

EXECUTION COPY

ASSET PURCHASE AGREEMENT

Table of Contents

	Page
1. Transfer of Assets.....	1
2. Consideration.....	2
3. Closing Transactions.....	2
4. Conditions Precedent to Closing.....	4
5. Seller’s Representations and Warranties.....	5
6. Buyer’s Warranties and Representations.....	6
7. “AS IS” Transaction.....	6
8. Bankruptcy Court Approvals.....	7
9. Termination.....	7
10. Miscellaneous.....	8

EXHIBITS

- A Bill of Sale and Assignment – IP Property
- B IP Property Sale Order

SCHEDULES

- Schedule 1.1 IP Property
- Schedule 5.5 IP Property Disclosure Schedule

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (the “**Agreement**”) is made and entered into as of [May ___, 2016] (the “**Effective Date**”) by and between [Company Name], a [_____] corporation (“**Buyer**”), and Outdoor Direct Corporation, a Texas corporation formerly known as The Brinkmann Corporation, as Chapter 11 debtor in possession (“**Seller**”). In this Agreement, Buyer and Seller are each sometimes referred to individually as a “**Party**” and collectively as “**Parties**.”

RECITALS

The Parties hereby acknowledge that:

A. On October 8, 2015, Seller and Q-Beam Corporation (“**QBC**”) filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. Sections 101 *et seq.* (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”), commencing case number 15-12080 (such case, the “**Chapter 11 Case**”). By order entered by the Bankruptcy Court on October 9, 2015, the Chapter 11 Cases of Seller and QBC are being jointly administered (the “**Jointly Administered Bankruptcy Cases**”).

C. On the terms and conditions of this Agreement, and pursuant to Sections 363 and 365 of the Bankruptcy Code, Seller wishes to sell to Buyer, and Buyer wishes to purchase from Seller, certain assets of Seller, all as more particularly set forth below.

AGREEMENT

In consideration of their respective covenants set forth herein, the Parties agree as follows:

1. Transfer of Assets.

1.1 Purchase and Sale of Assets. On the Closing Date, as hereinafter defined, and on the terms and conditions hereinafter set forth, Seller shall sell, assign, transfer, convey and deliver to Buyer, and Buyer shall purchase, acquire, accept and receive from Seller, Seller’s right, title and interest as of the Closing Date in and to all Intellectual Property Rights (as defined in the Bill of Sale – IP Property attached hereto) and other similar proprietary rights, in each case in any jurisdiction, whether registered or unregistered, including, without limitation, (x) the Seller’s Brinkmann® brand (the “**Acquired IP**”), and (y) any agreements pursuant to which Seller licenses or otherwise has the right to use any third-party owned Acquired IP to the extent such license or right is transferrable (together with the Acquired IP, the “**IP Property**”). Attached hereto as **Schedule 1.1** is a schedule of certain IP Property owned by Seller.

1.2 Excluded Assets. Notwithstanding anything to the contrary in this Agreement, and for avoidance of doubt, notwithstanding any other provision of this Agreement, any Bill of Sale, or **Schedule 1.1** to the contrary, neither the IP Property nor any related intellectual property rights shall include any of the following assets (any such assets, “**Excluded Assets**”), all of Seller’s right, title and interest in and to which shall be retained by Seller and shall not be sold to Buyer pursuant to this Agreement:

(a) Any other rights or assets of Seller of any kind or nature not described in **Section 1.1** or listed on **Schedule 1.1**, including, for example, any cash, cash equivalents, marketable securities, equipment, inventory, books or records or other assets, in each case to the extent not described in **Section 1.1** or identified on **Schedule 1.1**.

1.3 Instruments of Transfer. The sale, assignment, transfer, conveyance and delivery of the IP Property to Buyer shall be made by: (1) assignments, bills of sale, and other instruments of assignment, transfer and conveyance provided for in **Section 3** below and (2) and such other instruments as may reasonably be requested by Buyer to transfer, convey, assign and deliver the IP Property to Buyer, but in all events only to the extent that the same do not impose any monetary obligations upon Seller or in any other respect increase in any material way the burdens imposed by the other provisions of this Agreement upon Seller. For purposes of preparing the foregoing documents, Seller and Buyer shall mutually agree on the portion of the Purchase Price (as hereinafter defined) attributable to each of the items of IP Property.

