



QUADRALINK  
1,740,930

TRUEPOINT  
3,136,486

**GROUP 1 - STEP B**

Harris Canada, Inc. to BWA Technology, Inc. *Nunc Pro Tunc* Assignment  
effective December 1, 2003

This is a correction to the Assignment previously recorded at Reel/Frame 003520/0668 to correct the nature of the conveyance from an Assignment to a *Nunc Pro Tunc* Assignment effective as of December 1, 2003, and to correct Annex I thereof to remove U.S. Reg. No. 2,510,502; U.S. Reg. No. 2,769,432; U.S. Reg. No. 1,973,923; U.S. Reg. No. 2,790,141; U.S. Reg. No. 2,502,131; U.S. Reg. No. 2,510,529; U.S. Reg. No. 1,489,063; U.S. Reg. No. 1,904,204; U.S. Serial No. 78/292,702 and U.S. Serial No. 77/000,112, and to add U.S. Reg. No. 2,656,872; U.S. Reg. No. 2,832,842; U.S. Reg. No. 2,178,805; U.S. Reg. No. 1,740,930; and U.S. Reg. No. 3,136,486.

The assignment previously recorded at Reel/Frame 003520/0668 does not relate to any of the U.S. or foreign properties listed in Annex I as there recorded. In the recordation process, Annex I to said Assignment recorded at Reel/Frame 003520/0668 was substituted in error for Annex I to an Assignment recorded at Reel/Frame 003523/0852 and vice versa. Correction is hereby made.

# 82880 v1

## NUNC PRO TUNC TRADEMARK ASSIGNMENT

WHEREAS, Harris Canada, Inc., a Canadian corporation, with offices at 3 Hotel de Ville, Dollard-des-Ormeaux, Quebec, Canada H9B 3G4 ("Assignor") is the owner of record of all right title and interest in and to the trademarks and issued and pending registrations listed in Annex 1 attached hereto (the "Marks" and "Registrations");

WHEREAS, in connection with a certain Asset Purchase Agreement dated as of December 1, 2003, a partially redacted copy of which is attached hereto as Annex 2 (the "Purchase Agreement"), pursuant to which certain intellectual property including the Marks and Registrations were purchased from the Assignor effective as of December 1, 2003 by BWA Technology, Inc a Delaware corporation, with offices at 3993 Howard Hughes Parkway, Suite 259, Las Vegas, Nevada 89109-0961 ("Assignee"); and

WHEREAS, Assignee has acquired and is desirous of perfecting and recording its ownership of all of Assignor's right, title and interest in and to the Marks and Registrations and all other rights Assignor had with respect to such Marks and Registrations.

NOW, THEREFORE, in the consideration of the sum of Ten U.S. Dollars (\$10.00) and other good and valuable consideration, the receipt, sufficiency and equivalent value of which is hereby mutually acknowledged, the parties agree: Assignor, in accordance with the provisions of the Purchase Agreement has, and does hereby, transfer, assign, convey and deliver to, and vest in Assignee, and its successors and assigns, nunc pro tunc effective as of December 1, 2003, all worldwide right, title and interest of the Assignor in and to (a) the Marks; (b) the Registrations and any and all other issued federal, state and/or foreign trademark or service mark registrations of the Marks which Assignor may own; (c) all common law rights in, to and under the Marks; (d) all other rights in, to and under the Marks, together with and including, without limitation, any and all moral rights and all goodwill of the business symbolized by the Marks; (e) any and all rights to royalties, profits, compensations, license fees or other payments or remuneration of any kind relating to the Registrations, the Marks, and/or the goodwill under the Marks; and (f) all claims or causes of action assignor has or may have in connection with the Marks including, but not limited to, the right to sue and recover damages for any and all past infringements of any of the Marks and/or Registrations.

The attached Annex 1 and Annex 2 are expressly incorporated herein by reference in their entireties to form a part of this instrument.

For the consideration aforesaid, the Assignor agrees that it will do, execute and deliver, or will cause to be done, executed and delivered, all such further oaths, acts, documents or instruments of transfer, conveyance or assignment as shall be necessary and appropriate to vest in or confirm to Assignee, its successors and assigns the Assignee's entire right, title, interest, and ownership in the Marks and Registrations as may be reasonably requested by Assignee.

IN WITNESS WHEREOF, this instrument has been duly executed on behalf of Harris Canada, Inc, by its duly authorized officer this 10<sup>th</sup> day of April, 2007.

**Harris Canada, Inc., as Assignor**

By: *Eugene S. Cavallucci*  
Name: Eugene S. Cavallucci  
Title: Vice President

STATE OF FLORIDA        )  
  ).ss.:  
COUNTY OF Brevard )

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of April, 2007 by Eugene S. Cavallucci, Vice President. He is personally known to me or has produced personal knowledge as identification.

