

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
NER Data Products, Inc.		11/20/2007	CORPORATION: NEW JERSEY
RECEIVING PARTY DATA			
Name:	QwikScan Technologies LLC.		
Street Address:	230 North Maple Ave		
Internal Address:	Suite 162		
City:	Marlton		
State/Country:	NEW JERSEY		
Postal Code:	08053		
Entity Type:	LIMITED LIABILITY COMPANY: NEW JERSEY		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Serial Number:	74687126	QWIKSCAN	
CORRESPONDENCE DATA			
Fax Number:	8007925089		
	<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>		
Phone:	856-753-7878		
Email:	srynex@qwikscan.com		
Correspondent Name:	QwikScan Technologies LLC.		
Address Line 1:	230 North Maple Ave		
Address Line 2:	Suite 162		
Address Line 4:	Marlton, NEW JERSEY 08053		
NAME OF SUBMITTER:	Stephen Rynex		
Signature:	/Stephen Rynex/		

CH \$40.00 74687126

Date:

05/02/2012

Total Attachments: 11

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ASSET PURCHASE AGREEMENT (the "Agreement"), dated as of November 20, 2007 by and between NER Data Products, Inc., a New Jersey corporation ("Seller"), and Qwikscan Technologies, LLC, a New Jersey limited liability company ("Buyer").

WITNESSETH:

WHEREAS, Seller is engaged in, among other types of businesses, the business of the sale and support of Qwikscan® software and associated hardware (the "Business"),

WHEREAS, Seller desires to sell to Buyer and Buyer desires to purchase from Seller, the Business and certain assets used in or related to the Business;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, Seller and Buyer hereby agree as follows:

1. PURCHASE AND SALE OF ASSETS.

1.1 Assets to be Conveyed. Subject to the terms and conditions herein and in reliance upon the representations, warranties and agreements herein set forth, on the date hereof ("Closing Date") Seller shall convey, sell, and Buyer shall purchase, all of the following assets of the Business (the "Assets").

(a) Inventory. All materials, including raw materials, work-in-process and finished goods, and packaging, as further set forth in Schedule 1.1(a) (the "Inventory");

(b) Intellectual Property. The trademark "Qwikscan", all source code and development tools, and all know-how used by Seller in the Business, as further set forth in Schedule 1.1(b); (the "Intellectual Property"). Seller shall transfer to Buyer at the Closing, and shall not retain, any copies, documentation and electronic media relating to the Intellectual Property..

(c) Customer Accounts. All customer accounts, maintenance contracts and dealer agreements (the "Customer Accounts"), all billing information and addresses of the customers included in the Customer Accounts, and all rights of Seller incident thereto for the Business as of the Closing Date as further set forth in Schedule 1.1(c);

(d) Records. Certain documents, files and records containing technical support and other information pertaining to the foregoing Assets or the Business.

1.2 Retained Assets. Except as otherwise expressly provided, Seller is not selling, and shall retain all rights to, all accounts receivable, cash, insurance proceeds, and other assets not identified in Section 1.1 and Schedules 1.1 (a) through 1.1 (c).

1.3 Assumed Liabilities. From and after the Closing Date, Buyer shall assume, pay, perform, and discharge a) any and all liabilities and obligations of the Business incurred or arising on or after the Closing Date; and b) any and all liabilities and obligations related to the

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Customer Accounts, whether incurred or arising before, on or after the Closing Date, including without limitation the accounts and maintenance agreements set forth on the Schedules to this Agreement.

1.4 Exclusion of Liabilities. Except as otherwise provided above, Buyer shall not, and does not by the execution of this Agreement or by effecting the Closing hereunder, assume, become a successor under or otherwise become obligated to pay, perform, discharge or guarantee any liabilities or obligations (whether fixed, contingent or otherwise), of Seller (including the Business) incurred on or before the Closing Date.

