

Received
JAN 13 2014
Assignment Branch

RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

01/13/2014



103665414

To the Director of the U. S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

1. Name of conveying party(ies):

- Individual(s)
- Partnership
- Corporation- State: Bandwidth.com, Inc.
- Other _____
- Association
- Limited Partnership

Citizenship (see guidelines) _____
Additional names of conveying parties attached? Yes No

3. Nature of conveyance/Execution Date(s) :

Execution Date(s) 2/22/2013
 Assignment Merger
 Security Agreement Change of Name
 Other _____

2. Name and address of receiving party(ies)

Additional names, addresses, or citizenship attached? Yes No

Name: Schmooze Com, Inc
Street Address: 1351 Kimberly Drive
City: Neenah
State: Wisconsin
Country: USA Zip: 54956

- Individual(s) Citizenship _____
- Association Citizenship _____
- Partnership Citizenship _____
- Limited Partnership Citizenship _____
- Corporation Citizenship Wisconsin
- Other _____ Citizenship _____

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)

4. Application number(s) or registration number(s) and identification or description of the Trademark.

A. Trademark Application No.(s) _____ Text
B. Trademark Registration No.(s) 77171368
Additional sheet(s) attached? Yes No

C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):

"Free PBX"

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

Name: David J Winkel
Internal Address: _____
Street Address: 411 S. Commercial St
City: Neenah
State: WI Zip: 54956
Phone Number: 920-725-8887
Docket Number: _____
Email Address: Dave@winkellaw.com

6. Total number of applications and registrations involved:

1

7. Total fee (37 CFR 2.6(b)(6) & 3.41)

\$ 40.00

- Authorized to be charged to deposit account
- Enclosed

8. Payment Information:

Deposit Account Number _____
Authorized User Name _____

9. Signature:

David J Winkel
Signature
David J. Winkel
Name of Person Signing

1/6/2014
01/14/2014 RECEIVED 00000022 77171368
Date
Total number of pages including cover sheet, attachments, and document: 7

40.00 OP

Documents to be recorded (including cover sheet) should be faxed to (571) 273-0140, or mailed to: Mail Stop Assignment Recordation Branch, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

GENERAL CONVEYANCE, BILL OF SALE AND ASSIGNMENT AGREEMENT

THIS GENERAL CONVEYANCE, BILL OF SALE AND ASSIGNMENT AGREEMENT (the "**Bill of Sale**"), dated as of February 22, 2013, by and between Bandwidth.com, Inc., a Delaware corporation (the "**Seller**"), and Schmooze Com, Inc., a Wisconsin corporation (the "**Buyer**").

Capitalized terms used herein without definition will have the meanings ascribed thereto in the Asset Purchase Agreement, dated as of February 22, 2013, by and between Buyer and Seller (the "**Asset Purchase Agreement**")

Recitals

WHEREAS, pursuant to the Asset Purchase Agreement, among other things, Seller agreed to sell and transfer, and Buyer agreed to purchase and accept, certain Assets; and

WHEREAS, it is a condition to the Closing of the Asset Purchase Agreement that Seller enters into this Bill of Sale to sell to Buyer the Transferred Assets (as hereinafter defined).

NOW, THEREFORE, in consideration of the payment by Buyer of the Purchase Price and in further consideration of the mutual covenants and agreements contained in the Asset Purchase Agreement, the receipt and sufficiency of which are hereby acknowledged, Seller hereby covenants and agrees as follows:

1. **Transferred Assets.** For value received, the receipt and sufficiency of which are hereby acknowledged, effective as of the Closing, Seller sells, conveys, assigns, transfers and delivers to Buyer, which hereby accepts, all of its right, title and interest and benefit in and to the following assets (collectively, the "**Transferred Assets**"):
 - a. the Assets (as defined in the Asset Purchase Agreement); and
 - b. the Contracts (other than any contracts that constitute Excluded Assets) set forth on Schedule 1.1(c) attached to the Asset Purchase Agreement (the "**Assigned Contracts**");

TO HAVE AND TO HOLD, all and singular, for its own use forever, the Transferred Assets hereby sold, assigned, transferred, conveyed and delivered, or intended so to be, unto Buyer, its successors and assigns forever.