*Margaret E. Vickery*  
NOTARY PUBLIC

Agreed to and accepted by:

**BWA Technology, Inc., as Assignee**

By: *Charles J. Greene*  
Name: Charles J. Greene  
Title: Vice President, Tax and Treasurer



UNITED STATES

Mark: CLEARBURST  
Reg. No.: 2,656,872  
Reg. Date: December 3, 2002

Mark: CLEARBURST MB  
Reg. No.: 2,832,842  
Reg. Date: April 13, 2004

Mark: MICROSTAR  
Reg. No.: 2,178,805  
Reg. Date: August 4, 1998

Mark: QUADRALINK  
Reg. No.: 1,740,930  
Reg. Date: December 22, 1992

Mark: TRUEPOINT  
Reg. No.: 3,136,486  
Reg. Date: August 29, 2006

ARGENTINA

Mark: TRUEPOINT  
Reg. No.: 2025280  
Reg. Date: May 5, 2005

Mark: TRUEPOINT  
Reg. No.: 2025279  
Reg. Date: May 5, 2005

Mark: TRUEPOINT  
Reg. No.: 2025260  
Reg. Date: May 5, 2005

**BRAZIL**

Mark: GLOBESTAR  
Reg. No.: 820896586  
Reg. Date: September 4, 2001

Mark: QUADRALINK  
Reg. No.: 820896551  
Reg. Date: September 4, 2001

Mark: TRUEPOINT  
Application No.: 825890810  
Filing Date: October 20, 2003

Mark: TRUEPOINT  
Application No.: 825890829  
Filing Date: October 20, 2003

Mark: TRUEPOINT  
Application No.: 825890837  
Filing Date: October 20, 2003

**CANADA**

Mark: GLOBESTAR  
Reg. No.: 464582  
Reg. Date: October 25, 1996

Mark: MICROSTAR  
Reg. No.: 536455  
Reg. Date: November 20, 2000

Mark: QUADRALINK  
Reg. No.: 370273  
Reg. Date: July 6, 1990

Mark: TRUEPOINT  
Reg. No.: TMA651149  
Reg. Date: October 24, 2005

**CHINA**

Mark: CLEARBURST  
Application No.: 3544201  
Filing Date: April 29, 2003

Mark: TRUEPOINT  
Reg. No.: 3772125  
Reg. Date: February 21, 2006

Mark: TRUEPOINT  
Application No.: 3772126  
Filing Date: October 28, 2003

Mark: TRUEPOINT  
Reg. No.: 3772124  
Reg. Date: February 28, 2006

**EUROPEAN COMMUNITY**

Mark: TRUEPOINT  
Reg. No.: 003502631  
Reg. Date: March 17, 2005

**HONG KONG**

Mark: TRUEPOINT  
Reg. No.: 300100871  
Reg. Date: March 17, 2004

**MEXICO**

Mark: TRUEPOINT  
Reg. No.: 825706  
Reg. Date: March 22, 2004

Mark: TRUEPOINT  
Reg. No.: 825705  
Reg. Date: March 22, 2004



Mark: TRUEPOINT  
Reg. No.: 825707  
Reg. Date: March 22, 2004

**RUSSIAN FEDERATION**

Mark: TRUEPOINT  
Reg. No.: 275334  
Reg. Date: September 20, 2004

**TAIWAN**

Mark: TRUEPOINT  
Reg. No.: 1103019  
Reg. Date: May 15, 2004

Mark: TRUEPOINT  
Reg. No.: 1121343  
Reg. Date: October 01, 2004

**UNITED KINGDOM**

Mark: MICROSTAR  
Reg. No.: 2153440  
Reg. Date: December 12, 1997

**VENEZUELA**

Mark: TRUEPOINT  
Reg. No.: S026154  
Reg. Date: November 1, 2004

Mark: TRUEPOINT  
Reg. No.: S026153  
Reg. Date: November 1, 2004

Mark: TRUEPOINT  
Reg. No.: P256204  
Reg. Date: November 1, 2004

**BWA TECHNOLOGY, INC.**

**- and -**

**HARRIS CANADA, INC.**

**ASSET PURCHASE AGREEMENT**

**DATED December 1, 2003**

# TABLE OF CONTENTS

Page

ARTICLE 1	DEFINITIONS AND INTERPRETATION .....	1
1.1	Definitions.....	1
1.2	Context.....	3
1.3	Currency.....	3
1.4	Schedules .....	3
ARTICLE 2	PURCHASE AND SALE .....	4
2.1	Assets to be Purchased by Purchaser .....	4
2.2	Purchase Price.....	4
2.3	Payment of the Purchase Price.....	4
2.4	Tax .....	4
2.5	Closing .....	4
2.6	Non-Assumption of Liabilities. ....	4
ARTICLE 3	POST CLOSING ACTIONS .....	5
3.1	License Agreement. ....	5
3.2	Assignment of Purchased Assets. ....	5
ARTICLE 4	REPRESENTATIONS AND WARRANTIES.....	5
(a)	Corporation Organization and Standing; Power and Authority.....	5
(b)	Power and Capacity. ....	5
(c)	No Conflict.....	5
(d)	Compliance .....	5
(e)	Absence of Litigation.....	6
(f)	Authorization and Enforceability.....	6
(g)	Residency .....	6
(h)	GST Registration .....	6
4.2	Intellectual Property Representations. ....	6
4.3	Title .....	9
4.4	Accuracy of Schedules.....	9
4.5	Disclosure .....	9
4.6	Purchaser Representations and Warranties.....	9
ARTICLE 5	Ownership and Confidentiality .....	10

**TABLE OF CONTENTS**  
**(continued)**

**Page**

5.1	Obligation of Harris Canada .....	10
ARTICLE 6	Intellectual Property Registrations .....	10
6.1	Obligation of Harris Canada .....	10
ARTICLE 7	Indemnification .....	11
7.1	Indemnification by Harris Canada .....	11
7.2	Indemnity by the Purchaser .....	11
7.3	Limitations .....	11
7.4	Notice of Claim .....	11
7.5	Direct Claims .....	12
7.6	Third Party Claims .....	12
7.7	Settlement of Third Party Claims .....	13
7.8	Interest on Claims .....	13
7.9	GST Gross-up .....	14
7.10	Set-off .....	14
ARTICLE 8	General Provisions .....	14
8.1	Notices .....	14
8.2	Time .....	15
8.3	Headings .....	15
8.4	Governing Law and Attornment .....	15
8.5	Publicity and Advertising Materials .....	15
8.6	Entire Agreement .....	15
8.7	Severability .....	15
8.8	Waiver .....	15
8.9	Counterparts .....	15
8.10	Further Assurances .....	16
8.11	Survival .....	16

# ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement made effective the 1<sup>st</sup> day of December, 2003.

## BETWEEN:

**BWA TECHNOLOGY, INC.**, a body incorporated under the laws of Delaware (the "**Purchaser**")

-and-

**HARRIS CANADA, INC.**, a body incorporated under the laws of the Province of Alberta ("**Harris Canada**")

WHEREAS Harris Canada is the owner of intellectual property as hereinafter described;

AND WHEREAS Purchaser wishes to purchase the intellectual property and provide a license-back to Harris Canada;

AND WHEREAS this agreement is intended to set forth the terms and conditions of the purchase and sale of the intellectual property;

THE PARTIES AGREE AND DECLARE AS FOLLOWS:

## ARTICLE 1 DEFINITIONS AND INTERPRETATION

**1.1 Definitions.** In this Agreement, defined terms shall have the meaning set out herein and as follows, unless the context otherwise requires:

- (a) "**Agreement**" means this Asset Purchase Agreement.
- (b) "**Business**" means the business of designing, manufacturing and marketing digital microwave and millimeter wave radio systems as carried on by Harris Canada, however excluding, 1) the MDL product line assets acquired from Lucent Technology, Inc. under the Technology Transfer Agreement dated June 30, 2000, 2) the WAP product line assets acquired from NovAtel Communications Ltd. under the Agreement of Purchase and Sale of Assets dated November 3, 1995, and 3) any Intellectual Property and Technology acquired from Westronic, Inc.
- (c) "**Closing Date**" means the date of signature of this Purchase Agreement.
- (d) "**Effective Date**" means December 1, 2003.
- (e) "**GST**" means the Goods and Services Tax imposed under Part IX of the *Excise Tax Act* (Canada). "**QST**" means the Quebec Sales Tax.

- (f) **"Indemnified Party"** means a Person whom Harris Canada or the Purchaser, as the case may be, has agreed to indemnify under Article 7.
- (g) **"Indemnifying Party"** means, in relation to an Indemnified Party, the Party to this Agreement that has agreed to indemnify that Indemnified Party under Article 7.
- (h) **"Intellectual Property"** means all rights to and interests in, including beneficial ownership, anywhere in the world with respect to:
  - (i) all business and trade names, corporate names, logos and designs, brand names and slogans Related to the Business;
  - (ii) all inventions (whether or not patentable), processes, patents, patent rights, patent applications (including all reissues, divisions, continuations, continuations-in-part and extensions of any patent or patent application), industrial designs and applications for registration of industrial designs Related to the Business;
  - (iii) all copyrights and trade-marks, registrations and applications for trade-marks and copyrights Related to the Business;
  - (iv) all logos, trade names, trade dress, service marks and service mark applications and registrations Related to the Business;
  - (v) all rights and interests in and to Technology, including trade secrets and know how, Related to the Business;
  - (vi) all of the intellectual property affected by the registrations and applications for registration listed in Schedule "A" and the permissions and licenses listed in Schedules "B";
  - (vii) all other intellectual, industrial property trade secret or proprietary rights throughout the world Related to the Business;
  - (viii) all licenses of the intellectual property listed in items (i) through (vii), above;
  - (ix) all rights to damages, royalties and profits by reason of the past, present or future infringement or other misuse, of any of the intellectual property listed in items (i) through (viii), above.
- (i) **"Party"** means a party to this Agreement and any reference to a Party includes its successors and permitted assigns; and **"Parties"** means every Party.

- (j) **"Prime Rate"** means the prime rate of interest per annum quoted by the Royal Bank of Canada from time to time as its reference rate of interest for Canadian dollar demand loans made to its commercial customers in Canada and which the Royal Bank of Canada refers to as its "prime rate", as such rate may be changed from time to time.
- (k) **"Purchased Assets"** means the Intellectual Property and Technology Related to the Business, including the items listed in Schedule "A".
- (l) **"Related to the Business"** means, directly or indirectly, used in, arising from or relating in any manner to the Business.
- (m) **"Technology"** means all computer software (including source code and object code), operating systems, websites and related code, domain names, browsers, website content, user interfaces, algorithms, architecture, structure, display screens, layouts, developments, development tools, instructions, templates, evaluation systems, flowcharts, formulae and information, manufacturing, engineering and other drawings and manuals, processes, designs, lab journals, notebooks, data, data bases, files, blue prints, research and development reports, technical information, engineering data, specifications or other technology or related information all of which are Related to the Business and whether completed or in the course of development.

**1.2 Context.** In this Agreement, unless the context otherwise requires:

- (a) Words including singular number shall include plural number and vice versa; words including a gender shall include all other genders.
- (b) Wherever any provision of any schedule to this Agreement conflicts with any provision in the body of this Agreement, the provision of the body of this Agreement shall prevail.

**1.3 Currency.** Unless otherwise specified, all references herein to currency shall be references to currency of the United States.