2. PURCHASE PRICE.

2.1 Purchase Price.

As full consideration for the Business and Assets purchased hereunder Buyer shall pay to Seller, [REDACTED] Dollars ("Purchase Price"), subject, however, to the Closing Date and post-Closing Date adjustments provided for in Section 2.4 below.

2.2 Payment. The Purchase Price, as adjusted, shall be paid at Closing, by wire transfer to an account specified by Seller.

2.3 Allocation of Purchase Price. The consideration for the Assets provided herein shall be allocated among the various categories of Assets as set forth on Schedule 2.3 attached hereto. The Buyer and the Seller (i) shall execute and file all tax returns using the allocation set forth on Schedule 2.3, and (ii) shall not take any position on any tax return before any governmental entity or in any judicial proceeding that is inconsistent with such allocation. The Seller and the Buyer shall each timely file a Form 8594 with the IRS in accordance with the requirements of Section 1060 of the Internal Revenue Code of 1986 as amended (the "Code").

2.4 Closing Date and Post-Closing Price Adjustments.

(a) Provided the Closing Date is not extended beyond November 30, 2007, the following adjustments to the Purchase Price shall be calculated as of the Closing Date:

(1) for any orders relating to the Business that are received between November 13, 2007 and the Closing Date, the standard margin (which margin shall not be less than twenty-five (25% percent) shall be calculated and credited to Buyer as a reduction to the Purchase Price; said orders and calculation of standard margin are set forth in Schedule 2.4.

(2) Pre-paid maintenance contracts in excess of 1 year shall be assumed by the Buyer and will be credited to Buyer as a reduction to the Purchase Price; said contracts and amounts to be set forth in Schedule 2.4.

(3) Pre-Paid Installation accounts shall be credited to Buyer as a reduction to the Purchase Price; said customers and invoice amounts are set forth in Schedule 2.4.

(4) November 2007 maintenance invoicing shall be credited to Buyer as a reduction to the Purchase Price; said customers and invoice amounts are set forth in Schedule 2.4.

(b) The following post-Closing Date adjustments and matters shall be calculated by Seller and billed by Seller to Buyer in the ordinary course of business:

(1) Any accounts receivable arising from accounts set forth on Schedule 2.4 that remain unpaid after January 30, 2008 will be reimbursed by Buyer to Seller within 10 days of demand, upon payment of which, Seller shall assign said accounts receivable to Buyer.

(2) For orders relating to the Business received and invoiced by Seller after the Closing Date and through December 31, 2007, Buyer will be assessed in a 5% processing fee payable to Seller. From and after the Closing Date and through December 31, 2007, the Seller shall forward payment to the Buyer within five (5) days of receipt of payment for the orders invoiced by the Seller. After December 31, 2007, the Channel Distribution Agreement (as defined below in Section 6.2 of this Agreement) shall apply in accordance with its own terms.

The covenants set forth in Section 2.4 (b) shall survive the Closing.

3. CLOSING

3.1 Time and Place of Closing. The closing of the purchase and sale of the Assets shall occur immediately following the execution hereof. Such closing shall herein be referred to as the "Closing". The Closing shall be effective as of the close of business on the date hereof ("Closing Date"). The Closing shall take place at the Glassboro offices of the Seller.

3.2 Expenses, Taxes. Seller and Buyer shall each bear its own fees and expenses not specified herein with respect to this Agreement and the sale and purchase of the Assets. Seller shall pay any and all income, sales, use, transfer or other taxes, fees, stamps or similar charges of any sort imposed by a governmental authority on or in connection with the sale or transfer of the Business and the Assets.

4. SELLER'S REPRESENTATIONS AND WARRANTIES. Except as set forth on a schedule corresponding in number to the applicable Section of this Article 4, Seller represents, warrants and covenants to Buyer that, as of the Closing Date:

4.1 Organization and Authorization. Seller is a corporation organized under the laws of the State of New Jersey. Seller has full authority to own and sell the Assets and to enter into this Agreement and to perform the obligations to be performed by it hereunder. This Agreement and all the transactions contemplated herein have been duly authorized by all necessary actions by Seller.