2. **Excluded Assets.** For the avoidance of doubt, Seller will not be deemed to have sold pursuant to this Bill of Sale any Excluded Assets.
3. **Assumption of Liabilities.** Buyer hereby undertakes, assumes and agrees to perform, pay and discharge when due all liabilities and obligations accruing and required to be performed on or after the date hereof under the Assigned Contracts; Buyer also undertakes, assumes and agrees to perform, pay and discharge when due all liabilities and obligations accruing and required to be performed pursuant to Section 1.3 of the Asset Purchase Agreement.
4. **Relationship with the Asset Purchase Agreement.** This Bill of Sale is intended to evidence the consummation of the transactions contemplated by the Asset Purchase Agreement. This Bill of Sale is in all respects subject to the provisions of the Asset Purchase Agreement and is not

intended in any way to supersede, limit or qualify any provision of the Asset Purchase Agreement.

5. **Further Assurances.** Each party hereby agrees on demand to make, execute, acknowledge and deliver any and all further documents and instruments, and to do and cause to be done all such further acts, reasonably requested by the other party to evidence and/or in any manner to perfect the transfer and assignment to Buyer of the Transferred Assets contemplated hereby.
6. **Successors.** This Bill of Sale will inure to the benefit of and is binding upon the respective successors and assigns of Seller and Buyer.
7. **Governing Law.** This Bill of Sale will be governed by the laws of the State of North Carolina without giving effect to its conflict of laws principles.
8. **Dispute Resolution.** Any dispute as to matters relating to this Bill of Sale will be resolved in accordance with the terms and conditions of Section 5.8 of the Asset Purchase Agreement.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the parties have caused this Bill of Sale to be executed and delivered effective as of the date first written above.

SELLER:

BANDWIDTH.COM, INC.

By: 

Name: John C. Murdock

Title: President

BUYER:

SCHMOOZE COM, INC.

By: 

Name: Tony Lewis

Title: Chief Executive Officer

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the “**Agreement**”), dated as of February 22, 2013, is by and between Schmooze Com, Inc., a Wisconsin corporation (the “**Buyer**”), and Bandwidth.com, Inc., a Delaware corporation (the “**Seller**”).

Recitals

Seller is in the business of owning and operating the website operated at freepbx.com, freepbx.org, and sipstation.com, including, without limitation, the store.freepbx.com user base (the “**Business**”). Seller has agreed to sell to Buyer, and Buyer has agreed to purchase from Seller, certain assets relating to the Business upon the terms and provisions and subject to the conditions hereinafter set forth.

Agreement

In consideration of the foregoing and the mutual covenants and agreements hereinafter set forth (the receipt and adequacy of which are hereby acknowledged by the parties), the parties hereto hereby agree as follows:

1. **Purchase of Assets; Payment**

1.1. Assets to be Transferred. Upon the terms and subject to the conditions set forth in this Agreement, Seller will, on the Closing Date, sell, assign, transfer, convey and deliver to Buyer, and Buyer will purchase and accept from Seller, all right, title and interest of Seller in and to the Business and all of the assets and properties owned or leased by Seller which are used in the Business, excluding the Excluded Assets and Excluded Liabilities (individually, an “**Asset**,” and collectively, the “**Assets**”), including (without limitation) all right, title and interest in and to the assets and properties set forth in subsections (a) through (e) of this Section:

- (a) the Business;
- (b) any and all equipment, leasehold improvements, furnishings and other tangible personal property of Seller relating to the Business;
- (c) the Contracts that are set forth in Schedule 1.1(c) hereto;
- (d) any and all licenses, permits, contract rights, warranties, litigation claims and rights, confidential information, other general intangibles and information (including (without limitation) customer lists, records, plans, projections, marketing and advertising materials, and financial accounting books and records) of Seller relating to the Business (other than that pertaining solely to Excluded Assets and Excluded Liabilities), and any and all products and proceeds of and payments and other distributions with respect to any and all of the foregoing items;
- (e) the goodwill associated with the Business and the Assets;
- (f) all customer lists and databases and customer contracts with respect to services contracted directly through freepbx.com, freepbx.org, and/or sipstation.com; and

(g) any and all intellectual property and proprietary rights, owned or licensed, common law or statutory, including (without limitation) all patents, trade names trademarks, copyrights, service marks and registrations and applications and trade secrets (“**Intellectual Property**”) of Seller that relate to the Business, which Intellectual Property will be subject to the License Agreement in the form attached hereto as Exhibit C, which License Agreement will permit Seller to use all such Intellectual Property upon a default of Buyer of payment of the purchase price of Section 1.5 (b).

1.2. Excluded Assets. There will be excluded from the Assets transferred to Buyer hereunder the assets of Seller set forth in subsections (a) through (c) of this Section (individually, an “**Excluded Asset**”, and collectively, the “**Excluded Assets**”):

(a) The domain names of freepbx.com, freepbx.org and sipstation.com (“**Domain Names**”) that relate to the Business, which Domain Names will be subject to the Option Agreement in the form attached hereto as Exhibit D;

(b) the rights of Seller under this Agreement, including the right to receive the purchase price, as described in Section 1.5;

(c) those assets described on Schedule 1.2(b).