**1.4 Schedules.** The Schedules to this Agreement shall consist of the following agreed documents and shall form an integral part of this Agreement:

- Schedule "A"- Purchased Assets
- Schedule "B"- Permitted Encumbrances and License Agreements
- Schedule "C"- Infringement of Intellectual Property

## ARTICLE 2 PURCHASE AND SALE

- 2.1 **Assets to be purchased by Purchaser.** Upon the terms and conditions of this Agreement, at the closing, Harris Canada shall sell, convey, transfer, assign and deliver to Purchaser, and Purchaser shall purchase from Harris Canada, all of Harris Canada's right, title and interest in and to the Purchased Assets.
- 2.2 **Purchase Price.** The purchase price payable by Purchaser to Harris Canada for the Purchased Assets shall be \$68,200,000 dollars ("**Purchase Price**") plus GST and QST, if applicable.
- 2.3 **Payment of the Purchase Price.** Within 30 days of the Closing Date, Purchaser will wire the Purchase Price (net of \$5,502,839.64 previously received from Harris Corporation which Purchaser will reimburse to Harris Corporation) to Harris Canada's account at the Royal Bank of Canada..
- 2.4 **Tax.** The Parties will be responsible individually for any taxes imposed upon them as a result of this transaction
- 2.5 **Closing.** The closing shall take place on the Closing Date, at which time Harris Canada shall deliver to Purchaser all appropriate bills of sale, transfers, assignments, consents and other documents requisite for the transfer to Purchaser of the Purchased Assets against satisfaction of the Purchase Price.
- 2.6 **Non-Assumption of Liabilities.** The Purchaser shall not assume or be responsible or liable for:
- (a) any obligations of Harris Canada required to be performed prior to the Closing Date; or
  - (b) any liabilities in connection with the Business or the Purchased Assets including, without limitation, any warranty or other claims related to the Technology, arising out of, resulting from or relating in any manner whatsoever to any fact, circumstance or event occurring or in existence prior to the Closing Time,
- and Harris Canada agrees that it will be responsible for and assume, and duly and punctually perform and/or pay, all such obligations and liabilities.

## ARTICLE 3 POST CLOSING ACTIONS

- 3.1 **License Agreement.** The Purchaser and Harris Canada shall promptly negotiate and enter into a License Agreement with effect from December 1, 2003 whereby Harris



Canada will acquire the rights to the Intellectual Property and Technology defined in this agreement.

- 3.2 **Assignment of Purchased Assets:** Harris Canada will effect the formal assignment of any registered asset covered by this agreement as soon as practicable. Where applicable, Harris Canada shall cause the legal owner of Purchased Assets to record assignments with the appropriate government agencies.

#### ARTICLE 4 REPRESENTATIONS AND WARRANTIES

- 4.1 Harris Canada represents and warrants to the Purchaser as stated below and acknowledges that the Purchaser is relying on the accuracy of each such representation and warranty in entering into this Agreement and completing the purchase.
- (a) **Corporation Organization and Standing; Power and Authority.** Harris Canada is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, and is duly qualified to do business and is in good standing as a corporation.
  - (b) **Power and Capacity.** Harris Canada has all power and capacity required to execute, deliver, and perform this Agreement, and to sell, transfer, convey, and assign all of the Purchased Assets to Purchaser pursuant to this Agreement.
  - (c) **No Conflict.** The execution and delivery of this Agreement does not, and the performance of this Agreement will not, (i) conflict with or violate the Certificate of Incorporation, Articles of Incorporation or By-laws of Harris Canada, (ii) conflict with or violate any United States, Canadian or foreign law, statute, ordinance, rule, regulation, order, judgment or decree ("Law") applicable to of Harris Canada and by which Purchased Assets would be bound or affected, or (iii) result in any breach of or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any right of termination, amendment, acceleration or cancellation of, or result in the creation of a lien on Purchased Assets pursuant to, any note, bond, mortgage, indenture, contract, agreement, lease, license, permit, franchise or other instrument or obligation.
  - (d) **Compliance.** Harris Canada is not in conflict with, or in default or violation of any material note, bond, mortgage, indenture, contract, agreement, lease, license, permit, franchise or other instrument or obligation to which Harris Canada is a party and by which Purchased Assets are bound or affected. Harris Canada is in compliance, in all material respects, with all Laws applicable to Harris Canada and by which Purchased Assets would be bound or affected. Harris Canada has not received any notice or other communication (whether oral or written) regarding any actual, alleged, possible or potential violation of, or failure to

comply with, any Law applicable to Harris Canada and by which Purchased Assets would be bound or affected.

- (e) **Absence of Litigation**. Other than listed on Schedule C, there is no litigation, suit, claim, action, proceeding or investigation of any kind (a "Legal Proceeding") pending or, to the knowledge of Harris Canada, threatened against the Harris Canada, and relating to Purchased Assets, before any United States, Canadian or foreign court, arbitrator or governmental entity. Neither Harris Canada nor any of the Purchased Assets is subject to any continuing order of, consent decree, settlement agreement or other similar written agreement with, or, to the knowledge of Harris Canada, continuing investigation by, any governmental entity.
- (f) **Authorization and Enforceability**. The execution, delivery, and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action on the part of Harris Canada. This Agreement is a legal, valid, and binding obligation of Harris Canada, enforceable against it in accordance with its terms. When executed and delivered by the parties thereto, all instruments, agreements, writings, consents, assignments and other documentation as delivered by Harris Canada as a condition of closing or as a closing delivery, will each constitute a legal, valid, and binding obligation of Harris Canada, enforceable against it in accordance with its terms.
- (g) **Residency**. Harris Canada is a resident of Canada for the purposes of the ITA.
- (h) **GST Registration**. Harris Canada is registered pursuant to Part IX of the *Excise Tax Act*.