4.2 No Breach. The execution and delivery of this Agreement, the consummation of the transactions contemplated by this Agreement, and the performance by Seller of the various provisions of this Agreement, do not and will not (i) result in the breach of any of the terms or

conditions of the Certificate of Incorporation or the Bylaws of Seller, or any agreement or obligation to which Seller is a party or by which Seller or any of its properties is bound or, (ii) require the consent of any third party other than Wachovia Bank, from which Seller shall obtain a Consent and Release of Lien on or before the Closing Date.

4.3 Title to Assets. All of the Assets are owned and held by Seller and are not subject to any liens, claims, charges, mortgages, pledges, security interests, equities, encumbrances or rights of any kind in third parties ("Liens") other than a Lien in favor of Wachovia Bank (the "Bank Lien") Seller will convey to Buyer good and marketable title to the Assets free and clear of any Liens other than the Bank Lien, for which the Seller shall obtain a partial release pertaining to the Assets on or about the Closing Date. Seller has duly registered the trademark "Qwikscan" with the United States Patent and Trademark office.

4.4 Inventory. Seller warrants that the Inventory is usable in support of the maintenance agreements included in the Customer Accounts in the ordinary course of business.

4.5 Litigation. There is no suit, action or claim for which service of process has been made, or any legal, administrative or arbitration proceeding, or, to the best of Seller's knowledge, any investigation or inquiry by any administrative agency or governmental body, pending or, to the best of Seller's knowledge, threatened against Seller relating to the Business.

4.6 Brokers. No agent, broker, investment banker, or other person or firm acting on behalf of Seller or under its authority is or will be entitled to any broker's or finder's fees or any other commission or similar fee, directly or indirectly, in connection with the transactions contemplated by this Agreement.

4.7 Disclaimer of Warranty or Representation re Sales or Financial Viability. Notwithstanding any other provision of this Agreement, Buyer acknowledges and agrees as follows:

- a) that since the beginning of the discussions between the parties that culminated in Buyer's purchase of the Assets and the Business pursuant to this Agreement, Seller has disclosed to Buyer that Seller had contemplated discontinuing the Business, and that absent such purchase, Seller may well have done so; and
- b) Seller has not made, and pursuant to this Agreement does not make, any warranty, representation or projection concerning the financial viability of the Business, the future sales of Products, or the ability of the Business to continue as a going concern.

5. BUYER'S REPRESENTATIONS AND WARRANTIES. Except as set forth on a Schedule corresponding in number to the applicable Section of this Article 5, Buyer represents, warrants and covenants to Seller as follows, that as of the Closing Date:

5.1 Organization and Authorization. Buyer is a **limited liability company** organized under the laws of the State of **New Jersey**. Buyer has full authority to purchase and own the Assets and to enter into this Agreement and to perform the obligations to be performed by it hereunder. This Agreement and all the transactions contemplated herein have been duly

authorized by all necessary actions by Buyer.

5.2 No Breach. The execution and delivery of this Agreement, the consummation of the transactions contemplated by this Agreement, and the performance by Buyer of the various provisions of this Agreement, do not and will not (i) result in a breach of any of the terms or conditions of the organizational documents of Buyer, or any agreement or obligation to which Buyer is now a party or by which Buyer is bound or (ii) require the consent of any third party.

5.3 Litigation. There is no suit, action or claim for which service of process has been made, or any legal, administrative or arbitration proceeding, or, to the best of Buyer's knowledge, any investigation or inquiry by any administrative agency or governmental body, pending or, to the best of Buyer's knowledge, threatened against Buyer which would affect the consummation of the transaction contemplated herein.