2. Consideration.

2.1 Purchase Price. The consideration to be paid by Buyer to Seller for the IP Property shall be cash in an amount equal to _____ Dollars [Bid Amount] (the “**Purchase Price**”).

2.2 Earnest Money Deposit.

2.2.1 Concurrently with the mutual execution and delivery of this Agreement, Buyer shall deposit in the non-interest-bearing client trust account of Seller’s counsel Pachtulski Stang Ziehl & Jones LLP (“**PSZJ**”), as an earnest money deposit, the amount of 10% of the Purchase Price (the “**Earnest Money Deposit**”). The Earnest Money Deposit shall be held by PSZJ in such client trust account in accordance with the terms and conditions of the Procedures Order and this Agreement.

2.2.2 At Closing, the Earnest Money Deposit shall be credited and applied toward the Purchase Price.

2.2.3 If this Agreement terminates without a Closing, PSZJ shall immediately disburse the Earnest Money Deposit as follows:

- (a) as the Parties direct if this Agreement is terminated in accordance with **Section 9.1**;
- (b) to Seller if this Agreement is terminated (i) by Buyer if such termination is in breach of this Agreement or if, at the time of any termination by Buyer, Buyer is in material breach of this Agreement or (ii) by Seller in accordance with **Section 9.3.1**; and
- (c) in all other cases, to Buyer.

2.3 No Assumption of Liabilities. Buyer will not assume and will not be liable for any obligations, commitments, or liabilities of, and claims made or that could have been made against, Seller (whether absolute, accrued or contingent) related to the IP Property or otherwise, except for the following, which Buyer, effective as of the Closing Date, hereby assumes and agrees to pay and perform: (i) liabilities or obligations incidental to the IP Property to the extent such liabilities or obligations first arose or accrued after the Closing Date, including any such obligations or liabilities for *ad valorem* taxes applicable to the IP Property and (ii) all liabilities and obligations for taxes as described in **Section 3.6** hereof.

3. Closing Transactions.

3.1 Closing. The purchase and sale of the IP Property provided for herein shall be effected and consummated at a closing (the “**Closing**”) in accordance with the terms and conditions hereof. All actions to be taken on the Closing pursuant to this Agreement shall be deemed to have occurred simultaneously, and no act, document or transaction shall be deemed to have been taken, delivered or effected until all such actions, documents and transactions have been taken, delivered or effected.

3.2 Closing Date. The Closing shall take place on the third (3rd) day following the satisfaction of the conditions set forth in **Section 4.1** and **Section 4.2** hereof (or the waiver thereof by the Party entitled to waive that condition) or on such other date (no later than the Outside Date) as may be agreed to by the Parties in writing. The date on which the Closing shall be held is referred to in this Agreement as the “**Closing Date**.”

3.3 Seller’s Deliveries to Buyer at Closing. On the Closing Date, Seller shall make the following deliveries to Buyer:

3.3.1 A Bill of Sale and Assignment for the IP Property, duly executed by Seller in the form and on the terms of the bill of sale attached as **Exhibit “A”** hereto, pursuant to which Seller transfers and assigns to Buyer its right, title and interest in and to the IP Property (the “**Bill of Sale – IP Property**”).

3.3.2 Any such other documents, funds or other things as may be reasonably required by the Buyer’s attorneys to give effect to the terms of this Agreement, but in all events only to the extent that the same do not impose any monetary obligations upon Seller or in any other respect increase in any material way the burdens imposed by the other provisions of this Agreement upon Seller.

3.4 Buyer’s Deliveries to Seller at Closing. On the Closing Date, Buyer shall make or cause the following deliveries to Seller:

3.4.1 Written instructions to PSZJ, signed by Buyer, instructing PSZJ to transfer to Seller, by wire transfer of immediately available funds, the Earnest Money Deposit, which Earnest Money Deposit shall be applied by Seller as a credit against the Purchase Price;

3.4.2 Wire transfer to an account designated by Seller the full amount of the Purchase Price, net of the Earnest Money Deposit;

3.4.3 Any such other documents, funds or other things reasonably contemplated by this Agreement to be delivered by Buyer to Seller at the Closing.