#### 4.2 **Intellectual Property Representations.**

- (a) Schedule "A" sets forth a list of patents and patent applications, registered and unregistered trademarks and trademark applications associated with the Purchased Assets and owned by or on behalf of Harris Canada. Schedule "B" sets forth licenses, sublicenses, and other agreements pertaining to Intellectual Property rights associated with the Purchased Assets.
- (b) Harris Canada is the sole and exclusive owner or beneficial owner of all right, title and interest and possesses legally enforceable rights to the Purchased Assets and has the rights to sell convey, transfer, assign and deliver the Purchased Assets to Purchaser, without further obligations to Purchaser other than expressly provided in this Agreement.

- (c) Harris Canada has taken reasonable security measures to protect the value of the Purchased Assets, and the Intellectual Property inherent therein or resulting from and all confidential information and trade secrets related thereto.
- (d) No claims have been made, asserted, are pending, or threatened, against Harris Canada (i) based upon or challenging or seeking to deny or restrict the display, sale, marketing, promotion, performance, creation of derivative works, reproduction, distribution, licensing or sublicensing of any of the Purchased Assets, or (ii) alleging that the display, sale, marketing, promotion, performance, reproduction, creation of derivative works, distribution, licensing or sublicensing of a Purchased Asset does or may infringe upon or misappropriate the Intellectual Property rights of any third party, and to the knowledge of Harris Canada, no such claims have been made, asserted, are pending, or threatened against any distributor, end user, third party licensor or licensee of Licensed Purchased Assets.
- (e) Except as set forth in Schedule B, the use, copyright, performance, display, modification, manufacture, licensing, marketing, promotion, distribution and commercial exploitation of the Purchased Assets, and their use by Purchaser's customers, distributors, end users, third party licensors or licensees will not infringe upon or violate any Intellectual Property rights, right of publicity or right of privacy of any third party.
- (f) Harris Canada has no knowledge of any unauthorized use of the Purchased Assets or past or present infringement, except as set forth on Schedule C, of misappropriation or violation of, breach of any material obligations with respect to, or other impairment of any the Intellectual Property rights inherent therein or resulting from or granted pursuant to the Purchased Assets.
- (g) Except as disclosed in Schedule "B", Harris Canada has not (i) licensed the Purchased Assets to any party or (ii) entered into any exclusive agreements related to the Purchased Assets with any party or (iii) entered into any licenses, sublicenses or other agreement as to which Harris Canada is a party and pursuant to which Harris Canada is authorized to use any third party trademarks, or copyrights, including Purchased Assets which are incorporated in, are, or form a part of the Purchased Assets.
- (h) Harris Canada is not, nor will it be as a result of the execution and delivery of this Agreement or the performance of its obligations under this Agreement, in breach of any license, sublicense or other agreement relating to the Purchased Assets or third party intellectual property rights.
- (i) With respect to each license or agreement by which Harris Canada has obtained the right to display, sell, reproduce, perform, create derivative works, market, promote, distribute or sublicense the Purchased Assets or by which Harris Canada

has granted to any third party the right to display, sell, reproduce, perform, create derivative works, market, promote, or distribute any of the Purchased Assets:

- (i) such license or agreement is legal, valid, binding and enforceable and in full force and effect and represents the entire agreement between the parties thereto with respect to the subject matter thereof;
- (ii) such license or agreement will not cease to be legal, valid binding and enforceable and in full force and effect on terms identical to those currently in effect as a result of the consummation of the transactions contemplated by this Agreement, nor will the consummation of the transactions contemplated by this Agreement constitute a breach or default under such license or agreement, or otherwise give any party thereto a right to terminate such license or agreement;
- (iii) with respect to each such license or agreement, (A) Harris Canada has not received any notice of termination or cancellation under such license or agreement, and no party thereto has any right of termination or cancellation thereunder except in accordance with its terms, (B) Harris Canada has not received any notice of a breach or default under such license or agreement which breach or default has not been cured, and (C) Harris Canada has not granted to any other person any rights, adverse or otherwise, under such license or agreement; and
- (iv) neither Harris Canada nor any other party to such license or agreement, is in breach or default thereof in any material respect, and no event has occurred that, with notice or lapse of time would constitute such a breach or default or permit termination, modification or acceleration under such license or agreement.
- (v) Harris Canada represents that, Purchaser shall not be liable for any future compensation to any Authors or Owners of the Purchased Assets.

4.3 **Title.** Except as otherwise set forth in Schedule "B" (the "**Permitted Encumbrances and Licenses**"), Harris Canada represents and warrants it has good and marketable title to all of the Purchased Assets, or has the right to transfer such as provided herein, and none of the Purchased Assets is subject to any contract of sale or license lien, mortgage, security interest, pledge, encumbrance, charge, claim, or restriction of any kind. Upon execution and delivery to Purchaser of this Agreement, and the other instruments of transfer provided for herein, Purchaser will be vested with good and marketable title to all of the Purchased Assets, free and clear of all liens, mortgages, security interests, pledges, encumbrances, charges, claims, and restrictions of any nature, except as otherwise set forth in Schedule C.

