

PATENT ASSIGNMENT COVER SHEET

Electronic Version v1.1
 Stylesheet Version v1.2

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SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT
CONVEYING PARTY DATA	
Name	Execution Date
MEDIA CADDY, LLC	06/02/2015
RECEIVING PARTY DATA	
Name:	PLUM REWARD NORTH AMERICA, LLC
Street Address:	307 GREEN STREET
City:	GAINESVILLE
State/Country:	GEORGIA
Postal Code:	30501
PROPERTY NUMBERS Total: 2	
Property Type	Number
Patent Number:	D725911
Application Number:	14049937
CORRESPONDENCE DATA	
Fax Number:	(404)521-4286
<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>	
Phone:	6784838899
Email:	gina.silverio@mqlrlaw.com
Correspondent Name:	MCCLURE, QUALEY & RODACK, LLP
Address Line 1:	3100 INTERSTATE NORTH CIRCLE
Address Line 2:	SUITE 150
Address Line 4:	ATLANTA, GEORGIA 30339
ATTORNEY DOCKET NUMBER:	250417-9010
NAME OF SUBMITTER:	DANIEL R. MCCLURE
SIGNATURE:	/Daniel R. McClure/
DATE SIGNED:	05/17/2018
Total Attachments: 9	
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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the "Agreement"), is entered into as of the 2nd day of June, 2015, by and between PLUM REWARD NORTH AMERICA, LLC, a Georgia limited liability company (the "Purchaser"), and MEDIA CADDY, LLC, a Georgia limited liability company (the "Seller").

WITNESSETH:

WHEREAS, Purchaser desires to purchase from Seller, and Seller desires to sell, transfer and deliver to Purchaser, substantially all of the assets used in Seller's business (the "Subject Business") of marketing and placing media caddy devices (each a "Media Caddy"), which display advertisements and promotions in various media formats (including, without limitation, video, audio and print media), in restaurants and other retail locations, all upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual promises, representations, warranties and covenants hereinafter set forth, the parties hereto agree as follows:

1. Purchase and Sale of Assets.

(a) Purchase and Sale of Purchased Assets. Subject to the terms and conditions of this Agreement, and on the basis of the representations and warranties hereinafter set forth, at the Closing (as hereinafter defined), Seller will sell, transfer and deliver to Purchaser, and Purchaser will purchase from Seller, the assets of Seller that are described on Exhibit "A" attached hereto (hereinafter collectively referred to as the "Purchased Assets") provided that in no event shall the Purchased Assets include any Excluded Assets (as defined below).

(b) Excluded Assets. Seller and Purchaser agree that the assets and properties of Seller relating to the Subject Business (the "Excluded Assets") that are described on Exhibit "B" attached hereto shall be retained by Seller and shall be excluded from the Purchased Assets.

REDACTED

3. Purchase Price and Related Matters.

3.1 In consideration of the sale, transfer, conveyance and delivery of the Purchased Assets, and in reliance upon the representations and warranties made herein by the Seller, the Purchaser shall pay to the Seller, the following consideration (collectively, the "Purchase Price");

X PGB

REDACTED

REDACTED

4. Closing.

4.1 Closing. The consummation of the transactions contemplated hereby (the "Closing") shall be completed on such date as the parties hereto shall agree upon (the "Closing Date"). The Closing shall take place at the offices of Smith, Gambrell & Russell, LLP, 1230 Peachtree Street, Suite 3100, Atlanta, Georgia 30309 or at such other place as the parties hereto shall agree upon. Purchaser shall pay all its fees and expenses of Closing and Seller shall pay all its fees and expenses of Closing. Items of income and expense not identified hereunder shall be prorated between the parties outside of Closing as of the Closing Date. It is agreed that any personal property taxes on the Purchased Assets will be prorated over 2015 to reflect the period of ownership by Purchaser and Seller of such Purchased Assets.

