholders, employees and agents against and hold them harmless from any Losses suffered or incurred by any such indemnified Party to the extent arising from or related to (a) any breach of any representation or warranty of Buyer contained in Section 2.2, (b) any breach of any covenant of Buyer contained in this Agreement, and (c) any of the Assumed Liabilities. All payments under this Section 6.4 shall be treated by the Parties as an adjustment to Purchase Price.

6.5. **Expiration of Claims.** The ability of any person or entity to receive indemnification under Section 6.3 or 6.4, shall terminate on the applicable survival termination date (as set forth in Section 6.2), unless such person or entity shall have incurred a Loss prior to

the termination date and made either a claim for indemnification pursuant to Sections 6.3 or 6.4, prior to such termination date, as applicable. If an indemnitee has made either a claim for indemnification pursuant to Section 6.3 or 6.4 prior to such termination date, then such claim for such Loss incurred (and only such claim for such Loss incurred), if then unresolved, shall not be extinguished by the passage of the deadlines set forth in Section 6.2.

6.6. Procedures Relating to Indemnification.

6.6.1. In order for a person or entity to be entitled to seek any indemnification provided for under this Agreement (the "**Claiming Party**"), in respect of a claim or demand made against the Claiming Party (a "**Third Party Claim**"), such Claiming Party must notify the indemnifying Party (the "**Defending Party**") in writing, and in reasonable detail, of the Third Party Claim as promptly as reasonably possible after receipt by such Claiming Party of notice of the Third Party Claim; provided that failure to give such notification on a timely basis shall not affect the indemnification provided under this Agreement except to the extent the Defending Party shall have been actually prejudiced as a result of such failure. Thereafter, the Claiming Party shall deliver to the Defending Party, within five (5) business days after the Claiming Party's receipt of such notification, copies of all notices and documents (including court papers) received by the Claiming Party relating to the Third Party Claim.

6.6.2. If a Third Party Claim is made against a Claiming Party, the Defending Party shall be entitled to participate in the defense of such Third Party Claim and, if it so chooses, to assume the defense of such Third Party Claim (subject to a reservation of rights) with counsel selected by the Defending Party and reasonably satisfactory to the Claiming Party. Should a Defending Party so elect to assume the defense of a Third Party Claim, the Defending Party shall not be liable to the Claiming Party for legal expenses subsequently incurred by the Claiming Party in connection with the defense of such Third Party Claim. If the Defending Party assumes such defense, the Claiming Party shall have the right to participate in the defense of such Third Party Claim and to employ counsel, at its own expense, separate from the counsel employed by the Defending Party, it being understood, however, that the Defending Party shall control such defense. The Defending Party shall be liable for the fees and expenses of counsel employed by the Claiming Party for any period during which the Defending Party has not assumed the defense of such Third Party Claim. If the Defending Party chooses to defend any Third Party Claim, then all the Parties to this Agreement shall cooperate in the defense or prosecution of such Third Party Claim, including by retaining and (upon the Defending Party's request) providing to the Defending Party all records and information which are reasonably relevant to such Third Party Claim, and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided under this Agreement. Seller shall act on behalf of all Defending Parties in the case of all Third Party Claims with respect to which Buyer is seeking indemnification from Seller under Section 6.3; provided, however, that if the Defending Party is Seller, it shall not have the right to defend or direct the defense of any such Third Party Claim that (x) is asserted directly by or on behalf of a person that is a supplier or customer of the Business, or (y) seeks an injunction or other equitable relief against the Claiming Party. Whether or not the Defending Party shall have assumed the defense of a Third Party Claim, neither the Claiming Party nor any of its affiliates shall admit any liability with respect to, or settle, compromise or discharge, any Third Party Claim without the prior written consent of the Defending Party, which shall not be unreasonably withheld, conditioned or delayed.

6.7. Mitigation. Each person or entity entitled to indemnification under this Agreement shall take commercially reasonable steps to mitigate all Losses after becoming

aware of any event which could reasonably be expected to give rise to any Losses that are indemnifiable or recoverable under this Agreement or in connection with this Agreement. Except pursuant to a settlement agreed to by the indemnifying party, the indemnified party shall not waive or release any contractual right to recover from a third party any loss subject to indemnification by this Agreement without the prior written consent of the indemnifying party. The indemnified party shall, and shall cause its affiliates to, cooperate with the indemnifying party, at the indemnifying party's expense, with respect to any such effort to pursue and collect with respect to such claim.

