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U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

Tab settings

100876057

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):
Dynatech Tactical Communications, Inc.
Dynatech Corporation

- Individual(s)
- General Partnership
- Corporation-State
- Other
- Association
- Limited Partnership

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance:
- Assignment
 - Security Agreement
 - Other Asset Purchase and Sale Agreement
 - Merger
 - Change of Name

Execution Date: January 6, 1997

2. Name and address of receiving party(ies)
Name: DTC Communications, Inc.

Internal Address: _____
Street Address: 75 Northeastern Boulevard
City: Nashua State: NH ZIP: 03062

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State
- Other

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No
(Designations must be a separate document from assignment)
Additional name(s) & address(es) attached? Yes No

4. Application number(s) or patent number(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

1,767,313
2,069,192

Additional numbers attached? Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: John F. McKenna, Esq.
Internal Address: CEBARI AND MCKENNA, LLP

11/09/1998 JSMBQZZ 00000013 1767313
FC:481 40.00 OP
FC:482 25.00 OP
FC:998 15.00 OP

Street Address: 30 Rowes Wharf
City: Boston State: MA ZIP: 02110

6. Total number of applications and registrations involved: 2

7. Total fee (37 CFR 3.41).....\$ 80.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number: _____
(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.
To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

John F. McKenna (20,912)
Name of Person Signing

[Signature]
Signature

10-26-98
Date

Total number of pages including cover sheet, attachments, and document: 22

ASSET PURCHASE AGREEMENT

AGREEMENT entered into as of January 6, 1997 by and among DTC Communications, Inc., a New Hampshire corporation ("Buyer"), Dynatech Tactical Communications, Inc., a Massachusetts corporation ("Tactical"), and Dynatech Corporation, a Massachusetts corporation ("Dynatech"), of which Tactical is an indirect wholly owned subsidiary. Tactical is sometimes hereinafter referred to as the "Seller".

W I T N E S S E T H

WHEREAS, the Seller is engaged in the business of manufacturing specialized voice, data, video and audio transmission devices for the government law enforcement security/surveillance ("GSS") and commercial markets (the "Business").

WHEREAS, subject to the terms and conditions hereof, Seller desires to sell the Business and substantially all of its properties and assets; and

WHEREAS, subject to the terms and conditions hereof, Buyer desires to purchase said properties and assets of Seller for the consideration specified herein and the assumption by Buyer of certain liabilities and obligations of Seller;

NOW, THEREFORE, in order to consummate said purchase and sale and in consideration of the mutual agreements set forth herein, the parties hereto agree as follows:

SECTION 1. PURCHASE AND SALE OF ASSETS.

1.1 Sale of Assets. Subject to the provisions of this Agreement, Seller agrees to sell and Buyer agrees to purchase, at the Closing (as defined in Section 1.5 hereof), all of the properties, assets and rights of Seller of every kind and description, tangible and intangible, real, personal or mixed, and wherever located, owned by Seller as of the Closing Date which are used by Seller in the conduct of the Business other than the Excluded Assets (as defined in Section 1.2 below), including, without limitation:

- (a) All of Seller's tangible assets listed in Schedule 1.1(a) of the Disclosure Schedule;
- (b) All of Seller's inventories listed in Schedule 1.1(b) of the Disclosure Schedule;
- (c) All of the contracts and agreements to which Seller is a party listed in Schedule 1.1(c) of the Disclosure Schedule except for the

Excluded Contractual Obligations defined in and set forth on Schedule 1.3 of the Disclosure Schedule;

- (d) All of Seller's patents, trademarks, trade names, service marks, copyrights, trade secrets, licenses, data, designs, drawings, specifications, permits (to the extent transferable), other intellectual property, other documents related thereto and all applications therefor listed on Schedule 1.1(d) of the Disclosure Schedule; and
- (e) All of Seller's accounts receivable listed on Schedule 1.1(e) of the Disclosure Schedule.

The assets, property and rights of Seller to be sold to and purchased by Buyer under this Agreement are hereinafter sometimes referred to as the "Subject Assets."

1.2 Excluded Assets. Notwithstanding anything in this Agreement to the contrary, there shall be excluded from the Subject Assets those assets listed on Section 1.2 of the Disclosure Schedule and the following property:

- (a) Assets and property disposed of since the date hereof in the ordinary course of business and such other assets as have been or are disposed of pursuant to this Agreement;
- (b) Seller's corporate seals, corporate franchise, Articles of Incorporation (or comparable charter document) ("Charter"), By-laws, stock record books, corporate record books containing minutes of meetings of directors and stockholders and such other records as have to do exclusively with Seller's organization or stock capitalization (collectively, the "Corporate Records"); and
- (c) All rights in and to the name "Dynatech" except that Buyer shall have a limited license to use the name "Dynatech" for a period of nine (9) months following the Closing Date solely in connection with the consumption of all marketing, sales and communications materials in Seller's inventory in existence at the time of Closing.

The assets, property and rights of Seller to be excluded from the sale to Buyer shall be referred to as the "Excluded Assets."