- 4.4 **Accuracy of Schedules.** All schedules provided pursuant to this Agreement are true and complete, and Harris Canada has delivered to Purchaser complete and correct copies of all documents referred to (or which in any material way relate to the matters set forth) in such schedules.
- 4.5 **Disclosure.** No representation or warranty by Harris Canada herein contained, and no statement made in any schedule hereto or certificate furnished in connection with the transactions contemplated hereby, contains or will contain any untrue statement of a material fact, or omits to state any material fact necessary to make the statements contained therein not misleading.
- 4.6 **Purchaser Representations and Warranties.** The Purchaser represents and warrants to Harris Canada as stated below and acknowledges that Harris Canada is relying on the accuracy of each such representation and warranty in entering into this Agreement and completing the purchase.
- (a) **Corporation Organization and Standing; Power and Authority.** Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, and is duly qualified to do business and is in good standing as a corporation.
- (b) **Power and Capacity.** Purchaser has all power and capacity required to execute, deliver, and perform this Agreement.
- (c) **Authorization and Enforceability.** The execution, delivery, and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action on the part of Purchaser. This Agreement is a legal, valid, and binding obligation of Purchaser, enforceable against it in accordance with its terms. When executed and delivered by the parties thereto, all instruments, agreements, writings, consents, assignments and other documentation as delivered by Purchaser as a condition of closing or as a closing delivery, will constitute a legal, valid, and binding obligation of Purchaser, enforceable against it in accordance with its terms.
- (d) **GST and QST Registration.** Purchaser is registered for both the Federal Goods and Services Tax and Quebec Sales Tax.

## ARTICLE 5 OWNERSHIP AND CONFIDENTIALITY

- 5.1 **Obligation of Harris Canada** Subject to the terms and conditions hereof, Harris Canada confirms that the Purchased Assets including all Intellectual Property rights inherent

therein or resulting from or granted pursuant to such Purchased Assets, and all original written material comprising the Purchased Assets, is and shall at all times remain the sole and exclusive property of Purchaser. Harris Canada agrees to maintain all data and information previously maintained as confidential or proprietary relating to the Purchased Assets, including system programs, schematics, documentation, modifications, conversions and any other material in any medium whatsoever relating to the Purchased Assets, in confidence for Purchaser and shall protect such information with at least the same level of protection Harris Canada provides for its own confidential information, but no less than reasonable protection.

## ARTICLE 6 INTELLECTUAL PROPERTY REGISTRATIONS

6.1 **Obligation of Harris Canada.** Harris Canada agrees to assist Purchaser, or its designee, at Purchaser's expense, to secure Purchaser's rights in the Purchased Assets and the Intellectual Property rights inherent therein or resulting from or granted pursuant to such Purchased Assets in any and all countries, including the disclosure to Purchaser of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments and all other instruments which Purchaser shall deem necessary in order to apply for and obtain such rights and in order to assign and convey to Purchaser, its successors, assigns and nominees the sole and exclusive right, title and interest in and to such Purchased Assets, and the Intellectual Property rights inherent therein or resulting from or granted pursuant to such Purchased Assets. Harris Canada further agrees that Harris Canada's obligation to execute or cause to be executed, when it is in Harris Canada's power to do so, any such instrument or papers shall continue after the termination of this Agreement.

## ARTICLE 7 INDEMNIFICATION

7.1 **Indemnification by Harris Canada.** From the Closing Date, Harris Canada shall defend, indemnify and hold harmless Purchaser and its officers, directors, employees, shareholders, customers, agents, successors and assigns from and against any and all loss, damages, liabilities, settlement costs and expenses (including legal expenses and fees and the expenses of other professionals) ("Claims") or which may be made or brought against Purchaser or which it may suffer or incur directly or indirectly as a result of in respect of or arising out of (i) any claim which alleges that the Purchased Assets, or any part thereof, infringes or misappropriates any Intellectual Property rights, right of publicity or right of privacy of a third party; (ii) any breach of any covenant contained in this Agreement or in any other agreement, certificate or instrument executed and delivered pursuant to this Agreement; (iii) any breach of any representations and warranties made by Harris Canada in this Agreement or in any other agreement, certificate or instrument executed and delivered pursuant to this Agreement; or (iv) any

claim of ownership in or royalties for any Purchased Asset or Intellectual Property rights associated therewith.

7.2 **Indemnity by the Purchaser.** From the Closing Date, the Purchaser shall indemnify and hold Harris Canada and its officers, directors, employees, shareholders, customers, agents, successors and assigns harmless in respect of any Claim which may be made or brought against Harris Canada or which it may suffer or incur directly or indirectly as a result of in respect of or arising out of (i) any incorrectness in or breach of any representation or warranty of the Purchaser contained in this Agreement or in any other agreement, certificate or instrument executed and delivered pursuant to this Agreement; or (ii) any breach of or any non-fulfilment of any covenant or agreement on the part of the Purchaser under this Agreement or under any other agreement, certificate or instrument executed and delivered pursuant to this Agreement.

7.3 **Limitations.** No Party shall have any liability for indemnification pursuant to Sections 7.1 or 7.2 unless and until the accumulated aggregate amount of Claims of the Indemnified Party exceeds \$500,000, following which all such accumulated Claims and all further Claims of the Indemnified Party shall be recoverable as provided in this Agreement.

7.4 **Notice of Claim.** If an Indemnified Party becomes aware of a Claim in respect of which indemnification is provided for pursuant to either of Section 7.1 or 7.2, as the case may be, the Indemnified Party shall promptly give written notice of the Claim to the Indemnifying Party. Such notice shall specify whether the Claim arises as a result of a claim by a Person against the Indemnified Party (a "Third Party Claim") or whether the Claim does not so arise (a "Direct Claim"), and shall also specify with reasonable particularity (to the extent that the information is available):

- (i) the factual basis for the Claim; and
- (ii) the amount of the Claim, if known.

