

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM503595

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Trak Microwave Corporation		02/15/2016	Corporation: DELAWARE
RECEIVING PARTY DATA			
Name:	Smiths Interconnect Microwave Components, Inc.		
Street Address:	4726 Eisenhower Blvd.		
City:	Tampa		
State/Country:	FLORIDA		
Postal Code:	33634-6309		
Entity Type:	Corporation: FLORIDA		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Registration Number:	2213725	LORCH MICROWAVE	
CORRESPONDENCE DATA			
Fax Number:	3124199440		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	3126285529		
Email:	filing.us@dennemeyer-law.com		
Correspondent Name:	Victoria Friedman		
Address Line 1:	2 North Riverside Plaza Suite 1500		
Address Line 4:	Chicago, ILLINOIS 60606		
NAME OF SUBMITTER:	Victoria Friedman		
SIGNATURE:	/vfr/		
DATE SIGNED:	12/27/2018		
Total Attachments: 9			
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ASSET PURCHASE AGREEMENT

This **Asset Purchase Agreement** (the “**Agreement**”) is entered into as of February 15 2016, by and between **TRAK Microwave Corporation**, a Delaware corporation (“**Seller**”), and **Smiths Interconnect Microwave Components, Inc.**, a Florida corporation, (“**Purchaser**”). Seller and Purchaser are sometimes referred to herein as a “party” or the “parties.”

RECITALS

WHEREAS, Seller and Purchaser share common ownership under the same ultimate corporate parent, Smiths Group plc;

WHEREAS, Seller is engaged in a business that designs, manufactures and sells RF/microwave filters under the name Lorch Microwave (the “**Lorch Business**”); and

WHEREAS Seller has agreed to sell the Lorch Business to Purchaser for the consideration and upon the terms and conditions set out in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 PURCHASE AND SALE

1.1 **Purchase and Sale of Assets.** On the terms and subject to the conditions of this Agreement, on the Closing Date (as defined in Article 2 below), Purchaser shall purchase from Seller, and Seller shall sell, convey, assign, transfer and deliver, all right, title and interest in and to all properties, assets, rights and interests of every kind and nature, whether real or personal, tangible or intangible, and wherever located, owned, leased or otherwise controlled by Seller as of the Closing Date and used in, or otherwise associated with the Lorch Business, including without limitation, all of the following assets (in each case, in respect of the Lorch Business but excluding all Excluded Assets as defined in Article 1.2 hereof)

(a) all accounts receivable (whether current or noncurrent) which as of the Closing Date is set forth on Schedule 1.1(a);

(b) all accrued income prepayments, prepaid expenses, deferred charges, advance payments and security deposits as of the Closing Date as set forth on Schedule 1.1.(b);

(c) all inventories and related supplies (including raw materials, stocks, work-in-progress and semi-finished and finished goods) that are related to the Lorch Business (the “**Inventory**”);

(d) all interests in equipment, machinery, tooling, computer hardware, fixtures, fittings, office furniture and office related assets, automobiles and other vehicles, supplies and other tangible personal property used in the conduct of the Lorch Business, whether owned, leased or otherwise (including, without limitation, items which have been fully

depreciated or expensed), including, without limitation, such items as set forth on Schedule 1.1(d);

(e) all intellectual property used in the conduct of the Lorch Business, including, without limitation, all trademarks, logos, service marks and trade names, trade dress and other names, marks and slogans, all internet domain names and web site content, all publishing and distribution rights, all statutory, common law and registered copyrights (including rights in computer software) moral rights and database rights; all patents, rights in inventions, rights in designs, rights in get-up and rights in know-how, trade secrets and confidential information; in each case, whether registered or unregistered including all registration applications for any of the foregoing; all interests in and to telephone numbers and all listings pertaining to the Lorch Business in all telephone books and other directories; together with all rights to use all of the foregoing forever and all other rights in, to, and under the foregoing in all countries, including, without limitation, such items as set forth on Schedule 1.1(e);