1.3 Assumption of Liabilities. Upon the sale and purchase of the Subject Assets, Buyer shall assume and agree to pay or to discharge when due in accordance with their respective terms, whenever arising, the liabilities set forth on the Balance Sheet to be prepared and dated within 3 business days of Closing and which shall be agreed upon by Buyer and Seller (the "Closing Balance Sheet"); warranty obligations of the Seller; and executory contractual commitments of the Seller existing at the

Closing (except as set forth on Schedule 1.3 of the Disclosure Schedule) (the "Excluded Contractual Obligations"). Buyer shall assume no other liabilities. Without limiting the generality of the foregoing, Buyer specifically excludes and does not assume the following liabilities or obligations:

- (a) Excluded Contractual Obligations as set forth in Schedule 1.3 of the Disclosure Schedule;
- (b) Liabilities incurred by Seller in connection with this Agreement and the transactions provided for herein, including, without limitation, counsel and accountants' fees, and expenses pertaining to the performance by Seller of its obligations hereunder;
- (c) Income taxes, excise taxes, sales taxes, use taxes, employment and payroll related taxes and withholding taxes (hereinafter, "Taxes") of Seller, whether relating to periods before or after the transactions contemplated in this Agreement or incurred by Seller in connection with this Agreement and the transactions provided for herein, including any liability for Taxes arising out of the inclusion of Seller in any group filing consolidated, combined or unitary tax returns or arising out of any transferee liability; and
- (d) Accrued wages and benefits for employees terminated prior to Closing.

The liabilities to be assumed by Buyer under this Agreement are hereinafter sometimes referred to as the "Liabilities" and the liabilities which are not assumed by Buyer under this Agreement are hereinafter sometimes referred to as the "Excluded Liabilities." The assumption of said Liabilities by any party hereunder shall not enlarge any rights of third parties under contracts or arrangements with Buyer or Seller and nothing herein shall prevent any party from contesting in good faith with any third party any of said Liabilities.

1.4 Purchase Price and Payment. In consideration of the sale by Seller to Buyer of the Subject Assets, subject to the assumption by Buyer of the Liabilities and the satisfaction of all of the conditions contained herein, Buyer agrees that at the Closing it will deliver to an account or accounts designated in writing by Dynatech a bank cashier's check(s) or wire transfer(s) of immediately available funds in the amount of One Million Seven Hundred Thousand Dollars (\$1,700,000) (the "Purchase Price"). All parties to this Agreement agree that the Purchase Price allocation shall be as set forth on Schedule 1.4 of the Disclosure Schedule.

1.5 Time and Place of Closing. The closing of the purchase and sale provided for in this Agreement (herein called the "Closing") shall be held at the offices of Hale and Dorr, 60 State Street, Boston, Massachusetts on January 6, 1997, at 10:00 a.m. or at such other place or later date or time as may be fixed by mutual agreement of Buyer and Seller (the "Closing Date").

1.6 Delivery of Agreement of Assumption of Liabilities. At the Closing, Buyer shall deliver or cause to be delivered to Seller an Instrument of Assumption by Buyer in substantially the form of Exhibit 1.6 hereto.

1.7 Transfer of Subject Assets. At the Closing, Seller shall deliver or cause to be delivered to Buyer good and sufficient instruments of transfer transferring to Buyer title to all the Subject Assets. Such instruments of transfer (a) shall be in the form and will contain provisions not inconsistent with the provisions hereof which are usual and customary for transferring the type of property involved under the laws of the jurisdictions applicable to such transfers, (b) shall be in form and substance reasonably satisfactory to Buyer and its counsel, and (c) shall effectively vest in Buyer title to all the Subject Assets free and clear of all liens, restrictions and encumbrances other than the Liabilities.

1.8 Delivery of Records and Contracts; Further Assurances; Access.

(a) At the time of the Closing, subject to subsection (b) below, Seller shall deliver or cause to be delivered to Buyer all of Seller's leases, contracts, commitments, agreements and rights which are included in the Subject Assets, with such assignments thereof and consents to assignments as are necessary to assure Buyer of the full benefit of the same. Seller shall also deliver to Buyer at the time of the Closing all of Seller's business records, books and other data relating to its assets, business and operations (except corporate records and other property of Seller excluded under Section 1.2(b)), and Seller shall take all requisite steps to put Buyer in actual possession and operating control of the assets of Seller. For a period of six (6) years after Closing, or such longer period as may be reasonably requested by Dynatech, and for purposes relating to tax, financial or legal compliance or inquiries or litigation, upon written request of Dynatech, Buyer or any successor thereto shall make or cause to be made available to Dynatech, as the case may be, (i) all books and records included in the Subject Assets that are needed by Seller or any successors or assigns and permit Dynatech and its agents to inspect and copy such books and records and (ii) assistance in arranging discussions with officers, employees and agents of Buyer and its parent or affiliate companies on matters which relate to the Business as previously conducted by Seller and the same as continued by Buyer, provided that all such inspection or assistance shall be at reasonable times as may be mutually agreed upon by Buyer and Dynatech and shall be at Dynatech's sole cost and expense and Dynatech agrees not to disclose information gained from such inspection or assistance to any party not related to the tax, financial or legal compliance or litigation purpose for which such information was requested.