If, through the fault of the Indemnified Party, the Indemnifying Party does not receive notice of any Claim in time effectively to contest the determination of any liability susceptible of being contested, then the liability of the Indemnifying Party to the Indemnified Party under this Article shall be reduced by the amount of any losses incurred by the Indemnifying Party resulting from the Indemnified Party's failure to give such notice on a timely basis.

7.5 **Direct Claims.** In the case of a Direct Claim, the Indemnifying Party shall have 60 days from receipt of notice of the Claim within which to make such investigation of the Claim as the Indemnifying Party considers necessary or desirable. For the purpose of such investigation, the Indemnified Party shall make available to the Indemnifying Party the information relied upon by the Indemnified party to substantiate the Claim, together with all such other information as the Indemnifying Party may reasonably request. If both

parties agree at or before the expiration of such 60 day period (or any mutually agreed upon extension thereof) to the validity and amount of such Claim, the Indemnifying Party shall immediately pay to the Indemnified Party the full agreed upon amount of the Claim, failing which the matter shall be referred to binding arbitration in such manner as the parties may agree or shall be determined by a court of competent jurisdiction.

7.6 **Third Party Claims.** In the case of a Third Party Claim, the Indemnifying Party shall have the right, at its expense, to participate in or assume control of the negotiation, settlement or defence of the Claim. If the Indemnifying Party elects to assume such control, the Indemnifying Party shall reimburse the Indemnified Party for all of the Indemnified Party's out-of-pocket expenses incurred as a result of such participation or assumption. The Indemnified Party shall have the right to participate in the negotiation, settlement or defence of such Third Party Claim and to retain counsel to act on its behalf, provided that the fees and disbursements of such counsel shall be paid by the Indemnified Party unless the Indemnifying Party consents to the retention of such counsel at its expense or unless the named parties to any action or proceeding include both the Indemnifying Party and the Indemnified Party and a representation of both the Indemnifying Party and the Indemnified Party by the same counsel would be inappropriate due to the actual or potential differing interests between them (such as the availability of different defences). The Indemnified Party shall cooperate with the Indemnifying Party so as to permit the Indemnifying Party to conduct such negotiation, settlement and defence and for this purpose shall preserve all relevant documents in relation to the Third Party Claim, allow the Indemnifying Party access on reasonable notice to inspect and take copies of all such documents and require its personnel to provide such statements as the Indemnifying Party may reasonably require and to attend and give evidence at any trial or hearing in respect of the Third Party Claim. If, having elected to assume control of the negotiation, settlement or defence of the Third Party Claim, the Indemnifying Party thereafter fails to conduct such negotiation, settlement or defence with reasonable diligence, then the Indemnified Party shall be entitled to assume such control and the Indemnifying Party shall be bound by the results obtained by the Indemnified Party with respect to such Third Party Claim. If any Third Party Claim is of a nature such that (i) the Indemnified Party is required by applicable laws or the order of any court, tribunal or regulatory body having jurisdiction, or (ii) it is necessary in the reasonable view of the Indemnified Party acting in good faith and in a manner consistent with reasonable commercial practices, in respect of (A) a Third Party Claim by a customer relating to products or services supplied by the Business or (B) a Third Party Claim relating to any contract which is necessary to the ongoing operations of the Business or any material part thereof in order to avoid material damage to the relationship between the Indemnified Party and any of its major customers or to preserve the rights of the Indemnified Party under such an essential contract, to make a payment to any person (a "Third Party") with respect to the Third Party Claim before the completion of settlement negotiations or related legal proceedings, as the case may be, then the Indemnified Party may make such payment and the Indemnifying Party shall, promptly after demand by the Indemnified Party, reimburse the Indemnified Party for such



payment. If the amount of any liability of the Indemnified Party under the Third Party Claim in respect of which such a payment was made, as finally determined, is less than the amount which was paid by the Indemnifying Party to the Indemnified Party, the Indemnified Party shall, promptly after receipt of the difference from the Third Party, pay the amount of such difference to the Indemnifying Party. If such a payment, by resulting in settlement of the Third Party Claim, precludes a final determination of the merits of the Third Party Claim and the Indemnified Party and the Indemnifying Party are unable to agree whether such payment was unreasonable in the circumstances having regard to the amount and merits of the Third Party Claim, then such dispute shall be referred to and finally settled by binding arbitration from which there shall be no appeal.

**7.7 Settlement of Third Party Claims.** If the Indemnifying Party fails to assume control of the defence of any Third Party Claim, the Indemnified Party shall have the exclusive right to contest, settle or pay the amount claimed. Whether or not the Indemnifying Party assumes control of the negotiation, settlement or defence of any Third Party Claim, the Indemnifying Party shall not settle any Third Party Claim without the written consent of the Indemnified Party, which consent shall not be unreasonably withheld or delayed; provided, however, that the liability of the Indemnifying Party shall be limited to the proposed settlement amount if any such consent is not obtained for any reason within a reasonable time after the request therefor.

**7.8 Interest on Claims.** The amount of any Claim submitted under Section 7.1 or Section 7.2 as damages or by way of indemnification shall bear interest from and including the date any Indemnified Party is required to make payment in respect thereof at the Prime Rate calculated from and including such date to but excluding the date reimbursement of such Claim by the Indemnifying Party is made, and the amount of such interest shall be deemed to be part of such Claim.