(f) all discoveries, improvements, processes, data, confidential information, specifications and ideas, whether patentable or not, all licenses and other similar agreements, and all drawings, records, books or other indicia, however evidenced, of the foregoing; all rights in and to any products or other intellectual property rights under research or development prior to or on the Closing Date related to the Lorch Business;

(g) all rights existing under contracts, engagements, leases, licenses, permits, agency agreements, commission agreements, service agreements, supply and distribution arrangements, sales and purchase agreements and orders, and other arrangements, employment and consulting agreements, consignment arrangements, warranties, consents, orders, registrations, privileges, franchises, memberships, certificates, approvals or other similar rights and all other agreements, arrangements and understandings used in the conduct of the Lorch Business including, without limitation, all rights existing under the contracts of the Lorch Business (together, the “**Contracts**”);

(h) the right to receive all mail and other communications addressed to the Lorch Business (including, without limitation, mail and communications from customers, suppliers, distributors, agents and others;

(i) all lists, records and files (and all copies thereof) pertaining to customers of the Lorch Business, including past, present and prospective customers;

(j) all lists, records and files (and all copies thereof) pertaining to suppliers, distributors, personnel, customers and agents of the Lorch Business and all other books, ledgers, files, documents, correspondence, business analysis, illustrations, proposals and records relating to the Lorch Business;

(k) all business and marketing plans and proposals and pricing and cost information relating to the Lorch Business;

(l) all computer software and systems, including licenses related thereto, proprietary or otherwise relating to the Lorch Business, including hardware, services, networks, peripherals, related source codes, data and documentation; and

(m) all creative materials (including, without limitation, photographs, films, art work, color separations and the like) advertising and promotional materials and all other printed or written materials relating to the Lorch Business;

(n) all goodwill as a going concern related to the Lorch Business and all other intangible property, including but not limited to the exclusive right for Purchaser to represent itself as carrying on the Lorch Business in succession to Seller;

(o) the benefit of all rights and claims of Seller arising from the carrying on of the Lorch Business by Seller (whether arising on, prior to or after the Closing Date) but excluding rights and claims to the extent that they relate to the Excluded Assets or Excluded Liabilities (together, the “**Claims**”); and

(p) all other property that relates to the Lorch Business not referred to above.

For purposes of the Agreement, the term “**Purchased Assets**” means all properties, assets and rights which Seller shall convey to Purchaser or shall be obligated to convey to Purchaser under this Agreement. On the Closing Date, Purchaser and Seller shall execute and deliver the bill of sale agreement, substantially in the form of Exhibit A attached hereto and incorporated by reference (the “**Bill of Sale**”).

1.2 **Excluded Assets.** Notwithstanding the foregoing, the following assets (the “**Excluded Assets**”) are expressly excluded from the sale and purchase contemplated hereby and nothing in this Agreement shall operate to transfer any of the Excluded Assets to Purchaser:

(a) any permit or other governmental license that by its terms is not transferable to Purchaser; or

(b) any other assets or rights not expressly set forth in Section 1.1.

1.3 **Assumption of Liabilities.** Subject to the conditions specified in this Agreement, as of the Closing Date, Purchaser shall assume and hereby agrees to pay, defend, discharge and perform as and when due only the following liabilities and obligations of Seller (but excluding the Excluded Liabilities) (the “**Assumed Liabilities**”):

(a) Seller’s executory obligations of continued performance under those certain contracts entered into in the ordinary course of the Lorch Business and specifically on Schedule 1.3(a) for any activity following the Closing Date;

(b) Seller’s obligations and liabilities following the Closing Date under those certain leases listed on Schedule 1.3(b), excluding all expenses related to taxes and other expenses for the period prior to the Closing;

(c) Seller’s obligations and liabilities relating to the current liabilities (including, but not limited to accounts payable) related to the Lorch Business as of the Closing Date and specifically identified on Schedule 1.3(c);