5.4 Brokers. No agent, broker, investment banker, or other person or firm acting on behalf of Buyer or under its authority is or will be entitled to any broker's or finder's fees or any other commission or similar fee, directly or indirectly, in connection with the transactions contemplated by this Agreement.

6. COVENANTS OF THE PARTIES

6.1 Confidentiality; No Public Announcement. (a) All information ("Confidential Information") previously or in the future received or collected during the investigation by Buyer of the Business, will be kept confidential by the receiving party, its affiliates, employees and the attorneys, agents and accountants involved in assisting with the negotiation and consummation of the proposed transaction ("Representatives"), except to the extent disclosure is legally compelled to be made; provided however, these provisions shall not apply to any Confidential Information which (i) at the time of disclosure or thereafter is generally available to and known by the public, (ii) was available to the receiving party on a non-confidential basis from a source other than the disclosing party, or (iii) has been independently acquired or developed by the receiving party without violating any of its obligations hereunder and with respect only to Buyer (iv) is used by Buyer in the conduct of the Business after Closing. All Confidential Information will be used by the receiving party solely for the purpose of negotiating and consummating the transactions described herein and for no other purpose. In the event of a breach of the obligations of this paragraph, the non-breaching party shall be entitled to seek immediate injunctive relief, in addition to any other remedies at law or equity.

(b) Neither Buyer nor Seller shall make a public announcement of this Agreement, or disclose to any third party its contents or the consummation of the transaction contemplated herein, without the consent of the other party hereto.

6.2 Channel and Distribution Agreement. On the Closing Date, Seller and Buyer shall execute a mutually acceptable Channel and Distribution Agreement (the "Distribution Agreement") for the distribution of Qwikscan products.

6.3 Marketing and Sales Agreement. On the Closing Date, Seller and Buyer shall

execute a mutually acceptable Marketing and Sales Agreement (the "Marketing Agreement") for the sales and marketing of Qwikscan products

6.4 Employment Related Matters. On the Closing Date, Seller and Buyer shall execute a Legal Release Agreement (the "Employment Release") relating to the termination of Steve Rynex's employment with Seller.

7. CLOSING DELIVERIES.

7.1 Seller's Performance at Closing. At the Closing hereunder, Seller shall do the following:

(a) execute and deliver to Buyer, a bill of sale, an assignment of trademark, assignment and assumption agreements for the maintenance agreements and other contracts relating to Customer Accounts), and such other transfer documents, if any, necessary for selling, assigning, transferring, and conveying all of the Assets to Buyer;

(b) execute and deliver the Distribution Agreement;

(c) execute and deliver the Marketing Agreement

(d) execute and deliver the Employment Release.

(e) complete and attach the Schedules to this Agreement.

(f) obtain and deliver the Wachovia Consent and Release.

(g) deliver a signed check reimbursing Stephen Rynex for all expenses incurred on behalf of the Seller prior to the Closing provided the same are documented with receipts in accordance with standard Seller procedure on or before the Closing Date, as well as a check for unused vacation days of Stephen Rynex accrued through the Closing Date.

(h) execute such other documents, instruments or certificates as may be reasonably necessary in order to consummate the transactions contemplated herein.

7.2 Buyer's Performance at Closing. At the Closing hereunder, Buyer shall do the following:

(a) pay the Purchase Price, as adjusted.

(b) execute and deliver the Distribution Agreement;

(c) execute and deliver the Marketing Agreement

(d) execute and deliver the Employment Release.

(e) complete and attach the Schedules to this Agreement.

(f) deliver to Seller proof of filing the Buyer's Certificate of Organization or similar document necessary to create a validly-formed limited liability company in the state of New Jersey.

(g) execute such other documents, instruments or certificates as may be reasonably necessary in order to consummate the transactions contemplated herein.