4.2 Delivery of Purchased Assets; Delivery of Documents. At the Closing, the Seller and Purchaser shall deliver a bill of sale, assignment and assumption agreement (the "Bill of Sale") in a form mutually agreed upon, and any other documents contemplated by this Agreement, and Purchaser shall deliver, or cause to be delivered, the Closing Payment portion of the Purchase Price.

5. Representations of Seller. In order to induce Purchaser to enter into this Agreement and consummate the transactions contemplated herein, Seller, to the best of its knowledge without conducting any independent review, hereby represents and warrants to the Purchaser that as of the date hereof:

5.1 Seller. Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Georgia, with all requisite power and authority to enter into this Agreement and to carry out the transactions contemplated hereby. This Agreement has been duly authorized, executed and delivered by Seller, constitutes a valid and binding obligation of Seller and is enforceable against Seller in accordance with its terms.

5.2 Purchased Assets. The assets disclosed on Exhibit "A" are all of the assets used by Seller in the operation of the Subject Business. Seller possesses good and marketable title to all of the Purchased Assets, free and clear of any and all liens, claims, security interests, encumbrances, charges or interests of others. Seller represents that there are no leases, contracts, agreements or commitments by which any of the Purchased Assets are bound or affected, other than as set forth on Schedule 5.2 attached hereto.

5.3 Payroll, Sales and Other Taxes. Seller has complied with its obligations to withhold and pay all applicable sales taxes, payroll taxes and other taxes with respect to Seller's operation of the Subject Business prior to the Closing.

5.4 Intellectual Property. Seller owns and possesses all intellectual property rights necessary for the operation of the Subject Business as presently conducted. Schedule 5.4 sets forth all

intellectual property rights owned by Seller or used by Seller (the "Seller IP") in the operation of the Subject Business, including, without limitation, the patents and patent applications set forth on Schedule 5.4 (the "Caddy Patents"). The Caddy patents have been properly assigned to the Seller. To Seller's knowledge, the Seller IP does not interfere with, infringe upon, misappropriate, or otherwise come into conflict with any intellectual property or other proprietary rights of any third party, and Seller has not ever received any claim alleging any such interference, infringement, misappropriation, or violation. To the best of Seller's knowledge, no third party has interfered with, infringed upon, misappropriated, or otherwise come into conflict with any Seller IP.

6. Representations of Purchaser. In order to induce Purchaser to enter into this Agreement and consummate the transactions contemplated herein, Purchaser represents and warrants to the Seller that as of the date hereof:

6.1 Purchaser. Purchaser is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Georgia, with all requisite power and authority to enter into this Agreement and to carry out the transactions contemplated hereby. This Agreement has been duly authorized, executed and delivered by Purchaser, and each constitutes the valid and binding obligation of Purchaser and is enforceable against Purchaser in accordance with their respective terms.

7. Conditions Precedent to Obligations of the Purchaser and Seller. The obligations of the Purchaser and Seller to proceed with the transactions contemplated hereunder to be consummated at the Closing are subject to the fulfillment of each and all of the following conditions at or prior to the Closing Date:

7.1 All representations and warranties of each party contained in this Agreement shall be true and correct on and as of the Closing Date, and all covenants, agreements and obligations required by the terms of this Agreement to be performed by the Seller at or before the Closing Date shall have been fully performed when due.

7.2 The Seller and Purchaser shall have executed and delivered, or caused to be executed and delivered, to the other the following documents and agreements:

(a) The Purchaser shall have formed a to-be-named Georgia limited liability company ("Newco"), through which the Media Caddy business will be operated;

(b) Seller shall have been issued equity interests in Newco equal to five percent (5%) of the then outstanding equity interests in such company;

(c) The Bill of Sale; and

(d) Seller and Paul Byrd ("Byrd") shall each deliver to Purchaser a restrictive covenants agreement (the "Covenants Agreement"), in such form as is acceptable to Purchaser, that restricts the Seller and Byrd from engaging in any business that is competitive with the Subject Business for a period of five (5) years after the Closing.

