

RE  
4.10.00

05-02-2000



To the Honorable Commissioner of Patents

101341815

and original documents or copy thereof.

1. Name of conveying party(ies):

**TALLGRASS TECHNOLOGIES CORPORATION**

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

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

2. Name and address of receiving party(ies):

Name: **TALLGRASS CORPORATION**

Internal Address: \_\_\_\_\_

Street Address: **1685 38TH St.**

City: **Boulder** State: **CO** ZIP: **80301**

- Individual(s) citizenship **UNITED STATES**
- Association
- General Partnership
- Limited Partnership
- Corporation-State **CO**
- 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

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

Execution Date: **February 12, 1993**

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

**1399271**

Additional numbers attached?  Yes  No

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

Name: **Law Offices of D. L. Tschida**

Internal Address: \_\_\_\_\_

Street Address: **633 Larpenteur Ave. West - Suite B**

City: **St. Paul** State: **MN** ZIP: **55113**

6. Total number of applications and registrations involved:

1

7. Total fee (37 CFR 3.41).....\$ **40.00**

- 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.*

**Douglas L. Tschida**

Name of Person Signing

Signature

**3-15-00**

Date

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

**12**

Mail documents to be recorded with required cover sheet information to:  
Commissioner of Patents & Trademarks, Box Assignments  
Washington, DC 20231

SCHEDULE 2.13(b)

Trademarks

Summary listing attached. See Reference Document for complete listing.

TALLGRASS TRADEMARK APPLICATIONS AND REGISTRATIONS

<u>Req./Appl. No.</u>	<u>Filed</u>	<u>Mark</u>	<u>Req. Date</u>	<u>Status</u>
S/N 74/278,123	5/26/92	AUTODAT		Pending
S/N 74/259,596	3/27/92	INFINITY		Pending
S/N 74/242,136	2/3/92	PERFORMANCE DIAGNOSTIC TOOL		Pending
S/N 74/242,135	2/3/92	FILESECURE		Pending
S/N 74/242,134	2/3/92	NETSECURE		Pending
S/N 74/242,133	2/3/92	OVERNET		Pending
Reg. No. 1,594,010	9/11/89	TRAVELPAC	5/1/90	Registered
Reg. No. 1,563,180	3/9/89	SHORTCUT	10/31/89	Registered
Reg. No. 1,562,010	3/9/89	LAPTAPE	10/24/89	Registered
S/N 73/687,568	10/2/87	CADWORKS		Abandoned
Reg. No. 1,493,972	5/11/87	RANGER	6/28/88	Registered
Reg. No. 1,456,325	2/6/87	LIGHTTRACK	9/8/87	Registered
Reg. No. 1,486,714	12/3/86	LIGHTFILE	5/3/88	Registered
Reg. No. 1,486,713	12/3/86	LASERCACHE	5/3/88	Assigned to Storage Dimensions 5/16/88
Reg. No. 1,475,711	12/3/86	LASERLOG	2/9/88	Assigned to Storage Dimensions 5/16/88
Reg. No. 1,451,887	8/11/87	LANCOURIER	10/27/86	Registered
S/N 73/621,881	9/25/86	LASERTRACK		Abandoned
Reg. No. 1,466,030	9/3/86	DATA RECONSTRUCTION CODE	11/17/87	Registered
S/N 73/612,933	8/4/86	LASERWARE		Abandoned

<u>Reg./Appl. No.</u>	<u>Filed</u>	<u>Mark</u>	<u>Reg. Date</u>	<u>Status</u>
Reg. No. 1,399,271	11/21/85	BACKTRACK	7/1/86	Registered 8 & 15 Filed
S/N 73/569,567	11/21/85	LASERSTOP		Abandoned
Reg. No. 1,405,589	9/23/86	FLEXSTOR	8/19/86	Registered
Reg. No. 1,357,775	9/20/84	HARDFILE	9/3/85	Cancelled
Reg. No. 1,347,395	7/27/84	COMMITTED TO MEMORY	7/9/85	Cancelled
Reg. No. 1,337,653	7/27/84	GRASSHOPPER	5/28/85	Cancelled
Reg. No. 1,330,691	6/8/84	PC/T	4/16/85	Cancelled
Reg. No. 1,394,678	5/17/84	PC.RANGER and Design	5/27/86	Registered
Reg. No. 1,283,189	5/4/83	TALLGRASS	6/26/84	Registered 8 & 15 Filed
Reg. No. 1,283,188	5/4/83	DESIGN	6/26/84	Registered 8 & 15 Filed

STATE TRADEMARK REGISTRATIONS

Kansas State Reg. No. 447,785, Reg. Date 6/1/80 for TALLGRASS and Design, Status registered.