1.3. Assumed Obligations. Upon the terms and provisions and subject to the conditions set forth in this Agreement, Buyer will assume at the Closing, and will thereafter pay, satisfy and otherwise discharge the liabilities and obligations of Seller as specifically and expressly, and only to the extent, set forth on Schedule 1.3 (individually, an “**Assumed Obligation**” and collectively, the “**Assumed Obligations**”). All Contracts relating to any Assumed Obligation must be listed in Schedule 1.1(c). With respect to Seller’s account with Authorize.net, which will constitute an Assumed Obligation: (i) Buyer only will utilize such account during the six (6) month period immediately following the Closing Date with respect to existing freepbx.com and/or freepbx.org customers; (ii) Seller may terminate any such account at any time after the date six (6) months immediately following the Closing Date; and (iii) Buyer will indemnify and hold Seller harmless from and against, any and all liens, indebtedness, losses, expenses and other liabilities and obligations, arising due to Buyer’s failure to pay Authorize.net any amounts due to Authorize.net from and after the Closing Date.

1.4. Liabilities Not Assumed by Buyer. Except as otherwise specifically and expressly set forth on Schedule 1.3, Buyer has not, and will not be deemed or construed to have, in any way assumed or taken title to the Assets subject to, or in any way become liable or responsible for, and Seller will indemnify and hold Buyer harmless from and against, any and all liens, indebtedness, losses, expenses and other liabilities and obligations, regardless of its or their nature or circumstances (each an “**Excluded Liability**,” and collectively, the “**Excluded Liabilities**”) relating to the Business that have not been specifically assumed by Buyer pursuant to Section 1.3, including but not limited to:

(a) liability for any federal, state or local taxes of Seller;

(b) liability which constitutes a breach of, or is inconsistent with, the representations, warranties and agreements of Seller set forth in this Agreement;

(c) liability of Seller for any expenses incurred in negotiating, preparing or consummating the transactions contemplated by this Agreement; or

(d) other liability of Seller not expressly assumed by Buyer pursuant to Section 1.3.

1.5. Purchase Price; Payment; Allocation of Purchase Price. Subject to the terms and conditions set forth in this Agreement,

(a) Buyer will assume the Assumed Obligations as specifically and expressly, and only to the extent, set forth on Schedule 1.3; and

(b) Buyer will pay to Seller Five Hundred Forty Thousand and Ten Dollars (\$540,010.00) (the "**Purchase Price**"), payable in cash as follows: (i) \$200,000.00 at closing (the "**Closing Payment**"); and (ii) \$15,455.00 per month, due on or before the eighteenth (18th) day of each calendar month pursuant to the Escrow Agreement in the form attached hereto as Exhibit F, commencing on the second calendar month immediately after the closing and continuing for twenty-two (22) months immediately thereafter (for clarity, the first such monthly payment will be due and payable on April 18, 2013). For clarity, if the Escrow Agent (as defined in the Escrow Agreement) distributes less than \$15,455.00 to Seller in any applicable month, Buyer will be deemed to have failed to meet its obligations pursuant to this Section 1.5(b).

(c) Buyer and Seller agree that the Purchase Price for the Assets will be allocated among the Assets in accordance with Schedule 1.5(c), which will be prepared by Buyer and Seller in accordance with Section 1060 of the United States Internal Revenue Code of 1986, as amended. Buyer and Seller will use such allocation of the Purchase Price in all relevant tax returns.

1.6. Instruments of Conveyance. In order to effectuate the transfer of the Assets contemplated by Section 1.1, and thereafter upon reasonable request, Seller will execute and deliver, dated on or as of the Closing Date, all bills of sale and other documents, or instruments of assignment, transfer or conveyance as Buyer will deem necessary or appropriate to vest in or confirm to Buyer good and marketable title to the Assets owned by Seller, in each case free and clear of all liens and to the lawful rights of Seller to use those Assets not owned by Seller. Buyer will prepare all such conveyance instruments referenced in this Section 1.6 and (to the extent such signature is needed) submit them to Seller for its signature.

1.7. Employees of the Business. The parties acknowledge and agree that Buyer is under no duty or obligation to employ any one or more of the persons employed in the Business. Nothing in this Agreement is intended to confer upon any employee of Seller any rights or remedies against Buyer, including, without limitation, any rights of employment of any nature or kind whatsoever.