6.8. Determination of Loss Amount.

6.8.1. To the extent there exists any insurance policy that (i) may, in the reasonable judgment of the Claiming Party, provide coverage relating to any claim pursuant to this Section 6 and (ii) was maintained for the Business by Seller prior to the Closing or was purchased by the Claiming Party after the Closing to cover matters occurring prior to the Closing (including any tail policy obtained by Seller), following the Claiming Party's written request, the Defending Party agrees to submit (or assist the Claiming Party in submitting) such claim to the relevant carrier for coverage under such policy and reasonably cooperate to provide such documentation, information, forms and other paperwork as may be reasonably requested by such carrier in connection with its evaluation and/or defense of such claim, provided that any costs incurred by the Defending Party in connection with such claim shall be paid by the Claiming Party, including without limitation, any increase in premiums. Nothing herein shall require the Defending Party to (a) seek any payment under any such insurance policy in lieu of (or prior to) seeking indemnification under this Section 6 or (b) commence litigation to recover proceeds under any such insurance policy. Losses for breaches of representations and warranties contained in this Agreement shall be net of any insurance proceeds or third party payments realized by and paid to any party entitled to indemnification under this Agreement.

6.8.2. Should the Parties be unable to agree as to the amount of Buyer's Losses for which the Buyer Indemnitees are to be indemnified, or the amount of Seller's Losses for which Seller is to be indemnified, then either Buyer or Seller, as the case may be, may commence proceedings in Seattle, Washington, in accordance with the provisions of Section 8.5 below.

7. TERMINATION.

7.1. **Right to Termination.** This Agreement may be terminated at any time prior to the Closing Date by:

7.1.1. The mutual written consent of Buyer and Seller;

7.1.2. Either Buyer or Seller, if there has been a material breach by any of the other parties of any agreement or covenant set forth in this Agreement.

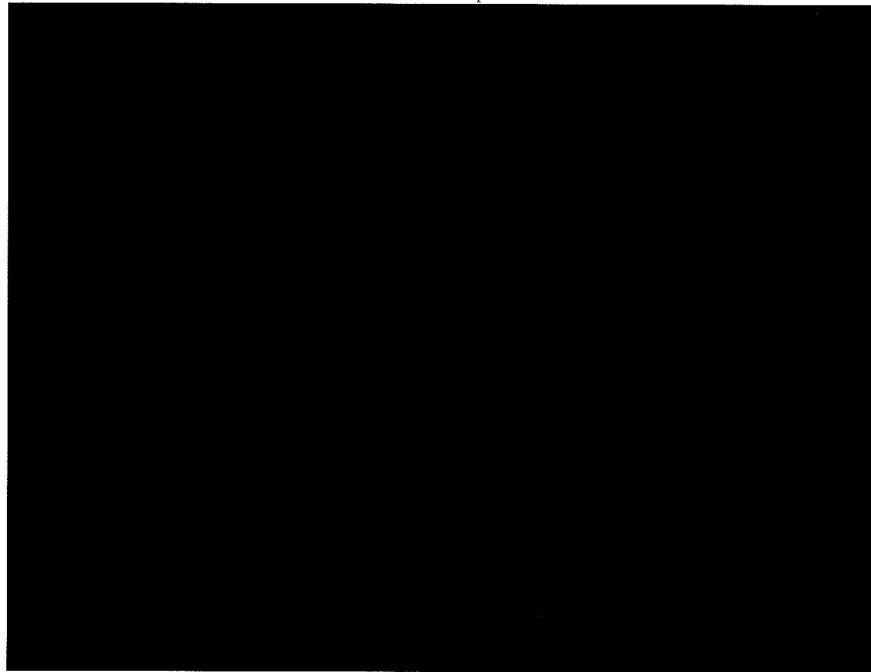
7.1.3. Either Buyer or Seller, if the Closing has not occurred by March 1, 2015; provided that, a party will not be entitled to terminate this Agreement pursuant to this subsection if its willful breach of this Agreement has prevented the consummation of the transactions contemplated hereby.