Kansas State Reg. No. 447,784, Reg. Date 6/1/80 for TALLGRASS, Status registered.

TALLGRASS EC TRADEMARK REGISTRATIONS

<u>TRADEMARK</u>	<u>COUNTRY</u>	<u>REGISTRATION NUMBER</u>	<u>REGISTRATION DATE</u>	<u>STATUS</u>
TALLGRASS	Austria	108144	2/8/85	Active
TALLGRASS	Benelux	404084	8/1/84	Active
TALLGRASS	Denmark	VR 003255	9/27/85	Active
TALLGRASS	France	1252880	12/1/83	Active
TALLGRASS	West Germany	1066141	7/23/84	Active
TALLGRASS PC T	West Germany	1092153	6/2/86	Active
TALLGRASS	Irish Republic	111859	7/23/84	Active
TALLGRASS	Italy	460930	1/19/87	Active
TALLGRASS	Portugal	226166	11/89	Active
TALLGRASS	Switzerland	335402	1/5/84	Active
TALLGRASS TECHNOI- OGIES CORPORA- TION PC/T	Switzerland	344323	12/2/85	Active

**COPY**

**ASSET PURCHASE AGREEMENT**

**Dated February 12, 1993**

**By and Among**

**Exabyte Corporation,**

**Tallgrass Corporation, and**

**Tallgrass Technologies Corporation**

# ASSET PURCHASE AGREEMENT

This Agreement is entered into this 12th day of February, 1993 by and among Exabyte Corporation, a Delaware corporation ("Exabyte"), Tallgrass Corporation, a Delaware corporation ("Exbsub"), and Tallgrass Technologies Corporation, a Kansas corporation (the "Company").

WHEREAS, the Company desires to sell and Exabyte or Exbsub desires to purchase certain properties and assets of the Company for the consideration specified herein and the assumption by Exbsub of certain liabilities and obligations of the Company, all on the terms and conditions hereof;

WHEREAS, Kansas Public Employees Retirement System (the "Secured Creditor") through its nominee (Kansas Development Fund, a Kansas General Partnership) has a security interest in principal assets of the Company which was granted to secure promissory notes made payable to Secured Party which have a present unpaid balance of principal and interest in excess of \$5 million (the "Secured Notes");

WHEREAS, to induce Secured Creditor to release its lien on the Company's assets and to grant certain indemnity to Exabyte and Exbsub the Company is willing to make a payment to Secured Creditor at the Closing against the Secured Notes in an amount not less than \$1,390,000 from the proceeds of the sale contemplated hereby; and

WHEREAS, the Company is engaged in the business of designing, integrating and supplying tape drive storage systems.

NOW, THEREFORE, in consideration of the mutual agreements herein contained, 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, the Company hereby sells and Exbsub hereby purchases all of the properties, assets, rights and business of the Company of every kind and description, tangible and intangible, real, personal or mixed, and wherever located, including without limitation all assets shown or reflected in the balance sheet of the Company as of January 30, 1993 ( the "Base Balance Sheet" as defined in Section 2.5 hereof) of the Company, all proprietary rights to the trade secrets, inventions, developments, trademarks, trademark applications, patents, patent applications and other proprietary rights of the Company and all products conceived of, developed by or sold by the Company or its employees on behalf of the Company as of the Closing Date (as defined in Section 1.4 thereof), all of the Company's goodwill, all amounts due to the Company with respect to the business, all refunds or abatements from federal, state or local taxing authorities due currently or which become due in the future to the Company relating to the operations of the Company's business prior to the Closing Date, rights under all contracts of the Company, any order backlog for products of the Company, and the right to use the name of the Company as all or part of a trade

any of its officers, directors or shareholders, except for normal compensation and expense allowances payable to officers;

(m) any capital expenditure not in the ordinary course of business by the Company in excess of \$5,000 for any one item;

(n) any contracts entered into by the Company, except purchase orders and sales acknowledgements in the ordinary course of business;

(o) any new sales representative, distributor or Original Equipment Manufacturer ("OEM") contract entered into by the Company;

(p) any payments to, or contracts entered into with, any director, officer, shareholder or affiliate on any loans or advances;