1.8. Closing Date. The purchase and sale of the Assets provided for in Section 1.1 (the "**Closing**") will be consummated as of the close of business on the date of this Agreement (such date being hereinafter referred to as the "**Closing Date**"). Effective as of the Closing Date, the FreePBX.org Collaboration Agreement, dated as of November 6, 2010, by and between Buyer and Seller will be terminated and of no further force or effect.

(a) Seller's Deliveries at Closing. On or before the Closing Date, Seller will deliver or cause to be delivered to Buyers the following:

(i) a duly executed General Conveyance relating to the Assets in the form attached hereto as Exhibit B;

(ii) a duly executed License Agreement relating to the Intellectual Property in the form attached hereto as Exhibit C;

(iii) a duly executed Option Agreement relating to the Domain Names in the form attached hereto as Exhibit D;

(iv) a duly executed Security Agreement in the form attached hereto as Exhibit E;

(v) a duly executed Escrow Agreement in the form attached hereto as Exhibit F;

(vi) a copy of the resolutions of the board of directors of Seller authorizing the execution, delivery, and performance of this Agreement and all other agreements, instruments, certificates, and documents required to be executed and delivered hereunder to which Seller is a party, certified by an officer of Seller to be complete, correct, and in full force and effect as of the Closing Date.

(b) **Buyer's Deliveries at Closing.** On or before the Closing Date, Buyer will deliver or cause to be delivered to Sellers the following:

(i) The Closing Payment, as described in Section 1.5; and

(ii) such other bills of sale, instruments of assignment and other documents as may be reasonably requested by Seller to effect or evidence the transactions contemplated hereunder.

2. **Representations and Warranties of Seller**

To induce Buyer to enter into this Agreement and the other documents listed in Section 1.8(a) to which it is a party (the "**Purchase Documents**") and to purchase the Assets and assume the Assumed Obligations, except as described in the Disclosure Schedule attached hereto as Exhibit A (the "**Disclosure Schedule**"), Seller represents and warrants to Buyer as follows:

2.1. **Power and Authority.** Seller has the power and authority to execute and deliver this Agreement and each of the other Purchase Documents to which it is or will be a party and to perform all of its obligations hereunder and thereunder.

2.2. **Authorization, Conflicts and Validity.** The execution and delivery by Seller of this Agreement and each of the other Purchase Documents to which it is or will be a party and the performance by Seller of all of its obligations hereunder and thereunder:

(a) have been duly authorized by all requisite corporate action, if applicable;

(b) will not violate or be in conflict with any term or provision of (i) any applicable law, or (ii) any judgment, order, writ, injunction, decree or consent of any court or other judicial authority;

(c) will not violate, be in conflict with, result in a breach of, constitute a default (with or without the giving of notice or the passage of time or both) or give rise to any right of termination, cancellation, modification or acceleration of any right or obligation of Seller, or to a loss of any benefit relating to the Business to which Seller is entitled, under any term or provision of any material contract; and

(d) will not result in the creation or imposition of any lien of any nature upon any of the Assets.

2.3. Enforceability. This Agreement is, and the other Purchase Documents to which Seller is or will be a party when executed and delivered, will be valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms and provisions.

2.4. Consents, Etc. No consent, approval or authorization of, or registration, declaration or filing with, any Person is required (i) as a condition precedent, concurrent or subsequent to or in connection with the due and valid execution, delivery and performance by Seller of this Agreement or any other Purchase Document to which Seller is or will be a party or (ii) as a condition to the legality, validity, binding effect, enforceability or accuracy of any of their respective representations, warranties, covenants and other terms and provisions, or (iii) to afford Buyer the benefits to be provided upon purchase of the Assets. As used herein "Person" will include (without limitation) any manner of association, business trust, company, corporation, estate, governmental or other authority, joint venture, limited liability company, natural person, partnership, trust or other entity.

2.5. Litigation. There are no actions, suits, investigations or proceedings pending or threatened or contemplated at law, in equity, in arbitration or by or before any other authority involving or materially adversely affecting: (i) the Business, (ii) any part of any Asset or Assumed Obligation, (iii) the Intellectual Property, (iv) any of the obligations of Seller under this Agreement or any other Purchase Document, or (v) any of the transactions contemplated in this Agreement and the other Purchase Documents. Seller is not in default with respect to any judgment, order, writ, injunction, decree or consent of any court or other judicial authority, which default could have or has had a material adverse effect with respect to the Business, any Asset or any Assumed Obligation.