(b) If an attempted sale, conveyance, assignment, transfer or delivery of any contracts, claims, leases, commitments, franchises, privileges, permits, consents, certificates, licenses or any other assets, rights or benefits to be sold, conveyed, assigned, transferred and delivered to Buyer which are included in the Subject Assets (collectively, the "Rights") would be ineffective without the consent of any other person, and such consent has not been obtained on or before the Closing

Date, this Agreement shall not constitute an assignment or an attempted assignment of such Right if such assignment or attempted assignment would constitute a breach thereof or be unlawful. In such case, Seller shall use commercially reasonable efforts to obtain, as soon as practicable, the consent of each such or other person in all cases in which such consent is required, and Seller and Buyer will cooperate in any reasonable arrangement designed to enable Seller to perform its obligation hereunder, and to provide for the assumption by Buyer of the benefits, risks and burdens of any such agreement.

(c) Seller from time to time after the Closing at the request of Buyer and without further consideration shall execute and deliver further instruments of transfer and assignment and take such other action as Buyer may reasonably require to more effectively transfer and assign to, and vest in, Buyer each of the Subject Assets.

1.9 Sales and Transfer Taxes. Notwithstanding any other provision of this Agreement, all sales and transfer taxes, fees and duties under applicable law incurred in connection with this Agreement or the transactions contemplated thereby will be borne and paid by Buyer, and Buyer shall promptly reimburse Seller for the payment of any such tax, fee or duty which Seller is required to make under applicable law.

1.10 Apportionment. Prepaid premiums on insurance if assigned as herein provided, water and sewer use charges, transfer taxes and recording fees, if any, incurred in connection with the transfer of the Subject Assets contemplated hereby, and real property taxes for the then current tax period, shall be apportioned and adjusted as of the Closing Date and the net amount thereof shall be added to or deducted from, as the case may be, the Purchase Price.

SECTION 2. REPRESENTATIONS AND WARRANTIES OF SELLER.

Seller hereby represents and warrants to Buyer, and Dynatech hereby represents and warrants to Buyer solely with respect to Section 2.6 hereof, that except as set forth in the Disclosure Schedule:

2.1 Organization and Qualification of Seller. Seller is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Massachusetts with full corporate power and authority to own or lease its properties and to conduct its business in the manner and in the places where such properties are owned or leased or such business is currently conducted. The copies of Seller's Charter as amended to date, certified by the Secretary of State or comparable authority of Seller's jurisdiction of incorporation, and of Seller's bylaws, as amended to date, certified by Seller's Secretary, and heretofore delivered to Buyer's counsel, are complete and correct, and no amendments thereto are pending. Other than the State of New Hampshire, in which Seller is duly qualified and in good

standing, Seller is not required to be licensed or qualified to conduct its business or own its property in any other jurisdiction.

2.2 Subsidiaries. Seller has no subsidiaries except as set forth in Section 2.2 of the Disclosure Schedule. Seller does not own or have any interest in any corporation, partnership or joint venture except as set forth in Section 2.2 of the Disclosure Schedule.

2.3 Ownership of Capital Stock of Seller. The beneficial and record owner of all of the issued and outstanding shares of Seller is Dynatech USA, Inc., a wholly-owned subsidiary of Dynatech.

2.4 Authority of Seller. Seller has all necessary authority and power to enter into this Agreement and to carry out the transactions contemplated hereby. The execution, delivery and performance by Seller of this Agreement and the consummation by Seller of the transactions contemplated hereby have been duly authorized by all necessary corporate action of Seller, and no other action on the part of Seller is required in connection therewith. This Agreement constitutes, or when executed and delivered will constitute, the valid and binding obligation of Seller, enforceable against Seller in accordance with its terms. The execution, delivery and performance by Seller of this Agreement does not, and the performance by Seller of the transactions contemplated hereby, will not:

(i) violate any provision of the Charter or By-laws of Seller;

(ii) violate any laws of the United States, or any state or other jurisdiction applicable to Seller or require Seller to obtain any approval, consent or waiver of, or make any filing with, any person or entity (governmental or otherwise) that has not been obtained or made; or

(iii) result in a violation or any breach of or constitute a default (or an event which with notice or lapse of time or both would become a default) under any material note, bond, mortgage, indenture, contract, agreement, lease, license, permit, franchise or other instrument or obligation to which Seller is a party, except for any such violations, breaches, defaults or other occurrences which would not prevent or delay in any material respect Seller from performing its obligations under this Agreement.

2.5 Broker's Fee. Neither Seller nor Dynatech has incurred or become liable for any broker's commission or finder's fee relating to or in connection with the transactions contemplated by this Agreement, except for amounts payable to The Bridgeford Group which shall be paid by Seller and/or Dynatech.

2.6 Financial Statements. Buyer has received the following financial statements, copies of which are attached hereto as a part of Section 2.6 of the Disclosure Schedule:

(i) unaudited income statement of Seller for the eight months ended November 30, 1996 ("Financial Statements"); and

(ii) an unaudited balance sheet of Seller as of November 30, 1996 (the "Base Balance Sheet").