(q) any write-down or write-up of the value of any inventory of the Company, or any material write-off as uncollectible of any accounts receivable or notes receivable of the Company or any portion thereof;

(r) except to the extent reserved for in the Base Balance Sheet, any account receivable owing to the Company as of the date of the Base Balance Sheet which subsequent thereto (i) has become delinquent in its payment by more than 90 days, (ii) has had asserted against it any claim, refusal to pay or right of set off, (iii) with respect to which an account debtor has refused to pay for any reason or such account debtor has become insolvent or bankrupt, or (iv) has been pledged to any third party;

(s) any change in the accounting methods or practices followed by the Company or any change in depreciation or amortization policies or rates theretofore adopted;

(t) any change in the manner in which inventory of the Company is marketed or any increase in inventory levels in excess of historical levels for comparable periods, or

(u) any agreement or understanding, whether in writing or otherwise, for the Company to take any of the actions specified in paragraphs (a) through (t) above.

**2.12 Operations.** Except as disclosed in Schedule 2.12 and as contemplated by this Agreement, between the date of the Base Balance Sheet and the date hereof, the Company has conducted its business only in the ordinary course.

### **2.13 Intellectual Property.**

(a) Schedule 2.13(a) lists all domestic and foreign patents and patent applications (the "Patents") owned or licensed by the Company and all agreements relating thereto. Except where such Patents are indicated to be licensed, the Company owns the Patents and all related patent rights free and clear of all liens, claims or encumbrances and may assign or license them free and clear of any liens, claims or encumbrances. There are no proceedings and there are no claims or threats to challenge the validity of any claim of any Patent. All such



Patents are currently in compliance with formal legal requirements (including payment of filing, examination and maintenance fees and proofs of working or use) and all Patents are, or upon issuance will be, valid and enforceable. No Patent has been or is now involved in any interference proceeding or has been challenged in any way, and the Company is not aware of any interfering patent or patent application. The Company is not aware of any relevant information that is material to the examination of an application for any Patent that has not been disclosed to the U.S. Patent and Trademark Office pursuant to the disclosure requirements of 37 C.F.R. 1.56. The Company has delivered or made available to Exabyte or Exbsub copies of all opinions and memoranda of counsel received by it and relating to (i) the validity and patentability of the Patents, (ii) infringement by third parties of the Patents and (iii) the Company's freedom to operate. Schedule 2.13(a) lists all agreements, including licenses, relating to the Patents granted to third parties by the Company. Except as disclosed in Schedule 2.13(a), subject to any right of the Company to conduct an audit of its licensees, all royalties and other payments due under said agreements have been paid and, to the best of the Company's knowledge, no party to those agreements is in default, nor with the giving of notice or lapse of time or both, would be in default, in any manner respecting its obligations under those agreements. Except for the agreements listed in Schedule 2.13(a) and except for any license implied by the sale of a product, no other license, covenant, or agreement has been granted or entered into by the Company with respect to the Patents. The Company does not have any registered copyrights. None of the products manufactured, currently in development or sold or licensed by, nor any processes or know-how used or proposed to be used by the Company and none of the Patents, infringe any patent, trademark or copyright of any third party.

(b) Schedule 2.13(b) lists all domestic and foreign registered trademarks and trademark applications owned or licensed by the Company from or to third parties (the "Trademarks"), indicating in each case whether the Trademark is owned or licensed, and a listing and summary description of all agreements relating to the Trademarks. The Company owns, subject to the rights of the Secured Creditor, which rights shall be terminated at the Closing, the Trademarks which are so designated as owned by it, free and clear of all liens, claims or encumbrances, and all agreements with respect to Trademarks are valid and binding, are in full force and effect, and neither the Company nor, to the knowledge of the Company, any party thereto is in default, or with the giving of notice or lapse of time or both, would be in default under the terms of such agreements. There are no interference, opposition or cancellation proceedings or infringement suits pending or threatened, with respect to any of the Trademarks. The Company has not been advised nor does it have any knowledge of facts or circumstances reasonably likely to give rise to a claim that it is infringing a trademark or copyright held by another person