2.6. Compliance with Applicable Laws. Seller and the Business is in material compliance with all applicable laws. Seller has received no notice claiming a violation by Seller or the Business of any applicable law relating to the Assets, the Business, and the Intellectual Property and, to Seller's best knowledge, there is no basis for any claim that such a violation exists.

2.7. Title to Assets, Encumbrances, Etc.

(a) Seller:

(i) has good, valid and marketable title to all the Assets owned by Seller, free and clear of any and all liens of any kind whatsoever; or

(ii) has the lawful right transfer its rights with respect to all Assets which are not owned by Seller;

(b) Seller has no interest in any real estate other than real property leases which constitute Excluded Assets.

2.8. Intellectual Property.

(a) Seller owns all Intellectual Property subject to the License Agreement in the form attached hereto as Exhibit C and all Domain Names subject to the Option Agreement in the form attached hereto as Exhibit D. No other Person has an ownership or other interest in the Intellectual Property subject to the License Agreement in the form attached hereto as Exhibit C or the Domain Names subject to the Option Agreement in the form attached hereto as Exhibit D.

(b) With respect to the Business, Schedule 2.8(b) sets forth a true and complete list and summary description of all: (i) copyrights subject to the License Agreement in the form attached

hereto as Exhibit C; (ii) software subject to the License Agreement in the form attached hereto as Exhibit C; (iii) patents subject to the License Agreement in the form attached hereto as Exhibit C; (iv) trademarks subject to the License Agreement in the form attached hereto as Exhibit C; (v) Domain Names subject to the Option Agreement in the form attached hereto as Exhibit D; and (vii) all Websites subject to the Option Agreement in the form attached hereto as Exhibit D. The Intellectual Property listed on Schedule 2.8(b) (other than the Domain Names or Websites) is referred to herein as the “**IP License Assets.**”

(c) All IP License Assets were entirely conceived, created, written, produced, developed and completed by (i) employees of Seller and/or Business within the course and scope of their duties while employed by Seller and/or Business and who have a duty of assignment to Seller and/or Business or (ii) by individuals who have assigned such property to Seller and/or the Business.

(d) Seller possesses all right, title and interest in and to all IP License Assets, free and clear of any lien. Neither Seller nor the Business has granted any Person, or obligated itself to grant to any Person, any license, option or other right in or with respect to any of the IP License Assets. No Person has either asserted any rights in or offered to grant to Seller and/or Business a license or any other right of use with respect to the IP License Assets.

(e) There is no proceeding, petition to cancel, interference, re-examination or audit pending, or to Seller’s knowledge, threatened, with respect to and presently existing factual basis that is reasonably likely to result in any proceeding or formal audit with respect to, any of the following: (i) the IP License Assets or (ii) any right of Seller to develop, license, use, sell, distribute, modify or otherwise exploit the IP License Assets.

(f) To Seller’s knowledge, no Person is infringing upon, misappropriating or otherwise violating rights with respect to the IP License Assets. No Person has made a complaint, allegation, charge or any assertion whatsoever that any IP License Assets are invalid, unenforceable, incomplete or defective in any other way.

2.9. No Misrepresentation by Seller, Disclosure, Etc. No representation or warranty of Seller made or contained in this Agreement or any other Purchase Document, and no certificate or schedule or furnished or to be furnished by or on behalf of Seller in connection with the transactions contemplated by this Agreement and the other Purchase Documents, contains or will contain a misstatement of a material fact or omits or will omit to state a material fact required to be stated therein to make it, in the light of the circumstances under which made, not misleading.

3. Representations, Warranties and Covenants of Buyer.

To induce Seller to enter into this Agreement and the other Purchase Documents to which they are a party and to sell the Assets and assign the Assumed Obligations (if any), Buyer represents, warrants, and covenants as follows:

3.1. Organization, Powers, Etc. Buyer: (a) is duly organized, validly existing and in good standing under the laws of State of Wisconsin; (b) has the power and authority to carry on its business as now conducted and to own or hold under lease the assets and properties it purports to own or hold under lease; (c) is (or will be at the time of Closing) duly qualified, licensed or registered to transact its business and in good standing in every jurisdiction in which failure to be so qualified, licensed or registered would be reasonably likely to have a material adverse effect on it; and (d) has the power and authority to execute and deliver this Agreement and each of the other Purchase Documents to which it is or will be a party and to perform all of its obligations hereunder and thereunder.