3.5 On or about the Closing, Seller and Buyer shall mutually determine all ad valorem taxes relating to the IP Property (if any) which (a) accrued (based on tax years of the taxing entities) but were not paid by Seller during or in respect of any period prior to Closing, and (b) were paid by Seller in respect of any period following the Closing (the “**Apportionable Expenses**”). Seller shall be responsible for all such Apportionable Expenses accrued prior to the Closing Date and Buyer shall be responsible for all such Apportionable Expenses accrued after the Closing Date. Seller shall be entitled to prompt reimbursement from Buyer for any Apportionable Expense accruing after the Closing Date that Seller has paid. Buyer shall be entitled to prompt reimbursement from Seller for any Apportionable Expense accruing after the Closing Date that Buyer has paid.

3.6 Sales, Use and Other Taxes. Any sales, purchase, transfer, stamp, documentary stamp, use or similar taxes under the laws of the states in which any portion of the IP Property is located,

or any subdivision of any such state, or under any federal law or the laws or regulations of any federal agency or authority, which may be payable by reason of the sale or transfer of the IP Property under this Agreement or the transactions contemplated herein shall be borne and paid by Buyer.

3.7 Possession. Right to possession of the IP Property, together with all risk of damage to or loss thereof, shall transfer to Buyer on the Closing Date. To facilitate the transfer of actual possession of any IP Property in tangible form, Seller shall cause all IP Property in tangible form to be located, at the time of the Closing, at [4215 McEwen Road, Dallas, Texas 75244-482], for collection by Buyer at Buyer's expense.

3.8 Access. From the Effective Date to the Closing Date, and upon prior request by Buyer from time to time, Seller shall provide to Buyer, and its employees, representatives and agents, at Buyer's own expense, reasonable access to the IP Property; *provided, however*, that (a) Seller shall not be under any obligation to provide any access that requires the incurrence or payment of any material expense, and (b) any such access need only be provided during ordinary business hours and in a manner reasonably designed to avoid disruption to ordinary business operations.

4. Conditions Precedent to Closing.

4.1 Conditions to Seller's Obligations. The obligation to make the deliveries required of Seller at the Closing Date and otherwise consummate the transaction contemplated herein shall be subject to the satisfaction (or waiver by Seller) of each of the following conditions:

4.1.1 All of the representations and warranties of Buyer contained herein shall continue to be true and correct at the Closing in all material respects.

4.1.2 Buyer shall have delivered, or shall be prepared to deliver, to Seller at the Closing all cash and other documents required of Buyer to be delivered at the Closing.

4.1.3 No action, suit or other proceedings that is not stayed by the Bankruptcy Court shall be pending before any court, tribunal or governmental authority seeking or threatening to restrain or prohibit the consummation of the transactions contemplated by this Agreement, or seeking to obtain substantial damages in respect thereof, or involving a claim that consummation thereof would result in the violation of any law, decree or regulation of any governmental authority having appropriate jurisdiction.

4.1.4 Buyer shall have substantially performed or tendered performance of all material covenants on Buyer's part to be performed which, by their terms, are required to be performed at or before the Closing.

4.1.5 The Bankruptcy Court shall have entered the IP Property Sale Order in accordance with **Section 8** below and the IP Property Sale Order shall not have been stayed as of the Closing Date.

4.2 Conditions to Buyer's Obligations. Buyer's obligation to make the deliveries required of Buyer at the Closing and otherwise consummate the transaction contemplated herein shall be subject to the satisfaction (or waiver by Buyer) of each of the following conditions:

4.2.1 Seller shall have substantially performed or tendered performance of all material covenants on its part to be performed which, by their terms, is required to be performed at or before the Closing.

4.2.2 All of the representations and warranties of Seller contained herein shall continue to be true and correct at the Closing in all material respects.

4.2.3 Seller shall have executed and delivered to Buyer the Bill of Sale – IP Property.

4.2.4 Seller shall have delivered all other documents required of Seller to be delivered at the Closing.

4.2.5 No action, suit or other proceedings that is not stayed by the Bankruptcy Court shall be pending before any court, tribunal or governmental authority seeking or threatening to restrain or prohibit the consummation of the transactions contemplated by this Agreement, or seeking to obtain substantial damages in respect thereof, or involving a claim that consummation thereof would result in the violation of any law, decree or regulation of any governmental authority having appropriate jurisdiction.