7.2. **No Other Liability on Termination.** In the event that this Agreement is terminated pursuant to this Section 7, no Party shall have any other liability to the other, except as specifically provided in this Agreement.

8. **MISCELLANEOUS.**

8.1. **Expenses.** Each party shall pay its own fees and expenses, including fees and expenses of its attorneys, accountants, consultants, and other advisors, incurred in connection with this Agreement and the transactions contemplated herein.

8.2. **Notices.** Any notice, request, certificate or instrument required or permitted under this Agreement shall be in writing and shall be deemed "given" upon personal delivery to the party to be notified or three business days after deposit with the United States Postal Service, by registered or certified mail, postage prepaid and addressed as follows:



or such other address as may be specified by either party hereto pursuant to notice given by such party in accordance with the provisions of this Section.

8.3. **Modifications and Waivers.** No change, modification, or waiver of any provision of this Agreement shall be valid or binding unless it is in writing and signed by the party intended to be bound. No waiver of any breach, term or condition of this Agreement by either party shall constitute a subsequent waiver of the same or any other breach, term, or condition.

8.4. **Assignment; Binding Effect.** Neither Seller nor Buyer may assign this Agreement, in whole or in part, whether by operation of law or otherwise, without the prior written consent of the other party hereto, and any such assignment contrary to the terms hereof shall be null and void and of no force and effect; provided, however, Buyer may (i) assign any or all of its rights and interests under this Agreement to one or more of its affiliates, (ii) assign any

or all of its rights and interests under this Agreement to one or more of its lenders or to any party acquiring all or substantially all of its assets, and (iii) designate one or more of its affiliates to perform its obligations under this Agreement (in any or all of which cases Buyer nonetheless shall remain responsible for the performance of all of its obligations under this Agreement). Subject to any provisions hereof restricting assignment, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and permitted assigns.

8.5. **Governing Law and Venue.** This Agreement shall be governed by and construed under the internal laws of the State of Washington, without regard to the conflict of laws or choice of law rules thereof. Any claim, controversy, or dispute arising out of or relating to this Agreement shall be subject to the exclusive jurisdiction of the State and federal courts located in Seattle, Washington. Each Party expressly consents to the personal jurisdiction of such court and hereby irrevocably waives any objection to venue in such courts based on forum nonconveniens or other rule or principle of law.

8.6. **Attorneys' Fees.** If any action at law, in equity, or by arbitration is taken to enforce or interpret the terms of this Agreement, the substantially prevailing party shall be entitled to reasonable attorneys' fees and expenses, costs and necessary disbursements in addition to any other relief to which such party may be entitled, including on appeal and in any bankruptcy proceeding.

8.7. **Severability.** If anyone or more provisions of this Agreement are held to be unenforceable under applicable law, such provision(s) shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provision(s) were so excluded and shall be enforceable in accordance with its terms.

8.8. **Counterparts.** This Agreement may be executed in one or more counterparts, which may be delivered by facsimile or other electronic means, and each of which shall be deemed an original.

8.9. **Entire Agreement.** This Agreement, including all Schedules and Exhibits hereto, shall constitute the entire Agreement between the parties with respect to the subject matter hereof and supersede all prior written and oral agreements, including and all term sheets or letters of intent previously executed by the parties.

8.10. **Disclosure Schedule.** The disclosure schedules (the "**Disclosure Schedules**") accompanying this Agreement shall be arranged in sections corresponding to the subsections contained in Sections 2.1 and to any other Sections of this Agreement in which the Disclosure Schedules is referenced. Items disclosed as to any one section of the Disclosure Schedules shall be deemed a disclosure as to any other section only to the extent disclosure as to any one section would reasonably put one on notice that such disclosure may apply to any other section. Nothing in the Disclosure Schedules shall be deemed adequate to disclose an exception to a representation or warranty made in this Agreement unless the Disclosure Schedules identifies the exception with particularity and describes the relevant facts in detail. Without limiting the generality of the foregoing, the mere listing (or inclusion of a copy) of a document or other item shall not be deemed adequate to disclose an exception to a representation or warranty made in this Agreement (unless the representation or warranty has to do with the existence of the document or other item itself). The Parties intend that each representation, warranty, and covenant contained in this Agreement shall have independent significance. The specification of any dollar amount or the inclusion of any item in the representations and warranties contained in this Agreement or the Disclosure Schedules is not