2.7 Title to Subject Assets. Seller is the lawful owner of, has good and valid record and marketable title to, and has the full right to sell, convey, transfer, assign and deliver the Subject Assets, without any restrictions of any kind whatsoever. Except for mortgages and other liens described on Schedule 2.7 of the Disclosure Schedule, all of the Subject Assets are entirely free and clear of any security interests, liens, claims, charges, options, mortgages, debts, leases (or subleases), conditional sales agreements, title retention agreements, encumbrances of any kind (collectively, "Encumbrances"), and there are no filings in any registry of deeds in any jurisdiction or under the Uniform Commercial Code or similar statute in any jurisdiction showing the Seller as debtor which create or perfect or which purport to create or perfect any Encumbrance in or on any of the Subject Assets. At and as of the Closing, the Seller will convey the Subject Assets to the Buyer by deeds, bills of sale, certificates of title and instruments of assignment and transfer effective to vest in the Buyer, and the Buyer will have, good and valid record and marketable title to all of the Subject Assets, free and clear of all Encumbrances except as described on Schedule 2.7 of the Disclosure Schedule.

2.8 Consents and Approvals. Except as set forth in Section 2.8 of the Disclosure Schedule, the execution and delivery of this Agreement by Seller do not, and the performance of the transactions contemplated by this Agreement by Seller will not, require any filing with or notification to, or any consent, approval, authorization or permit from, any governmental or regulatory authority or any other person except where failure to obtain such consents, approvals, authorizations or permits, or to make such filings or notifications, (i) would not prevent or delay in any material respect consummation of the transactions contemplated by this Agreement, (ii) would not otherwise prevent or delay Seller from performing its obligations under this Agreement in any material respect and (iii) would not have a material adverse effect.

2.9 Disclaimer. EXCEPT SPECIFICALLY AS SET FORTH IN THIS SECTION 2, THE SUBJECT ASSETS ARE BEING SOLD ON AN "AS IS, WHERE IS" BASIS, WITH ALL FAULTS AND EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS SECTION 2, SELLER DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE.

Buyer acknowledges and agrees that Buyer and/or its affiliates have substantial knowledge of and familiarity with the Subject Assets and the operation of

Seller's business and accordingly, Seller and Dynatech make no representations or warranties other than as set forth in this Section 2.

SECTION 3. INTENTIONALLY OMITTED.

SECTION 4. REPRESENTATIONS AND WARRANTIES OF BUYER.

Buyer hereby represents and warrants to Seller and Dynatech as follows:

4.1 Organization. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of New Hampshire with full corporate power and authority to own or lease its properties and to conduct its business in the manner and in the places where such properties are owned or leased or such business is currently conducted.

4.2 Authority of Buyer. Buyer has all necessary authority and power to enter into this Agreement and to carry out the transactions contemplated hereby. The execution, delivery and performance by Buyer of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action of Buyer and no other action on the part of Buyer is required in connection therewith. The consent of Buyer's stockholders is not required in connection with the execution, delivery and performance by Buyer of this Agreement or the consummation of the transactions contemplated hereby. This Agreement constitutes, or when executed and delivered will constitute, the valid and binding obligation of Buyer, enforceable in accordance with its terms. The execution, delivery and performance by Buyer of this Agreement do not, and the performance by Buyer of the transactions contemplated hereby will not:

- (i) violate any provision of the Articles of Incorporation or by-laws of Buyer;
- (ii) violate any laws of the United States, or any state or other jurisdiction applicable to Buyer or require Buyer to obtain any approval, consent or waiver of, or make any filing with, any person or entity (governmental or otherwise) that has not been obtained or made; or
- (iii) result in a violation or any breach of or constitute a default (or an event which with notice or lapse of time or both would become a default) under any material note, bond, mortgage, indenture, contract, agreement, lease, license, permit, franchise or other instrument or obligation to which Buyer is a party, except for any such, violations, breaches, defaults or other occurrences which would not prevent or delay in any material respect Buyer from performing its obligations under this Agreement.

4.3 Sufficient Funds. Buyer has and will have funds sufficient to satisfy the sums due at Closing as set forth in this Agreement and to perform and discharge the Liabilities.

4.4 No Knowledge of Breach. Buyer has reviewed the representations and warranties made by Seller and Dynatech as well as the Exhibits relating thereto and has no Knowledge of any misrepresentations or omissions relating thereto. As used herein, "Knowledge" shall mean the actual knowledge of David W. Hargreaves, Ronald P. Young or Matthew W. Pierson.

SECTION 5. INTENTIONALLY OMITTED.

SECTION 6. CONDITIONS.

6.1 Conditions to Obligations of Buyer. The obligation of Buyer to consummate this Agreement and the transactions contemplated hereby are subject to the fulfillment, prior to or at the Closing, of the following conditions:

(a) Representations; Warranties; Covenants. Each of the representations and warranties of Seller contained in Section 2 shall be true and correct in all material respects; and Seller shall, on or before the Closing, have performed in all material respects all of its obligations hereunder which by the terms hereof are to be performed on or before the Closing.

(b) No Material Change. There shall have been no material adverse change in the financial condition, properties, assets, liabilities, business or operations of Seller since November 30, 1996, whether or not in the ordinary course of business.

(c) President's Certificate. Seller shall have delivered to Buyer a certificate of Seller's President to the effect that the statements set forth in paragraph (a) and (b) above in this Section 6.1 are true and correct with respect to Seller.