7.3 Purchaser shall have completed its due diligence review of the Subject Business and the Purchased Assets, which review shall in form and substance be satisfactory to Purchaser in Purchaser's sole discretion. Seller and Byrd shall reasonably assist and cooperate with Purchaser in connection with such review, including making appropriate business, financial and other records and information concerning the Subject Business and Purchased Assets available to Purchaser upon his request.

8. Indemnification.

REDACTED

8.2 By Purchaser. Effective as of the Closing, Purchaser shall hold and save harmless Seller from and against all obligations, claims, actions, or causes of action, losses, damages and attorneys' fees, that may arise from or grow out of (i) Purchaser's operation of the Subject Business and ownership of the Purchased Assets for periods following the Closing, whether directly or indirectly, (ii) the Assumed Liabilities, and (iii) Purchaser's breach of any of its representations, warranties or covenants under this Agreement.

8.3 Survival of Representations and Warranties. All representations, warranties, covenants, and agreements of the parties contained in this Agreement or in any instrument, certificate, opinion, or other writing provided for herein shall survive the Closing.

9. Change of Name. Within five (5) days of the Closing Date, Seller shall at its expense change its legal name from "Media Caddy, LLC" to another name that contains neither the word "Media" nor the word "Caddy" by filing an appropriate amendment to its Articles of Incorporation with the Georgia Secretary of State and, promptly after such filing, Seller shall provide written evidence of such filing to Purchaser.

10. Notices. Any notice, communication, request, approval or consent that may be given or that is required to be given under the terms of this Agreement shall be in writing, and shall be sent by certified mail, return receipt requested as follows: (i) in the case of notice to the Purchaser, to the address of the Purchaser set forth below Purchaser's name on the signature page of this Agreement, and (ii) in the case of notice to Seller to the address set forth below Seller's name on the signature page of this Agreement. Either party may change such party's address for notices hereunder by giving notice of such change in accordance with the foregoing.

11. Governing Law; Venue. This Agreement shall be governed in its enforcement, construction and interpretation by the laws of the State of Georgia. The parties agree that venue shall be in Fulton County, Georgia, and the parties waive all rights they may have to require venue in any other location.

12. Invalidity of Provisions. The unenforceability, for any reason, of any term, condition, covenant or provision of this Agreement shall neither limit nor impair the operation, validity or enforceability of any other term, condition, provision or covenant of the Agreement.

13. Attorneys' Fees and Costs. In the event of any litigation between the parties arising out of or relating to the enforcement or interpretation of this Agreement, the prevailing party shall be entitled to recover all costs incurred and reasonable attorneys' fees, including attorneys' fees in all investigations, mediations, arbitrations, trials, bankruptcies and appeals.

14. Waiver. The failure of any party to this Agreement to claim or raise a default by another party of any provision hereunder shall not constitute a waiver of the right of that party to

claim or raise a subsequent default of the same provision, or to require exact compliance with the terms of this Agreement. Any term or condition of this Agreement may be waived at any time by the party which is entitled to the benefit thereof, but such waiver shall only be effective if evidenced by a writing signed by such party.

15. Entire Agreement. The documents executed by the parties simultaneously herewith at Closing and this Agreement constitute the entire agreement of the parties hereto with respect to the transactions contemplated herein and may not be amended or modified except in a writing signed by all parties. All prior understandings and agreements between the parties hereto or any affiliated person affiliated with the parties hereto with respect to the transactions contemplated herein are merged in this Agreement and the other related documents executed at Closing, which together fully and completely express the parties' understanding with respect to the purchase of the Purchased Assets.

16. Assignment and Successors. This Agreement may not be assigned by either party hereto without the prior written consent of the other party, except that Purchaser may assign its rights and obligations under this Agreement to Newco, once Newco has been formed. This Agreement shall be binding on and shall inure to the benefit of the parties hereto and their respective legal representatives and permitted successors and assigns.