8. POST CLOSING COVENANTS.

8.1 Seller understands that Buyer shall be entitled to protect and preserve the going concern value of the Business to the extent permitted by law and that Buyer would not have entered into this Agreement absent the provisions of this Section 8.1, therefore, for a period of six (6) years from the Closing, Seller shall not directly or indirectly or assist any other person to engage in activities or businesses, or establish any new businesses, that is substantially in competition with the Business, including, any activity involving inventory management or tracking software that involves bar-coding and radio frequency identification ("Seller Competitive Activities").

8.2 For a period of six (6) years from the Closing, Buyer shall not directly or indirectly or assist any other person to engage in activities or businesses, or establish any new businesses, that is substantially in competition with the Seller's Slot Addressable Management ("S.A.M.") business ("Buyer Competitive Activities"). To the extent that the source code comprising part of the Assets purchased by Buyer hereunder contains S.A.M. technology functionality, that fact shall not be deemed a breach of Buyer's covenant not to engage in Buyer Competitive Activities. Buyer shall not hire, recruit, solicit or induce, or attempt to induce, any employee or employees of the Seller to terminate their employment with, or otherwise cease their relationship with, the Seller.

8.3 Notwithstanding any other provision of this Agreement, it is understood and agreed that the remedy of indemnity payments pursuant to Article 9 and other remedies at law would be inadequate in the case of any breach of the covenants not to engage in Seller Competitive Actives or Buyer Competitive Activities, as the case may be. In the event of a breach of the covenants contained in Sections 8.1 and 8.2, respectively, the injured party shall be entitled to equitable relief, including the remedy of an injunction or specific performance, with respect to any breach or attempted breach of such covenants.

9. INDEMNIFICATION.

9.1 Indemnification by Seller. Seller shall indemnify, defend and hold Buyer, and its successors and assigns, harmless from and against any and all liabilities, damages, losses, suits, claims, demands, judgments, costs, and expenses (including, without limitation, fees, disbursements and costs of consultants, experts and attorneys) ("Losses") arising out of, or resulting from (a) any breach of any warranty or representation made by Seller, (b) the nonperformance or breach of any agreement, covenant or obligation to be performed on the part

of Seller under this Agreement or the other agreements contemplated herein, (c) the imposition of any other liability arising out of Seller conduct or the operation of the Business or the Assets prior to the Closing.

9.2 Seller's Limit of Liability. Seller shall not be required to indemnify any person, and shall not have any liability:

(a) for consequential, special, indirect or incidental damages including loss of profits; and/or

(b) under Section 9.1 (a) for any amount in excess of the Purchase Price, as adjusted; and/or

(c) unless Buyer makes its claim for identification before the expiration of the 6-month period specified in Article 10.

9.3 Indemnification by Buyer. Buyer hereby agrees to indemnify, defend and hold Seller, and its successors and assigns, harmless from and against any and all Losses arising out of, or resulting from, (a) any breach of any warranty or representation made by Buyer, (b) the nonperformance or breach of any agreement, covenant or obligation to be performed on the part of Buyer under this Agreement or the other agreements contemplated hereby, (c) the imposition of any liability to the extent arising out of the Buyer's conduct or the operations of the Business or the Assets after the Closing. Buyer shall not be required to indemnify any person, and shall not have any liability for consequential, special, indirect or incidental damages including loss of profits.

9.4 Notice and Opportunity to Defend. Promptly after incurring any Loss for which it is entitled to indemnification or after the receipt by Buyer or Seller, respectively (an "Indemnified Party"), of notice of any third party claim or the commencement of any action or proceeding which such Indemnified Party recognizes gives rise to a claim against the other party (the "Indemnitor") under this Article 9 the Indemnified Party shall give the Indemnitor prompt written notice of such claim and the amount thereof or the commencement of such action or proceeding. Except as provided below, the Indemnitor shall have the right, at its option, to control the defense of and to control the compromise or to defend, at its sole expense and by its own counsel, any such matter, except that no such compromise shall include any agreement requiring the Indemnified Party to take any action or to refrain from taking any action without the consent, at its unilateral discretion, of the Indemnified Party. Neither the Indemnitor nor the Indemnified Party shall compromise or settle any claim or litigation without the prior written consent of the other party (or parties) which consent shall not be unreasonably withheld; provided, however, that no party shall be obliged under any circumstances to consent to a compromise or settlement that provides for relief other than the payment of money.