6.2 Conditions to Obligations of Seller. Seller's obligation to consummate this Agreement and the transactions contemplated hereby is subject to the fulfillment, prior to or at the Closing, of the following conditions:

(a) Representations; Warranties; Covenants. Each of the representations and warranties of Buyer contained in Section 4 shall be true and correct in all material respects; and Buyer shall, on or before the Closing, have performed in all material respects all of its obligations hereunder which by the terms hereof are to be performed on or before the Closing.

(b) President's Certificate. Buyer shall have delivered to Seller a certificate of Buyer's President to the effect that the statements set forth in paragraph (a) above in this Section 6.2 are true and correct.

SECTION 7. EMPLOYEES AND POST-CLOSING MATTERS

7.1 Employment of Employees; Benefits. At or prior to the Closing, Buyer shall offer employment as of the Closing Date to the currently active employees of Seller listed on Exhibit 7.1 hereto. Exhibit 7.1 shall also set forth each such employee's salary level, years of uninterrupted employment and years of service for benefit plan purposes. Buyer shall offer employment to each such employee at the same or greater cash compensation as that provided by Seller to such employee immediately prior to the Closing Date. Effective as of the Closing Date, Buyer shall cause each employee who accepts such offer of employment (the "Transferred Employees") to be provided with compensation and benefits on a basis substantially equivalent in scope to benefits reasonably available to a business of Seller's size employing the number of employees listed on Exhibit 7.1 hereto with respect to similarly situated employees of Buyer. For purposes of all such benefits, Buyer shall, to the extent applicable, recognize each Transferred Employee's years of service and level of seniority with Dynatech or any of its subsidiaries. Buyer shall have a period within which to effectuate the transfer of the Transferred Employees from the benefit plans administered by Seller and/or Dynatech to benefit plans to be established by Buyer, which period shall be targeted to be ninety (90) days from the Closing Date and may extend to a maximum of one hundred and twenty (120) days from the Closing Date. If the employment of any Transferred Employee is terminated by Buyer during the one-year period after the Closing, other than terminations as a result of the voluntary resignation of any such Transferred Employee or a termination for cause which relieves Buyer, Seller, Dynatech and their respective affiliates from any obligation to provide salary continuation benefits, Buyer shall provide to such terminated Transferred Employee salary continuation benefits for a minimum of (i) two weeks plus an additional week for each full year of uninterrupted employment after the first full year of uninterrupted employment if such Transferred Employee is not, at the Closing Date or upon termination, a salaried employee or (ii) four weeks plus an additional week for each full year of uninterrupted employment after the first full year of uninterrupted employment if such Transferred Employee is, at the Closing Date or upon termination, a salaried employee.

7.2 Lease of Premises. At the Closing, Dynatech and Buyer shall execute a Sublease Agreement in the form attached hereto as Exhibit 7.2 with respect to the real property leased by Dynatech relating to the Business (the "Leased Premises").

7.3 Relocation. Prior to September 30, 1997, neither Dynatech nor any of its affiliates shall require Buyer to move, transfer or otherwise relocate any of the Subject Assets from the Leased Premises or to cease conducting Buyer's operations as they relate to the use of the Subject Assets at the Leased Premises.

7.4 Replacement Property. Promptly after the Closing, Seller shall deliver to Buyer such fixtures, equipment and furniture (including, without limitation, the PBX system, network switch, network interface software, Symix interface software, network mail software, office partitions, furniture) (collectively, the "Replacement Property") utilized by Seller in the conduct of the Business immediately prior to the Closing Date that are included in the definition of Subject Assets, but to which Seller does not have legal title. Such Replacement Property shall be at least of such quality and condition as the fixtures, equipment and furniture being replaced.

7.5 Construction. Dynatech or its assigns agree to complete in a timely manner the renovation to the facility located at 77 Northeastern Boulevard, Nashua, New Hampshire, which renovations shall be agreed upon by Buyer, Seller, Dynatech, GN Netcom/Unex Inc., Darcom Technologies, Inc. and Zacharias Mandravelis, as Trustee, prior to such time as the renovations are undertaken.

SECTION 8. TERMINATION OF AGREEMENT.

8.1 Termination. At any time prior to the Closing, this Agreement may be terminated as follows:

(i) by mutual written consent of Buyer and Seller;

(ii) by Buyer, pursuant to written notice by Buyer to Seller, if any of the conditions set forth in Section 6.1 of this Agreement have not been satisfied at or prior to the Closing, such written notice to set forth such conditions which have not been so satisfied;

(iii) by Seller, pursuant to written notice by Seller to Buyer, if any of the conditions set forth in Section 6.2 of this Agreement have not been satisfied at or prior to the Closing, such written notice to set forth such conditions which have not been so satisfied; and

(iv) by Buyer or Seller if the Closing has not occurred by February 1, 1997.

8.2 Effect of Termination. All obligations of the parties hereunder shall cease upon any termination pursuant to Section 8.1; provided, however, that the provisions of this Section 8, Section 11.2, Section 11.10 and Section 11.11 hereof shall survive any termination of this Agreement.