17. Construction. Should any provision of this Agreement require judicial or arbitral interpretation, it is agreed that the court or arbitrator interpreting or construing the same shall not apply a presumption that the terms of any such provision shall be more strictly construed against any party by reason of the general rule of construction that a document is to be construed most strictly against the party who itself or through its agent prepared the same, it being agreed that all parties hereto or their respective agents have participated in the preparation of this Agreement.

18. Further Assurances. From time to time after the Closing, Seller, at Purchaser's request and without further consideration from Purchaser, agrees to execute and deliver or to cause to be executed and delivered such other instruments of transfer as Purchaser may reasonably request to transfer to Purchaser more effectively the right, title and interest in or to the Purchased Assets and to take or cause to be taken such further or other action as may reasonably be necessary or appropriate in order to effectuate the transactions contemplated by this Agreement.

19. Termination. This Agreement may be terminated prior to the Closing as follows:

- (a) By mutual written agreement between Purchaser and Seller;
- (b) By Purchaser, upon a breach by Seller that has not been cured within 14 days after written notice by Purchaser of such breach;
- (c) By Seller, upon a breach by Purchaser that has not been cured within 14 days after written notice by Seller of such breach; or
- (d) By either party, if the Closing has not occurred on or before the date that is 60 days after the date of this Agreement; provided that a party that has intentionally and in bad faith prevented such Closing from occurring shall not be entitled to terminate this Agreement under this Section 19(d).

20. **Counterparts.** This Agreement may be executed in any number of counterparts (and by electronic means, including by exchange of signature page(s) by PDF), each of which shall be deemed an original, and all of which shall constitute, as to the particular Agreement or document, one and the same instrument, and it shall not be necessary in making proof of this Agreement or any of the other documents delivered in connection herewith to account for more than one of such counterparts.

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

SELLER:

MEDIA CADDY, LLC

By: 

Paul Byrd, Operating Manager

Address:

910 FOXHOLLOW RUN
MILTON, GA. 30004

PURCHASER:

PLUM REWARD NORTH AMERICA, LLC

By: BORDERLESS HOLDINGS, LLC, its Manager

By: 

William Carter, its President and Manager

Address:

307 Green Street
Gainesville, GA 30508

EXHIBIT "A"

PURCHASED ASSETS

All of the following assets and property rights of the Seller used at the Premises in connection with the Subject Business shall be "Purchased Assets":

- a. Except for any Excluded Assets, all of Seller's right, title and interest in any personal property, equipment, office supplies, marketing materials, furniture and fixtures that are used in the Subject Business.
- b. All of Seller's right, title and interest in and to the Seller IP, which consists of the following:
 - The Caddy Patents
 - The software used to operate the Media Caddy device
 - The name and mark "Media Caddy"
- c. All inventory consisting of completed Media Caddies and all spare parts and components.
- d. All customer lists, mailing lists, records and supplier/vendor lists of Seller that relate exclusively to the Subject Business as operated at the Premises.
- e. [Describe other assets]

EXHIBIT "B"

EXCLUDED ASSETS

All of the following assets and property rights of the Seller used at the Premises in connection with the Subject Business shall be "Excluded Assets":

- a. Accounts receivable.
- b. Utility and security deposits, except to the extent the amounts thereof are reimbursed to Seller at Closing.
- c. All cash and cash equivalents on hand.
- d. Seller's contracts of insurance, and Seller's employee benefit agreements, plans, arrangements and policies, and any assets related thereto.

EXHIBIT "C"

ASSUMED LIABILITIES

None.
Schedule 5.4

Intellectual Property of Seller

The Seller owns the following intellectual property:

- (a) The following patents and patent applications:

(i) U.S. Design Patent D725,911, issued April 7, 2015, entitled "Caddie Apparatus with Integrated Display"

(ii) U.S. Utility Patent Application 14/049,937, published April 10, 2014 (publication number US 20140100928 A1), entitled "Caddies and Caddy Systems with Display Capabilities"

- (b) The name and mark "Media Caddy"