3.2. Authorization, Conflicts and Validity. The execution and delivery by Buyer of this Agreement and each of the other Purchase Documents to which it is or will be a party and the performance by Buyer of all of its obligations hereunder and thereunder: (a) have been duly authorized by all requisite corporate action; and (b) will not violate or be in conflict with any term or provision of (i) any applicable law, (ii) any judgment, order, writ, injunction, decree or consent of any court or other judicial authority applicable to Buyer, or (iii) the Articles of Incorporation or Bylaws of Buyer.

3.3. Enforceability. This Agreement is, and the other Purchase Documents to which Buyer is or will be a party when executed and delivered will be valid and binding obligations of Buyer, enforceable against it in accordance with their respective terms and provisions.

3.4. Consents, Etc. No consent, approval or authorization of, or registration, declaration or filing with, any governmental Authority or other Person is required as a condition precedent, concurrent or subsequent to or in connection with the due and valid execution, delivery and performance by Buyer of this Agreement or any other Purchase Document to which Buyer is or will be a party or the legality, validity, binding effect or enforceability of any of their respective representations, warranties, covenants and other terms and provisions.

3.5 Processing of Customer Payments. Through and until the date when all payments to be made pursuant to this Agreement will have been paid in full, all payments to Buyer from any customer of Buyer will be (i) processed by credit card only, and (ii) deposited by the applicable credit card companies into a trust account established by Buyer with the Winkel Law Office, which Winkel Law Office will cause an electronic funds transfer to Seller from such account on or before the 18th day of each calendar month in an amount equal to the lesser of (i) the amounts in such account as of the 18th of each month, or (ii) \$15,445.00. Any funds remaining in such account after such distribution shall be distributed to Buyer. For clarity, (i) in the event that an insufficient amount will have been deposited in such account on or before the 18th day of any applicable calendar month, then the Winkel Law Office will distribute the entirety of such account to Seller on or before the 18th day of the applicable calendar month, (ii) no funds will be distributed to Buyer until the deficiency is first paid to Seller, and (iii) when enough money is subsequently deposited into such trust account to cover the deficiency, the Winkel Law Office shall pay such amount to Seller; provided, however, the Winkel Law Office will not make to Seller more than two (2) payments in any calendar month. The Winkel Law Office will not distribute or otherwise release any funds from such trust account to Buyer unless and until any and all accrued monthly obligations to Seller will have been paid in full through any applicable date. The Winkel Law Office will execute and deliver the Escrow Agreement in the form attached hereto as Exhibit F.

3.6 Access to Information Post-Closing. Following the Closing, Buyer will permit Seller and its authorized representatives to have reasonable access during normal business hours, upon reasonable prior written notice to Buyer, to the books, records and personnel relating to the Assets with respect to the period prior to the Closing, to the extent that such access may be reasonably required (a) in connection with the preparation of any accounting records or with any audits relating to Company or the Business, (b) in connection with any regulatory filing or matter or (c) in connection with any other valid legal or business purpose of Seller. Without the written consent of Seller, Buyer will not, for a period of five (5) years following the Closing Date, destroy, alter or otherwise dispose of any of the books and records relating to the Assets, as applicable, for the period prior to the Closing Date.

4. **Indemnification**

4.1. Indemnification of Seller. After Closing, Buyer will indemnify and hold Seller harmless from and against:

(a) Any and all loss, damage or liability resulting to Seller by reason of (i) any Assumed Obligation, (ii) a breach of Buyer's representations or warranties contained in this Agreement and (iii) any default (whether in whole or in part) in the due or timely observance, performance or satisfaction of any covenant or other term or provision of this Agreement by Buyer; and

(b) Any and all costs, expenses and reasonable attorneys' fees in connection with these indemnifications and Seller's defense of any claims made against them.

4.2. Indemnification of Buyer. After closing, Seller will indemnify and hold Buyer harmless from and against:

(a) Any and all loss, damage or liability resulting to Buyer by reason of (i) any Excluded Liability, (ii) a breach of Seller's representations or warranties contained in this Agreement and (iii) any default (whether in whole or in part) in the due or timely observance, performance or satisfaction of any covenant or other term or provision of this Agreement by Seller; and

(b) Any and all costs, expenses and reasonable attorneys' fees in connection with these indemnifications and Buyer's defense of any claims made against it.

5. **General Provisions**

5.1. Expenses. Except as otherwise provided in this Agreement, each party to this Agreement will bear its respective fees and expenses incurred in connection with the preparation, negotiation, execution and performance of this Agreement and the transactions contemplated herein, including all fees and expenses of its respective counsel.

5.2. Publicity. All notices to third parties and all other publicity concerning the transactions contemplated by this Agreement will be planned by Buyer and previously approved in writing by Seller, which approval will not be unreasonably withheld.