SECTION 9. INDEMNIFICATION.

9.1 Indemnification by Seller and Dynatech. Seller and Dynatech agree to indemnify and hold Buyer harmless from and against any damages, liabilities, losses,

costs, and expenses (including, without limitation, reasonable fees of counsel incurred in connection with investigating, defending against or settling any such claims) ("losses") resulting from (i) any breach of any representation, warranty or covenant of Seller under this Agreement or in any certificate, section of the Disclosure Schedule or exhibit delivered to Buyer pursuant hereto, (ii) any failure by Seller or Dynatech to perform and discharge any of the Excluded Liabilities as set forth in this Agreement, or (iii) any losses arising from or associated with Seller's occupancy of the facility located at 14-16 Hampshire Drive, Hudson, New Hampshire.

9.2 Limitations on Indemnification by Seller and Dynatech.

Notwithstanding the foregoing, the right of Buyer to indemnification under Section 9.1 shall be subject to the following provisions:

(a) No indemnification shall be payable to Buyer by Seller or Dynatech pursuant to Section 9.1(i) unless the total of all claims for indemnification pursuant to Section 9.1(i) shall exceed forty two thousand five hundred dollars (\$42,500) in the aggregate, whereupon only the amount of such claims in excess of the foregoing threshold amount shall be recoverable in accordance with the terms hereof;

(b) No indemnification shall be payable to Buyer pursuant to Section 9.1 for amounts in excess of eight hundred and fifty thousand dollars (\$850,000) in the aggregate, except for losses arising from a claim in tort, whereupon no indemnification shall be payable to Buyer pursuant to Section 9.1 for amounts in excess of one million seven hundred thousand dollars (\$1,700,000); and

(c) No indemnification shall be payable to Buyer pursuant to Section 9.1(i) for claims made by the Buyer after October 3, 1997 (the "Seller Indemnification Cut-Off Date").

9.3 Indemnification by Buyer. Buyer agrees to indemnify and hold Dynatech and Seller harmless from and against any damages, liabilities, losses, costs and expenses (including, without limitation, reasonable fees of counsel incurred in connection with investigating, defending against or settling any such claims) resulting from (i) any breach of any representation, warranty or covenant made by Buyer in this Agreement or in any certificate delivered by Buyer hereunder, (ii) any failure by Buyer to perform and discharge any of the Liabilities as set forth in this Agreement, including, without limitation, any liability arising out of or due to the failure of Buyer to perform and discharge any agreement assigned to and assumed by Buyer under this Agreement or (iii) any activities of Buyer after the Closing, whether arising out of the operation of the Business or the ownership or use of the Subject Assets after the Closing, including, without limitation, claims relating to environmental matters due to or arising out of such activities, ownership or use.

9.4 Notice; Defense of Claims. Promptly after receipt by an indemnified party of notice of any claim, liability or expense to which the indemnification

obligations hereunder would apply, such party shall give notice thereof in writing to the indemnifying party. Such notice shall state the information then available regarding the amount and nature of such claim, liability or expense. If within 20 days after receiving such notice the indemnifying party gives written notice to the indemnified party stating that it disputes and intends to defend against such claim, liability or expense at its own cost and expense, then counsel for the defense shall be selected by the indemnifying party and the indemnified party shall make no payment on such claim. If no such notice of intent to dispute and defend is given by the indemnifying party, the indemnified party shall, at the expense of the indemnifying party, undertake the defense of such claim, liability or expense (with counsel selected by the indemnified party), and shall have the right to compromise or settle the same (exercising reasonable business judgment) with the approval of the indemnifying party.

9.5 Payment of Claims; Arbitration. All claims shall be paid or otherwise satisfied by the indemnifying party within 60 days after notice thereof is given by the indemnified party. If within said 60-day period, the indemnifying party indicates in a writing delivered to the indemnified party that it disputes the nature or amount of the claim, the dispute upon the election of any party hereto after said 60-day period shall be settled by arbitration in Boston, Massachusetts in accordance with the commercial arbitration rules of the American Arbitration Association. The fees and expenses of the arbitrator shall be borne by that person or entity among the indemnifying party and the indemnified party, in such proportions as shall be determined by the arbitration, or if there is no such determination then such fees and expenses shall be borne equally by the indemnifying party and the indemnified party. The determination of the arbitrator as to the amount, if any, of the indemnification claim which is properly allowable shall be conclusive and binding upon the parties hereto and judgment may be entered thereon in any court having jurisdiction thereof.

9.6 Calculation of Damages. An indemnified party shall be entitled to recover the full amount of any loss incurred due to the matter for which indemnification is sought, but any recovery shall be net of any benefit received by the indemnified party due to such loss, including, without limitation, any tax benefit, insurance proceeds or warranty reimbursements, receivable by the indemnified party as a result thereof.

9.7 Limitation on Remedies. It is specifically understood and agreed that in the event a misrepresentation or breach of warranty or covenant is discovered by Buyer after the Closing, Buyer's remedies shall be limited solely to the indemnification set forth in this Section 9 of this Agreement.

SECTION 10. BEST EFFORTS TO OBTAIN SATISFACTION OF CONDITIONS.