(d) Seller's obligations under the note purchase agreement (#1:291) between the Seller and Smiths Group International Holdings Limited regarding the issue and sale of US\$15,000,000 aggregate principal amount of 10.10% senior notes due 17 January 2017 dated 14 January 2010 (as amended) (the "**Note Purchase Agreement**") with an assumption to be evidenced by a novation letter agreement in the form attached in Exhibit B;

(e) Seller's obligations and liabilities following the Closing under that certain leasehold property listed on Schedule 1.3(e), excluding all expenses related to taxes and other expenses for the period prior to the Closing, with an assumption to be evidenced by an assignment of lease in the form attached in Exhibit C (the "**Lease Assignment**"); and

(f) Seller's warranty obligations for any goods or services provided by Sellers prior to the Closing Date.

1.4 **Excluded Liabilities.** Notwithstanding anything to the contrary contained in this Agreement, Purchaser shall not assume or be liable for any liabilities or obligations of Seller other than the Assumed Liabilities and all such other liabilities or obligations shall be the responsibility of Seller (the "**Excluded Liabilities**"). Seller shall from Closing (i) pay, defend, discharge and perform as and when due any and all Excluded Liabilities and (ii) indemnify Purchaser against any and all costs suffered or incurred by Purchaser as a result of any failure to discharge such Excluded Liabilities.

1.5 **Purchase Price.** The aggregate purchase price for the Lorch Business shall be Four Million One Hundred Twenty Five Thousand Dollars (\$4,125,000) (the "**Purchase Price**") and shall be payable on the Closing Date by wire transfer of immediately available funds to such account or accounts as shall have been designated in writing by Seller, together with the assumption of the Assumed Liabilities; provided, however, if the Closing Date is not a Business Day, such Purchase Price shall be payable on the first available Business Day thereafter with the discharge of such payment obligation being deemed to have occurred on the Closing Date. For purposes of this Agreement, "Business Day" means a day other than a Saturday, Sunday or other day on which commercial banks in the United States are authorized or required to close by Federal law. For avoidance of doubt, the parties acknowledge and agree that the enterprise value for the Lorch Business is Nineteen Million Seven Thousand Nine Hundred Seventeen Dollars (\$19,007,917).

ARTICLE 2 CLOSING CONDITIONS

2.1 **Closing.** The sale and purchase of the Purchased Assets shall be completed immediately after this Agreement is signed (the "**Closing**"), and when the events set out in the remainder of this Article 2 shall take place (the "**Closing Date**").

2.2 **Closing Deliveries of the Seller.** At the Closing, Seller shall deliver the following to Purchaser:

(a) **Delivery of Assets.** The Seller shall deliver legal possession of the Purchased Assets to the Purchaser.

(b) **Closing Documents.** The Seller shall deliver to the Purchaser the resolutions, certificates, documents and instruments set forth below:

- (i) an executed counterpart of the Bill of Sale;
- (ii) resolutions of Seller's board of directors, and the Seller's shareholder authorizing and approving the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, including but not limited to the transfer of obligations under the Note Purchase Agreement;
- (iii) the executed consents as identified in Schedule 2.2; and
- (iv) such other documents, instruments or certificates as shall be reasonably requested by Purchaser in order to effectuate the terms of this Agreement and the transactions contemplated herein or therein.

2.3 **Closing Deliveries of Purchaser.** At the Closing, Purchaser shall deliver the following to Seller:

(a) **Purchase Price.** The amount of the Purchase Price payable at Closing as provided in Section 1.5.; provided.

(b) **Closing Documents.** The Purchaser shall deliver to the Seller the resolutions, certificates, documents and instruments set forth below:

- (i) an executed counterpart of the Bill of Sale;
- (ii) resolutions of Purchaser's board of directors, and the Purchaser's shareholder authorizing and approving the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, including but not limited to the assumption of the obligations under the Note Purchase Agreement; and
- (iii) such other documents, instruments or certificates as shall be reasonably requested by Seller in order to effectuate the terms of this Agreement and the transactions contemplated herein or therein.

2.4 **Final Verification by DSS.** Seller shall ensure that all necessary approvals have been received by the United States Defense Security Service ("DSS") with respect to the transfer of the Lorch Business.