(c) The Company owns or has in its possession certain technical information and know-how (including, without limitation, data, documents, drawings, software, procedures and other proprietary materials) relating to, without limitation, the specification, examination, simulation, design, implementation, manufacture, procurement of materials, ingredients and the like from suppliers or subcontractors, quality control and testing, use and delivery of its products (the "Trade Secrets"). The Company has taken reasonable precautions to maintain Trade Secrets in confidence and to prevent their disclosure to unauthorized persons. The Company has good title to and an absolute (though not necessarily exclusive) right to use all Trade Secrets and the use of the Trade Secrets does not infringe the rights of any third party. Schedule 2.13(c) sets

forth a list of all agreements relating to the Trade Secrets. To the extent that the Trade Secrets are not available in documentary or fixed form, disclosure shall be made to Exabyte or Exbsub to permit Exbsub to make full use of the Trade Secrets to operate the business of the Company as it is presently conducted and proposed to be conducted. Except as disclosed on Schedule 2.13(c), the hard tooling (including schematics, design, masks and the like) ("tooling") funded by the Company continues to be owned by the Company and the Company has the exclusive right to such tooling. Any third parties permitted to use such tooling on behalf of the Company may be under binding obligations to maintain the confidentiality of such tooling and not to use, or permit others to use, such tooling for the benefit of third parties.

(d) To the best of the Company's knowledge, no person is infringing upon any Patent, Trademark, Trade Secret or any copyright owned by the Company. There is no intellectual property, in any form, whether patent, trademark, trade name, trade secret, copyright or otherwise, necessary for or used in the operation of the Company's business which the Company does not currently own or have the right to use on commercially reasonable terms.

(e) Except as disclosed on Schedule 2.13(e), all employees and all independent contractors who have provided services to the Company have executed confidentiality and assignment of inventions agreements, in substantially the form previously presented to Exabyte or Exbsub. All intellectual property rights to all work performed for the Company and which are material to the business currently conducted by the Company belong to the Company or are rights which the Company is entitled to use as presently used by the Company.

**2.14 Customer Lists** The Company has the right to use, free and clear of any claims or rights of others except for claims or rights described in any Schedule referred to in this Agreement, all customer lists required for or used in the marketing of all products either being sold, manufactured, or under development by the Company.

**2.15 Contracts.** Except for contracts, commitments, plans, agreements and licenses described in the Disclosure Schedules, including Schedule 2.15 hereto, to the best of the Company's knowledge, the Company is not a party to or subject to:

(a) any material plan or contract providing for bonuses, pensions, options, stock purchases, deferred compensation, retirement payments, profit sharing, collective bargaining or the like or any contract or agreement with any labor union or similar agreement providing benefits to any current or former director, officer, employee or consultant;

(b) any employment contract or material contract for services not terminable within 30 days by and without penalty or further liability to the Company;

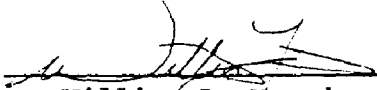
(c) any material contract or agreement for the purchase of any commodity, material, equipment or service, other than purchase orders entered into in the ordinary course of business;

(d) any material contract or agreement for the sale of any commodity, material, equipment or service material to the business of the Company, other than contracts with customers entered into in the ordinary course of business;


**9.9 Amendment.** Following approval of this Agreement and the transactions contemplated hereby by the shareholders of the Company, this Agreement may be changed or modified by written consent of the Board of Directors of Exabyte, Exbsub and the Company without approval of such change or modification by the Company's shareholders.

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

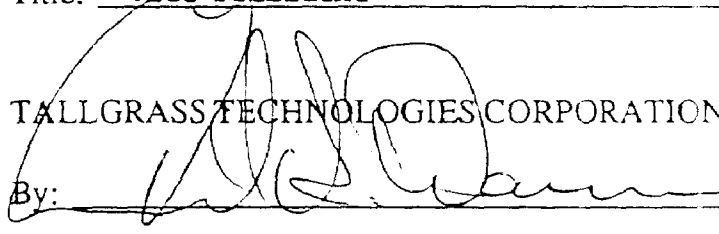
EXABYTE CORPORATION

By:   
William L. Marriner  
Title: Sr. Vice President

TALLGRASS CORPORATION

By:   
William L. Marriner  
Title: Vice President

TALLGRASS TECHNOLOGIES CORPORATION

By:   
Title: PRESIDENT & C.E.O.

**ASSET PURCHASE AGREEMENT**

Dated February 12, 1993

By and Among

Exabyte Corporation,

Tallgrass Corporation, a Delaware Corporation,

and

Tallgrass Technologies Corporation,

a Kansas Corporation

**SCHEDULES TO ASSET PURCHASE AGREEMENT**

**SUMMARY**

(See Reference Document for Detail)