Seller and Buyer covenant and agree to use their best efforts to obtain the satisfaction of the conditions specified in this Agreement.

SECTION 11. MISCELLANEOUS.

11.1 Bulk Sales Law. Buyer waives compliance by Seller with the provisions of any applicable bulk sales, fraudulent conveyance or other law for the protection of creditors in connection with the transfer of the Subject Assets under this Agreement.

11.2 Fees and Expenses.

(a) Each of Seller and Dynatech, on the one hand, and Buyer, on the other hand, will bear their own expenses in connection with the negotiation and the consummation of the transactions contemplated by this Agreement, including, without limitation, any broker's commission or finder's fee incurred by such party.

(b) Buyer will pay all costs incurred, whether at or subsequent to the Closing, in connection with the transfer of the Subject Assets to Buyer as contemplated by this Agreement, including without limitation, all sales, use, excise, real property and other transfer taxes and charges applicable to such transfer; all recording charges and fees applicable to the recordation of deeds and mortgages and other instruments of transfer; and all costs of obtaining or transferring permits, registrations, applications and other tangible and intangible properties.

11.3 Governing Law. This Agreement shall be construed under and governed by the internal laws of the Commonwealth of Massachusetts without regard to its conflict of laws provisions.

11.4 Notices. Any notice, request, demand or other communication required or permitted hereunder shall be in writing and shall be deemed to have been given if delivered or sent by facsimile transmission or overnight courier, upon receipt, or if sent by registered or certified mail, upon the sooner of the date on which receipt is acknowledged or the expiration of three days after deposit in United States post office facilities properly addressed with postage prepaid. All notices to a party will be sent to the addresses set forth below or to such other address or person as such party may designate by notice to each other party hereunder:

TO SELLER: c/o Dynatech Corporation
3 New England Executive Park
Burlington, MA 01803
Attn: Roger C. Cady, Vice President
Business Development

TO DYNATECH: Dynatech Corporation
3 New England Executive Park
Burlington, MA 01803
Attn: Roger C. Cady, Vice President
Business Development

In each case, with
a copy to:

Hale and Dorr
60 State Street
Boston, MA 02109
Attn: Peter B. Tarr, Esq.

TO BUYER:

DTC Communications, Inc.
77 Northeastern Boulevard
Nashua, NH 03062
Attn: David Hargreaves, President

With a copy to:

Sussex Development Limited
45 School Street
Boston, MA 02108
Attn: Constantin Boden

And a copy to:

Bingham Dana & Gould LLP
150 Federal Street
Boston, MA 02110
Attn: Matthew Furlong, Esq.

Any notice given hereunder may be given on behalf of any party by counsel to such party or other authorized representatives.

11.5 Entire Agreement.

(a) This Agreement, including the Disclosure Schedule and Exhibits referred to herein and the other writings specifically identified herein or contemplated hereby, is complete, reflects the entire agreement of the parties with respect to its subject matter, and supersedes all previous written or oral negotiations, commitments and writings; no promises, representations, understandings, warranties and agreements have been made by any of the parties hereto except as referred to herein or in such Disclosure Schedule and Exhibits or in such other writings, and all inducements to the making of this Agreement relied upon by either party hereto have been expressed herein or in such Disclosure Schedule or Exhibits or in such other writings.

(b) If the provisions of any section of the Disclosure Schedule or Exhibits to this Agreement are inconsistent with the provisions of this Agreement, the provision of the Agreement shall prevail. The Exhibits and Disclosure Schedule attached hereto or to be attached hereafter are hereby incorporated as integral parts of this Agreement.

11.6 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that Seller and Buyer may not assign their respective obligations hereunder

without the prior written consent of the other party; provided, however, that Buyer may assign this Agreement, and its rights and obligations hereunder, to a subsidiary or affiliate. Any assignment in contravention of this provision shall be void. No assignment shall release Buyer from any obligation or liability under this Agreement.

11.7 Captions and Gender. The captions in this Agreement are for convenience only and shall not affect the construction or interpretation of any term or provision hereof. The use in this Agreement of the masculine pronoun in reference to a party hereto shall be deemed to include the feminine or neuter pronoun, as the context may require.

11.8 Execution in Counterparts. For the convenience of the parties and to facilitate execution, this Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same document.

11.9 Amendments. This Agreement may not be amended or modified, nor may compliance with any condition or covenant set forth herein be waived, except by a writing duly and validly executed by each party hereto, or in the case of a waiver, the party waiving compliance.

11.10 Publicity and Disclosures. Prior to Closing, no press releases or public disclosure, either written or oral, of the transactions contemplated by this Agreement shall be made by a party to this Agreement without the prior knowledge and written consent of Buyer and Dynatech. The written consent of all parties shall be required before the press release or releases or public disclosure or disclosures relating to the transactions contemplated by this Agreement may be released or disseminated.

11.11 Confidentiality. All information not previously disclosed to the public or generally known to persons engaged in the respective businesses of Seller or Buyer which shall have been furnished by Buyer or Seller to the other party in connection with the transactions contemplated hereby shall not be disclosed to any person other than their respective employees, directors, attorneys, accountants or financial advisors or other than as contemplated herein. In the event that the transactions contemplated by this Agreement shall not be consummated, all such information which shall be in writing shall be returned to the party furnishing the same, including, to the extent reasonably practicable, all copies or reproductions thereof which may have been prepared, and neither party shall at any time thereafter disclose to third parties, or use, directly or indirectly, for its own benefit, any such information, written or oral, about the business of the other party hereto.