2.5 **Consents.**

(a) If and to the extent that the benefit and/or the burden of any of the Contracts and Claims cannot effectively be assigned or transferred by Seller to Purchaser except by an agreement of novation or without obtaining a consent, an approval, a waiver or the like from a third party (any such agreement or novation or consent being a "**Third Party Consent**")

Seller shall (upon the request of Purchaser) take all reasonable steps to obtain any Third Party Consent and Purchaser shall co-operate with Seller for this Purpose.

(b) If any Third Party Consent has not been obtained by Closing, then until it is obtained: (i) the transfer of the Contract or Claim (to the extent that a Third Party Consent is required) shall not take effect and Seller shall from Closing hold it on trust for Purchaser and shall pay to Purchaser promptly upon receipt any sums received by it to the extent that they relate to such Contract or Claim; and (ii) Purchaser shall (at Purchaser's cost) assist Seller to perform all the obligations of Seller under any such Contracts and indemnify Seller against all such liability (and all costs reasonably incurred by Seller) arising in connection with any such Contracts.

(c) If in respect of any Purchased Asset a Third Party Consent is refused or not obtained within three (3) months of the Closing Date the parties shall each use all reasonable endeavours to achieve an alternative solution pursuant to which Purchaser shall receive the full benefits of the relevant Purchased Asset and shall assume the associated obligations.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

3.1 **Seller's Representations and Warranties.** Seller represents and warrants to Purchaser as follows:

(a) **Ownership of the Purchased Assets.** Seller represents and warrants that: (a) Seller is the sole legal and beneficial owner of the Purchased Assets, free and clear of all liens, encumbrances, security agreements, equities, options, claims, charges, restrictions and adverse claims; and (b) there is no impediment to or restriction upon Seller's conveyance of such Asset to Purchaser as contemplated under this Agreement.

(b) **Authority.** This Agreement and all purchase documents when executed and delivered by Seller shall constitute the legal, valid and binding obligation of Seller in accordance with the terms of each such instrument and Seller's execution, delivery and performance of this Agreement and all other purchase documents: (i) are within the power of Seller; (ii) have been duly authorized by Seller's management as required by Seller's governing instruments and applicable law; (iii) do not violate any provision any of Seller's governing instruments or Seller's other contracts; and (iv) will not result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon Seller or the Purchased Assets except as contemplated in this Agreement.

(c) **No Violation or Conflict.** The execution and delivery by Seller of this Agreement and the other documents to be executed and delivered by Seller, the consummation by Seller of the transactions contemplated by this Agreement and the other documents, or the performance of this Agreement and the other documents required by this Agreement to be executed and delivered by Seller at the Closing, will not (a) conflict with or violate the Articles of Organization or Operating Agreement of Seller, (b) conflict with or violate any law, order or permit applicable to Seller or by which Seller's properties or assets are bound or affected, or (c) result in any breach or violation of or constitute a default (or an event that with notice or

lapse of time or both would become a default) under, or impair Seller's rights or alter the rights or obligations of any third party under, or give to others any rights of termination, amendment, acceleration or cancellation of, or result in the creation of any lien on any of the properties or assets of Seller pursuant to, any contract or other instrument or obligation to which Seller is a party or by which Seller or its properties or assets are bound or affected.

3.2 **Purchaser's Representations and Warranties.** Purchaser hereby represents and warrants to Seller as follows:

(a) **Authority.** This Agreement and all purchase documents when executed and delivered by Purchaser shall constitute the legal, valid and binding obligation of Purchaser in accordance with the terms of each such instrument and Purchaser's execution, delivery and performance of this Agreement and all other purchase documents: (i) are within the power of Purchaser; (ii) have been duly authorized by Purchaser's management as required by Purchaser's governing instruments and applicable law; (iii) do not violate any provision any of Purchaser's governing instruments or Purchaser's other contracts; and (iv) will not result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon Purchaser or the Purchased Assets except as contemplated in this Agreement.