intended to imply that the amounts, or higher or lower amounts, or the items so included, or other items, are or are not required to be disclosed (including, without limitation, whether such amounts or items are required to be disclosed as material or threatened) or are within or outside of the ordinary course of business. If any Party has breached any representation, warranty, or covenant contained in this Agreement in any respect, the fact that there exists another representation, warranty, or covenant relating to the same subject matter (regardless of the relative levels of specificity) that the Party has not breached shall not detract from or mitigate the fact that the Party is in breach of the first representation, warranty, or covenant.

8.11. Incorporation of Exhibits and Schedules. The following documents are attached to this Agreement:

Exhibit A Form of Promissory Note
Exhibit B Form of Bill of Sale, Assignment and Assumption
Exhibit C Form of Side Agreement
Disclosure Schedules

[Signature Page Follows]

DRAFT 1/6/15

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

SELLER:

INSTRUMENTATION NORTHWEST, INC.,
a Washington corporation

By: 
Its: Gregg Gustafson
Co-President

By: 
Its: Chris Waldoff
Co-President

BUYER:

SEATTLE METRICS, INC.,
a Washington corporation

By: 
Its: Curt Burnett
Chairman of the Board

[Signature Page to Asset Purchase Agreement]

**DISCLOSURE SCHEDULES
TO
ASSET PURCHASE AGREEMENT,
BY AND BETWEEN
SEATTLE METRICS, INC. AND INSTRUMENTATION NORTHWEST, INC.,
DATED JANUARY 7, 2015**

Schedule 1.1.5

List of tangible personal property assets previously provided is incorporated herein by reference.

Schedule 1.1.7

List of permits held by the Company previously provided is incorporated herein by reference.

Schedule 1.1.10

Lease, by and between JBP Kirkland LLC and Seller, dated October 20, 2000, as amended.

Equipment Lease Agreement, by and between Wells Fargo Financial Leasing, Inc. and Seller, dated December 22, 2010.

Postal machine lease agreement.

Salesforce Contract No. 00933297.

Additionally, the list of assigned contracts previously provided is incorporated herein by reference.

Schedule 1.2.6

Earn-out payments pursuant to Section 2.2 of that certain Asset Purchase Agreement, by and between Geotech Environmental Equipment, Inc. and Seller, dated May 16, 2014.

Intellectual property related to Sampling Equipment (Real RZ, Dedicator, Happy Hose brands).

Computers used by Gregg Gustafson and Chris Waldorf in business of Seller; cell phone of Gregg Gustafson and cell phone number (206) 719-0251 used in the business of Seller.

Intellectual property covered by that certain Sale and Use License Agreement, by and between Gregg Gustafson and Christopher Waldorf, dated January 29, 2015.

Schedule 1.6

The Cash Payment shall be reduced by the outstanding balanced owed to Summit Financial Resources, L.P.

Schedule 1.9

The Purchase Price shall be allocated as follows:



Schedule 2.1.1

Seller is not qualified and is not required to be qualified in any states besides Washington and California.

Schedule 2.1.3

Lease, by and between JBP Kirkland LLC and Seller, dated October 20, 2000, as amended.

Equipment Lease Agreement, by and between Wells Fargo Financial Leasing, Inc. and Seller, dated December 22, 2010.

Postal machine lease agreement.

Schedule 2.1.4.1

UCC Filing Number 201036208389 pursuant to that certain Equipment Lease Agreement, by and between Wells Fargo Financial Leasing, Inc. and Seller, dated December 22, 2010, which grants a security interest in LANIER LD645C Copiers, Serial Numbers V9506000674 and V9506000649.

UCC Filing Number 201331212050 pursuant to that certain loan agreement, by and between Summit Financial Resources, L.P. and Seller, which grants a security interest all of the assets of the Company. The security interest held by Summit Financial Resources, L.P. shall be released at Closing, upon the payment of the outstanding indebtedness.

70003000.5

- DataSight
- Groundswell
- OMC-DOL

Schedule 2.1.10.2

None.