11.12 Legal Fees. In the event that legal proceedings are commenced by Buyer against Seller, or by Seller against Buyer, in connection with this Agreement or the transactions contemplated hereby, the party or parties which do not prevail in such proceedings shall pay the reasonable attorneys' fees and other costs and expenses, including investigation costs, incurred by the prevailing party in such proceedings.


ASSET PURCHASE AGREEMENT SIGNATURE PAGE

IN WITNESS WHEREOF the parties hereto have executed or caused this Agreement to be executed by their duly authorized representatives as of the date set forth above.

DYNATECH TACTICAL
COMMUNICATIONS, INC.

By: 
Name: **ROGER C. CADY**
Title: VP

DYNATECH CORPORATION

By: 
Name: **ROGER C. CADY**
Title: VP

DTC COMMUNICATIONS, INC.

By: _____
Name:
Title:

ASSET PURCHASE AGREEMENT SIGNATURE PAGE

IN WITNESS WHEREOF the parties hereto have executed or caused this Agreement to be executed by their duly authorized representatives as of the date set forth above.

DYNATECH TACTICAL
COMMUNICATIONS, INC.

By: _____

Name:

Title:

DYNATECH CORPORATION

By: _____

Name:

Title:

DTC COMMUNICATIONS, INC.

By: David W. Hargreaves
Name: David W. Hargreaves
Title: President

DISCLOSURE SCHEDULES

Asset Purchase Agreement regarding Dynatech Tactical Communications, Inc.

SECTION 1.1(d)

Intellectual Property

◆ PATENTS

<u>Name</u>	<u>Number</u>	<u>Date of Issue</u>
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NONE

◆ PATENT APPLICATIONS

<u>Name</u>	<u>Serial No.</u>	<u>Filing Date</u>
-------------	-------------------	--------------------

NONE

◆ TRADEMARKS

<u>Name</u>	<u>Number</u>	<u>Date of Issue</u>
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See attached.

◆ TRADEMARK APPLICATIONS

Stylized Dynapix	75/088781	
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◆ LICENSE AGREEMENTS

Agreement between Doppler Systems Inc. and Seller made effective March 18, 1993.

◆ PERMITS

See attached list of Federal Communications Commission Grants of Equipment Authorization.



Int. Cl.: 9

Prior U.S. Cl.: 26

Reg. No. 1,767,313

United States Patent and Trademark Office Registered Apr. 27, 1993

**TRADEMARK
PRINCIPAL REGISTER**



DYNATECH TACTICAL COMMUNICATIONS,
INC. (MASSACHUSETTS CORPORATION)
16 HAMPSHIRE DRIVE
HUDSON, NH 03051

FOR: SURVEILLANCE APPARATUS;
NAMELY, RADIO FREQUENCY (RF) TRANS-
MITTERS AND RECEIVERS, SWITCHES, RE-
PEATERS, TRACKERS, DIRECTION FINDERS.

TELEPHONE SIGNAL INTERCEPTERS, AND
RECORDERS, IN CLASS 9 (U.S. CL. 26).

FIRST USE 9-0-1988; IN COMMERCE
9-0-1988.

SER. NO. 74-304,938, FILED 8-17-1992.

BALDEV SARAI, EXAMINING ATTORNEY

Sec 1.1 (d)

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

SERIAL NO. 75/088781 Dynatech Tactical Communications Inc.		APPLICANT		PAPER NO.	
MARK DYNAPIX (STYLIZED)		ADDRESS Dynatech Tactical Communications Inc. 77 Northeastern Blvd. Nashua, NH 03062		ADDRESS: Assistant Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513	
FORM PTO-1525 (5-90)		U.S. DEPT. OF COMM. PAT. & TM OFFICE		If no fees are enclosed, the address should include the words "Box Responses - No Fee." Please provide in all correspondence:	
		ACTION NO. 02		1. Filing Date, serial number, mark and Applicant's name.	
		MAILING DATE 12/04/96		2. Mailing date of this Office action.	
		REF. NO.		3. Examining Attorney's name and Law Office number.	
				4. Your telephone number and ZIP code.	

RE: Serial Number: 75/088781

EXAMINER'S AMENDMENT

In accordance with the telephone conversation of 12/2/96 with D. Hargreaves and M. Pierson, this Office has entered the amendments noted below in the referenced application. The applicant need not file a response in this case unless the applicant objects to the noted amendment.

The wording "Dynapix" has no meaning other than trademark significance.

Declarant is a corporate officer, i.e., President.


Applicant is a Massachusetts Corporation.

Applicant makes no claim to color as part of the mark.

"The lining features in the mark are inherent elements and are not intended to indicate color".

Ser. 088781 will be forwarded on the Principal Register.

GTG:iis


 Gerald T. Glynn (Hours: 6:30am - 3:00pm)
 Trademark Attorney
 Law Office 102
 (703) 308-9102 ext 165