(b) **No Violation or Conflict.** The execution and delivery by Purchaser of this Agreement and the other documents to be executed and delivered by Purchaser, the consummation by Purchaser of the transactions contemplated by this Agreement and the other documents, or the performance of this Agreement and the other documents required by this Agreement to be executed and delivered by Purchaser at the Closing, will not (a) conflict with or violate the Articles of Organization or Operating Agreement of Purchaser, (b) conflict with or violate any law, order or permit applicable to Purchaser or by which Purchaser's properties or assets are bound or affected, or (c) result in any breach or violation of or constitute a default (or an event that with notice or lapse of time or both would become a default) under, or impair Purchaser's rights or alter the rights or obligations of any third party under, or give to others any rights of termination, amendment, acceleration or cancellation of, or result in the creation of any lien on any of the properties or assets of Purchaser pursuant to, any contract or other instrument or obligation to which Purchaser is a party or by which Purchaser or its properties or assets are bound or affected.

ARTICLE 4 GENERAL PROVISIONS

4.1 **Further Assurances.** The parties agree to furnish upon request to each other, without further consideration, such further information, execute and deliver to each other such other documents and to do such other acts and things, all as the other party may reasonably request for the purpose of carrying out the intent of this Agreement and the documents referred to in this Agreement.

4.2 **Waiver.** Neither the failure nor any delay by any party in exercising any right, power or privilege under this Agreement or the documents referred to in this Agreement will operate as a waiver of such right, power or privilege, and no single or partial exercise of any such

right, power or privilege will preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege. .

4.3 **Entire Agreement.** All prior agreements, representations and understandings between the parties are incorporated in this Agreement, and the exhibits and schedules attached hereto, which together constitute the entire contract between the parties. The terms of this Agreement are intended by the parties as a final expression of their agreement with respect to such terms as are included herein and may not be contradicted by evidence of any prior or contemporaneous written or oral representations, agreements or understandings, whether express or implied. The parties further intend that this Agreement constitutes the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any judicial proceeding, if any, involving this Agreement. No amendment or variation of the terms of this Agreement shall be valid unless made in writing and signed by each of the parties.

4.4 **Assignment, Successors and No Third-Party Rights.** No party may assign any of its rights or obligations under this Agreement without the prior written consent of the other party, which consent will not be unreasonably withheld or delayed. Subject to the foregoing, this Agreement will apply to, be binding in all respects upon, and inure to the benefit of the successors and permitted assigns of the parties. Nothing expressed or referred to in this Agreement will be construed to give any person other than the parties to this Agreement any legal or equitable right, remedy or claim under or with respect to this Agreement or any provision of this Agreement. This Agreement and all of its provisions and conditions are for the sole and exclusive benefit of the parties to this Agreement and their successors and assigns.

4.5 **Severability.** If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

4.6 **Governing Law.** This Agreement will be governed by the laws of the State of Florida without regard to conflicts of laws principles. Any disputes arising under this Agreement shall be resolved in the Federal district courts in the State of Florida

4.7 **Counterparts; Facsimile.** This Agreement may be executed in one or more counterparts, all of which when fully-executed and delivered by all parties hereto and taken together shall constitute a single agreement, binding against each of the parties. Delivery of a counterpart of this Agreement by email attachment or facsimile shall be an effective mode of delivery.

[SIGNATURE PAGE FOLLOWS]

[Signature Page to Asset Purchase Agreement]

IN WITNESS WHEREOF, Purchaser and Seller have caused this Asset Purchase Agreement to be executed in their respective corporate names by their respective proper officers thereunto duly authorized as of the date first written above.

SELLER:

TRAK MICROWAVE CORPORATION

By: David Moorehouse

Printed Name: David Moorehouse

Its: President

PURCHASER:

SMITHS INTERCONNECT MICROWAVE
COMPONENTS, INC.

By: Rob Torsiello

Printed Name: Rob Torsiello

Its: President

TRADEMARK

RECORDED: 12/27/2018

REEL: 006510 FRAME: 0217