**7.9 GST Gross-up.** The amount of any Claim submitted under Section 7.1 or 7.2 as damages or by way of indemnification as determined without regard to this Section 7.9 shall be increased by an amount equal to the rate of GST applied to such amount.

**7.10 Set-off.** The Purchaser shall be entitled to set-off the amount of any Claim submitted under Section 7.1 as damages or by way of indemnification against any other amounts payable by the Purchaser to Harris Canada whether under this Agreement or otherwise.

## **ARTICLE 8 GENERAL PROVISIONS**

**8.1 Notices.** All demands, notices, or consents required or permitted herein shall be in writing and shall be delivered by overnight delivery, facsimile (with confirmation copy by mail), or mailed postage prepaid, return receipt requested, to the respective parties at the addresses first set forth below:

**To Harris Canada:**

Attention: • Jacques Malouin  
• 3 Hotel De Ville, Dollard-Des-Ormeaux, Quebec, H9B 3G4,  
Canada  
Facsimile: • 514/421-8423  
E-mail: • jmalouin@harris.com

**To Purchaser:**

Attention: • Charles J. Greene  
• 1025 West NASA Blvd., Melbourne, FL, 32919  
Facsimile: • 321-727-9620  
E-mail: • cgreene@harris.com

Such notices or other communications shall be deemed effective upon the earliest to occur of (i) actual delivery, (ii) one (1) business day after transmission by overnight delivery, or (iii) the day of receipt by facsimile where receipt has been confirmed during normal business hours otherwise facsimile will be deemed delivered the following business day.

8.2 **Time**. Time shall be of the essence of this Agreement.

8.3 **Headings**. The headings in this Agreement do not affect its interpretation.

8.4 **Governing Law and Attornment**. This Agreement shall be governed by and interpreted in accordance with the laws of Alberta and the parties agree to attorn to the exclusive jurisdiction of the Courts of Alberta.

8.5 **Publicity and Advertising Materials**. Each of the parties agrees to submit to the other all advertising, press releases or other publicity matters relating to this Agreement for approval, which approval shall not be unreasonably withheld or delayed.

8.6 **Entire Agreement**. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written. Except as specifically set out in this Agreement, there are no conditions, warranties, representations or other agreements between the parties in connection with the subject matter of this Agreement (whether oral or written, express or implied, statutory or otherwise).

8.7 **Severability** Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of the Agreement,

all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdictions.

- 8.8 **Waiver**. No waiver shall be inferred from or implied by any failure to act or delay in acting by a party in respect of any default, breach or non-observance or by anything done or omitted to be done by the other party. The waiver by a party of any default, breach or non-compliance under this Agreement shall not operate as a waiver of that party's rights under this Agreement in respect of any continuing or subsequent default, breach or non-observance (whether of the same or any other nature)..
- 8.9 **Counterparts**. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one in the same instrument. Counterparts may be executed either in original or faxed form and the parties adopt any signatures received by a receiving fax machine as original signatures of the parties; provided, however, that any party providing its signature in such manner shall promptly forward to the other party an original of the signed copy of this Agreement which is so faxed.
- 8.10 **Further Assurances**. Each party shall promptly to, execute, deliver or cause to be done, executed and delivered all further acts, documents and things in connection with this Agreement that the other party may reasonably require, for purposes of giving effect to this Agreement.

8.11 Survival. Subject to the terms of this Agreement and except with respect to the period of survival and termination for a specific covenant or agreement by Purchaser and Harris Canada which specifically provides for a longer or shorter period of survival and termination (in which case such survival and termination period shall govern), all representations and warranties of the parties set forth in this Agreement shall terminate two (2) years from the Closing Date.

THIS ASSET PURCHASE AGREEMENT executed this 23<sup>rd</sup> day of December, 2003 and declared effective as of the date first written.

**BWA TECHNOLOGY, INC.**

Per: \_\_\_\_\_  
Name: Bryan R. Roub  
Title: President

**HARRIS CANADA, INC.**

Per: \_\_\_\_\_  
Name: Jacques Malouin  
Title: Director and Assistant Secretary

8.11 **Survival.** Subject to the terms of this Agreement and except with respect to the period of survival and termination for a specific covenant or agreement by Purchaser and Harris Canada which specifically provides for a longer or shorter period of survival and termination (in which case such survival and termination period shall govern), all representations and warranties of the parties set forth in this Agreement shall terminate two (2) years from the Closing Date.

THIS ASSET PURCHASE AGREEMENT executed this 23<sup>rd</sup> day of December, 2003 and declared effective as of the date first written.

**BWA TECHNOLOGY, INC.**

Per: BWR  
Name: Bryan R. Roub  
Title: President

**HARRIS CANADA, INC.**

Per: \_\_\_\_\_  
Name: Jacques Malouin  
Title: Director and Assistant Secretary

**SCHEDULE "A"**

**PURCHASED ASSETS**

The Purchased Assets comprise the following and the parties agree to the indicated allocations of the Purchase Price:

Point to Point Technology (SPR 5000)	[REDACTED]
Point to Point Technology (Megastar M/H)	[REDACTED]
Point to Point Technology (Galaxy)	[REDACTED]
Point to Multi Point Technology (ClearBurst)	[REDACTED]
"ClearBurst" Trademark	[REDACTED]
Total	[REDACTED]

Purchased Assets include all Intellectual Property Related to the Business, including the following:

Patents registered in the United States together with any foreign counterparts (schedules attached).

Trademarks: ClearBurst®, TRUEPOINT™, GlobeStar®, ClearBurst MB™, MicroStar®, and QUADRALINK®