5.3. Assignment. This Agreement may not be assigned to any third party by any act of the parties hereto or by operation of law without the prior express written approval of all of the parties hereto, which approval will not be unreasonably withheld.

5.4. Modifications and Waiver. This Agreement and the other documents contemplated hereby constitute the entire agreement between the parties pertaining to the subject matter contained in them and supersede all prior agreements, representations and understandings of the parties. No supplement, modifications, or amendment of this Agreement will be binding unless executed in writing by all parties. No waiver of any of the provisions of this Agreement will be deemed, or will constitute a waiver of any other provision, whether or not similar, nor will any such waiver constitute a continuing waiver. No waiver will be binding unless executed in writing by the party making the waiver.

5.5. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Signatures of the parties transmitted by facsimile will be deemed to be their original signatures for all purposes.

5.6. All Agreements Survive Closing. All representations, warranties covenants and agreements of the parties contained in this Agreement, or any instrument or other writing provided for in it, will survive Closing and will inure to the benefit of and will bind the heirs, administrators, executors, successors, and assigns of the parties.

5.7. Severability. If any provision of this Agreement or the Purchase Documents is held by a court or arbitrator of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remainder of this Agreement or such Purchase Document will remain in full force and effect and will in no way be invalidated, void or voidable.

5.8. Applicable Law; Arbitration. This Agreement will be governed by, and construed in accordance with, the laws of the State of North Carolina, without giving effect to procedural rules or legal principles regarding conflicts of laws. The parties hereto agree to attempt to resolve promptly any dispute arising out of or relating to this Agreement by good faith negotiation; provided, however, if such attempt at dispute resolution will fail, disputes relating to the terms and conditions of this will be exclusively resolved by final and binding arbitration in the City of Raleigh, North Carolina pursuant to the commercial arbitration rules of the American Arbitration Association (“AAA”). Any decision by an arbitrator or arbitration tribunal or panel appointed by the AAA in accordance with such rules will be final and binding upon the parties hereto, and judgment upon such decision or award may be entered in any judicial court of competent jurisdiction. However, should any litigation take place, it will be brought in the courts of Wake County, North Carolina, and each party agrees that such venue is appropriate and convenient for him or it.

5.9. Headings. Section and paragraph titles and headings herein contained are inserted only for convenience and are not intended to be construed as part of this Agreement or as a limitation on the scope of the particular portions of this Agreement to which they refer.

5.10. Succession. This Agreement will be binding upon and will inure to the benefit of the parties hereto and their respective successors and assigns.

5.11. No Third Party Beneficiaries. Buyer and Sellers do not intend by the execution, delivery or performance of this Agreement to confer a benefit upon any Person not a party to this Agreement.

5.12. Construction. Buyer and Seller has participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or a question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the parties hereto and no presumption or burden of proof will arise favoring or disfavoring either party by virtue of the authorship of any of the provisions of this Agreement.

5.13. Notices. All notices, requests, demands and other communications under this Agreement will be in writing and will be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the third day after mailing if mailed to the party to whom notice is to be given, by first class mail, registered or certified, postage prepaid, and properly addressed as follows:

Seller: Bandwidth.com, Inc.
 900 Main Campus Drive, Suite 500
 Raleigh, NC 27606
 Attention: General Counsel

Buyer: Schmooze Com, Inc.
 1351 Kimberly Drive
 Neenah, WI 54956
 Attention: Chief Executive Officer

Any party may change its address for purposes of this paragraph by giving the other parties written notice of the new address in the manner set forth above.

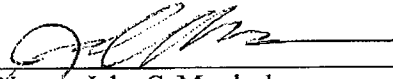
[Signatures Appear on Following Page]

[Signature Page to Asset Purchase Agreement]

IN WITNESS WHEREOF, the parties have caused this document to be executed as of the day and years first above written.

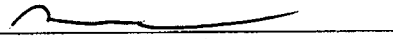
SELLER:

BANDWIDTH.COM, INC.

By: 
Name: John C. Murdock
Title: President

BUYER:

SCHMOOZE COM, INC.

By: 
Name: Tony Lewis
Title: Chief Executive Officer


[Signature Page to Asset Purchase Agreement]

IN WITNESS WHEREOF, the parties have caused this document to be executed as of the day and years first above written.