10. SURVIVAL. All covenants, representations, warranties, indemnities, rights and obligations contained in this Agreement will survive Closing, however the survival of the warranties set forth in Section 4 shall be limited to 12 months immediately following Closing.

11. FURTHER ASSURANCES. At any time and from time to time after the Closing date, Buyer and Seller will, upon reasonable request of the other party, perform, execute, acknowledge and deliver all such further acts, documents and agreements that may be reasonably required to confirm and assure the rights and obligations provided for in this Agreement.

12. MISCELLANEOUS.

12.1 Notices. All notices, requests and other communications which any party may give pursuant to this Agreement shall be in writing and shall be (a) hand-delivered, (b) transmitted by telecopier, provided that a copy is sent at about the same time by national overnight courier, or by certified or registered mail deposited with the United States Postal Service with postage thereon fully prepaid, in each case with an acknowledgment of receipt or refusal to accept delivery. Any such notice, request or other communication shall be effective upon the earlier of (i) receipt or (ii) five (5) days after sending. All notices shall be addressed as follows:

If to Seller: NER Data Products, Inc.
Attn: Stephen F. Oatway
307 South Delsea Drive
Glassboro, NJ 08028

With a copy to:
Paul Bijkersma, Esq.
Morisi & Oatway, P.C.
1400 Hancock Street
Quincy, Mass. 02169

If to Buyer: Qwikscan Technologies, LLC
Attn: Stephen Rynex, Manager
416 Raritan Avenue
Atco, New Jersey 08004

With a copy to:
Richard P. Freedman, Esq.
Angelini, Viniar & Freedman, L.L.P.
413 Route 70 East
Cherry Hill, NJ 08034

provided, however, that if either party shall have designated (in the manner provided above) a different address by notice to the other, then to the last address so designated.

12.2 Assignment. This Agreement shall be binding upon, and inure to the benefit of, the respective successors and assigns of the parties hereto; provided, however, that no party shall assign any rights hereunder without the express written consent of the other party.

12.3 Complete Agreement; Amendment. This Agreement sets forth the entire understanding of the parties hereto and supersedes all other prior agreements, covenants, arrangements, communications, representations or warranties, whether oral or written, by any officer, employee or representative of any party.

12.4 Interpretation and Construction. The headings of the articles and sections of this Agreement are inserted for convenience only and shall not be deemed to constitute a part hereof. In the event that any provision of this Agreement shall finally be determined to be unlawful, such provision shall be deemed to be severed from this Agreement; but every other provision of this Agreement shall remain in full force and effect, and the parties shall negotiate in good faith to modify the Agreement so as to effectuate the original intent of the parties. The language of all parts of this Agreement is the language of both parties hereto and shall in all cases be construed according to its fair meaning and not for or against either party.

12.5 Amendment and Termination. This Agreement may not be amended or terminated orally but only as expressly provided herein or by an instrument in writing duly executed by the parties hereto.


12.6 Counterparts. More than one counterpart of this Agreement may be executed by the parties hereto, and each fully executed counterpart shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may also be executed via facsimile, which shall be deemed an original.

12.7 Governing Law. This Agreement shall be enforced, governed and construed in accordance with the internal laws of the State of New Jersey without reference to conflict of laws principles, except the law of any other relevant state shall be applied if doing so is necessary to validate any provisions of this Agreement.

[THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK. SIGNATURES FOLLOW ON NEXT PAGE.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

NER Data Products, Inc.

By: 
Name: STEPHEN O'AMARA
Title: President

Qwiksean Technologies, LLC

By: 
Name: Stephen Ryan
Title: President