Schedule 2.1.10.3

Salesforce
Seveno, software for VZCOM

Schedule 2.1.10.4

None.

Schedule 2.1.13.1

List of Material Customers previously provided is incorporated herein by reference.

Schedule 2.1.13.2

List of Material Suppliers previously provided is incorporated herein by reference.

Schedule 2.1.15

The standard terms and conditions and those certain variations to such standard terms and conditions with respect to VZcom and SimTube and Simbox cellular modems previously provided are incorporated herein by reference.

Schedule 2.1.4.3

Certain inventory is obsolete, as set forth on documentation previously provided by Seller, which is incorporated herein by reference. The total asset value of such inventory is estimated to be [REDACTED]

Schedule 2.1.5

The Financial Statements previously provided are incorporated herein by reference. No further exceptions.

Schedule 2.1.6.1

Paul Eaton and Raymond Barker will exercise their options to convert outstanding indebtedness into shares upon Closing. Upon exercise, the ownership structure of Seller shall be as follows:

[REDACTED]

Schedule 2.1.6.2

None.

Schedule 2.1.6.3

None.

Schedule 2.1.6.4

Seller placed orders valued at [REDACTED] of pt2x board assemblies and assy instructions representing 924 boards with a new vendor.

Schedule 2.1.6.5

None.

Schedule 2.1.6.6

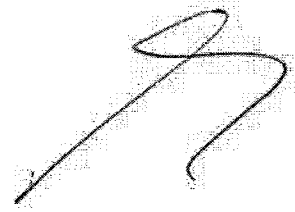
Non-exclusive use license retained by Gregg Gustafson for any Seller intellectual property for the limited purpose of manufacturing air and gas sensors.

Schedule 2.1.6.7

Moisture damage to the leased real property, caused by air conditioner.

Schedule 2.1.6.8

None.

A handwritten signature in black ink, appearing to be a stylized 'P' or 'B' with a long horizontal stroke extending to the left.

70003000.5

Schedule 2.1.6.9

None.

Schedule 2.1.6.10

None.

Schedule 2.1.6.11

None.

Schedule 2.1.6.12

Seller will pay ½ of sick leave accrued to all employees of record. All employees of Seller shall be terminated as of Closing. Paul Eaton resigned from Seller, effective January 4, 2015.

Schedule 2.1.6.13

None.

Schedule 2.1.6.14

None.

Schedule 2.1.6.15

None.

Schedule 2.1.6.16

Seller purchased pt2x boards with design modifications valued at [REDACTED] from a new vendor.

Schedule 2.1.6.17

None.

Schedule 2.1.6.18

Possible on Burge Environmental SBIR grant contract.

Schedule 2.1.6.19

None.

Schedule 2.1.6.20

None.

Schedule 2.1.7

None.

Schedule 2.1.10.1

Patents:

- Patent No. 5,490,916
- Patent No. 5,460,049
- Patent No. 5,033,297
- Patent No. 5,857,714

Trademarks:

- INSTRUMENTATION NORTHWEST, Federal Registration No. 1536200
- INW, Federal Registration No. 1551761
- ACQUISTAR, Federal Registration No. 1667452
- REEL E-Z, Federal Registration No. 3131603
- DEDICATOR
- HAPPY HOSE

Domain names:

- Inwusa.com
- Wavedata.info
- Pt2x.com
- Wavedata.us
- Wavedataau.com
- Wavedataeu.com
- Wavedataus.com
- Wavedataawireless.com
- Ct2x.com
- Inwdata.com
- Myinwdata.com

Other:

- Circuits, copyrights, source codes, and schematics related to the following circuits: 9800 circuit; PT2x circuit; CT2x circuit; Termphion circuit; PT12 circuit; T8 and TC8 circuits; T32 circuit; GDL circuit; and Compensator/Sensor manager circuit.
- T board interface circuit
- Boost board
- Mounting boards for GDL, T8, TC8 and Compensator circuits
- Wavedata 900 mHz interface circuits
- VZcom cellular cdma 1xrtt interface board and conversion to RS485/Modbus recorder
- RS485 to usb adapter
- OMC-40 Simbox and Simtube circuits
- A4plus software
- A4push software
- A4palm software
- Smart sensor firmware
- MyINWdata

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