SELLER: **BANDWIDTH.COM, INC.**

By: _____
Name: John C. Murdock
Title: President

BUYER: **SCHMOOZE COM, INC.**

By:  _____
Name: Tony Lewis
Title: Chief Executive Officer

**EXHIBITS TO
ASSET PURCHASE AND SALE AGREEMENT**

- Exhibit A: Disclosure Schedule
- Exhibit B: Form of General Conveyance
- Exhibit C: Form of License Agreement for Intellectual Property
- Exhibit D: Form of Option Agreement for Domain Names
- Exhibit E: Form of Security Agreement
- Exhibit F: Form of Escrow Agreement

DISCLOSURE SCHEDULE TO ASSET PURCHASE AND SALE AGREEMENT

This Disclosure Schedule is arranged in sections corresponding to the numbered sections contained in the Asset Purchase Agreement. The headings and subheadings used in this Disclosure Schedule are used for convenience only and are not to be considered in construing or interpreting the disclosures contained herein. Matters disclosed in any section of this Disclosure Schedule will be deemed to be incorporated into each of the other sections of the Disclosure Schedule where it is clear, upon a reading of the disclosure without any independent knowledge on the part of the reader regarding the matter disclosed, that such disclosure is intended to apply to such other sections. Any terms defined in the Asset Purchase Agreement shall have the same meaning when used in this Disclosure Schedule as when used in the Asset Purchase Agreement, unless the context clearly indicates otherwise. Where the terms of a lease or contract are summarized or described in this Disclosure Schedule, such summary or description does not purport to be a complete statement of the material terms of such lease or contract.

Section 2.2(c), Section 2.4 and Section 2.7: Seller is a party to the Loan and Security Agreement, dated as of September 25, 2008, by and between Seller and Square 1 Bank (as amended, the "Loan Agreement"). Seller has granted to Square 1 Bank a lien on all of Seller's assets pursuant to the Loan Agreement. On or before the Closing Date, Seller will obtain from Square 1 Bank a release with respect to the Assets and the Intellectual Property of all liens, claims and encumbrances granted to Square 1 Bank pursuant to the Loan Agreement.

Section 2.8(a), Section 2.8(c), Section 2.8(d), Section 2.8(e) and Section 2.8(f): The Intellectual Property does not include FreePBX software itself. Such FreePBX is an opensource graphical user interface that controls and manages Asterisk and is licensed subject to the General Public License. Seller has no right, title or interest in such software. The representations and warranties of Section 2.8(a), Section 2.8(c), Section 2.8(d), Section 2.8(e) and Section 2.8(f) do not apply to such FreePBX software.

Section 2.9: The representations and warranties made in the Asset Purchase Agreement (or any certificate or schedule or furnished or to be furnished by or on behalf of Seller in connection with the transactions contemplated by the Asset Purchase Agreement) do not apply to any other information furnished or to be furnished to Buyer in connection with the transactions contemplated by the Asset Purchase Agreement. Seller has not historically maintained any financial or other information regarding the Business. Additionally, Buyer has had access to considerable information with respect to the Business due to Buyer's services performed for and on behalf of Seller pursuant to the FreePBX.org Collaboration Agreement, dated as of November 6, 2010, by and between Buyer and Seller, which will terminate effective as of the Closing Date.

**SCHEDULES TO
ASSET PURCHASE AND SALE AGREEMENT**

Schedule 1.1(c) - Contracts

See Appendix A.

Schedule 1.2(b) – Excluded Assets

All assets of Seller that are not solely utilized in connection with the Business. For clarity, the Excluded Assets include, without limitation, (i) any license to DTH VoIP Billing software; and (ii) any and all servers and/or computer hardware.

Schedule 1.3 – Assumed Obligations

All obligations pursuant to the Contracts listed on Schedule 1.1(c)

Schedule 1.5(c) – Allocation of Purchase Price

See Appendix B.

Schedule 2.8(b) – Intellectual Property and Domain Names

Copyrights: All common law copyright rights of Seller, if any, in website of freepbx.com and freepbx.org and sipstation.com. For clarity, Seller has not applied for and/or obtained any federal registrations with respect to any applicable copyrights.

Software: None, other than the code necessary to operate the server associated with store.freepbx.com.

Patents: None.

Trademarks: (i) “FreePBX” (USPTO Serial No. 77171368); and (ii) any applicable common law trademarks and/or tradename rights with respect to freepbx.com, freepbx.org, and/or sipstation.com.

Domain Names: freepbx.com, freepbx.org and sipstation.com

Websites: freepbx.com, freepbx.org, and sipstation.com

APPENDIX A TO SCHEDULE 1.1(C) TO ASSET PURCHASE AND SALE AGREEMENT

APPENDIX B TO SCHEDULE 1.5(C) TO ASSET PURCHASE AND SALE AGREEMENT