4.2.6 The Bankruptcy Court shall have entered the IP Property Sale Order in accordance with **Section 8** below and the IP Property Sale Order shall not have been stayed as of the Closing Date.

5. Seller's Representations and Warranties.

Seller hereby makes the following representations and warranties to Buyer:

5.1 **Organization, Standing and Power.** Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas. Seller has all requisite entity power and authority to own, lease and, subject to the provisions of the Bankruptcy Code applicable to debtors in possession, operate its properties, to carry on Seller's business as now being conducted. Subject to entry of the IP Property Sale Order, Seller has the power and authority to execute, deliver and perform this Agreement and all writings relating hereto.

5.2 **Validity and Execution.** This Agreement has been duly executed and delivered by Seller and, upon entry of the IP Property Sale Order, will constitute the valid and binding obligation of Seller enforceable against it in accordance with its terms.

5.3 **No Conflict.** Except as set forth in **Schedule 5.5**, and subject to the entry of the IP Property Sale Order, the consummation of the transactions herein contemplated, and the performance of, fulfillment of and compliance with the terms and conditions hereof by Seller do not and will not: (i) conflict with or result in a breach of the articles of incorporation or by-laws of Seller; (ii) violate any statute, law, rule or regulation, or any order, writ, injunction or decree of any court or governmental authority, or (iii) violate or conflict with or constitute a material default under any material agreement, instrument or writing of any nature to which Seller is a Party or by which Seller or its assets or properties may be bound.

5.4 **Title; No Liens.** The Seller has sole and exclusive title to and right to sell the IP Property except as set forth in **Schedule 5.5**. Except as set forth in **Schedule 5.5**, the IP Property shall be transferred to Buyer free and clear of all liens, claims and encumbrances, except for any liens, claims, or encumbrances (a) related to any Apportionable Expenses, (b) for any liabilities that are the express responsibility of Buyer under this Agreement, (c) for any taxes or similar assessments relating to the IP Property not yet due and payable, (d) that do not materially affect the use, enjoyment or resale of the IP Property or the use and enjoyment of the IP Property, or (e) expressly approved in writing by Buyer.

5.5 IP Property. Except as set forth in **Schedule 5.5**, (i) Seller has the power and authority, subject to the provisions of the Bankruptcy Code applicable to debtors in possession, to assign its right, title and interest in and to the IP Property in accordance with this Agreement; (ii) Seller has no actual knowledge (without having conducted any reasonable investigation or inquiry) of any currently pending third party intellectual property infringement claims, lawsuits, or demands affecting the IP Property.

6. Buyer's Warranties and Representations.

Buyer hereby makes the following representations and warranties to Seller:

6.1 Organization, Standing and Power. Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of Delaware. Buyer has all requisite entity power and authority to own, lease and operate its properties, to carry on its business as now being conducted and to execute, deliver and perform this Agreement and all writings relating hereto.

6.2 Validity and Execution. This Agreement has been duly executed and delivered by Buyer and constitutes the valid and binding obligation of Buyer enforceable against it in accordance with its terms, except as may be limited by any bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer or other laws (whether statutory, regulatory or decisional), now or hereafter in effect, relating to or affecting the rights of creditors generally or by equitable principles (regardless of whether considered in a proceeding at law or in equity).

6.3 No Conflict. The execution, delivery and performance of this Agreement and all writings relating hereto by Buyer have been duly and validly authorized. The execution and delivery of this Agreement, the consummation of the transactions herein contemplated, and the performance of, fulfillment of and compliance with the terms and conditions hereof by Buyer do not and will not: (i) conflict with or result in a breach of the certificate of incorporation of Buyer or, if applicable, other organizational documents or agreements of Buyer; (ii) violate any statute, law, rule or regulation, or any order, writ, injunction or decree of any court or governmental authority; or (iii) violate or conflict with or constitute a default under any agreement, instrument or writing of any nature to which Buyer is a Party or by which Buyer or its assets or properties may be bound.

7. "AS IS" Transaction.

Buyer hereby acknowledges and agrees that, except only as provided in **Section 5**, Seller makes no representations or warranties whatsoever, express or implied, with respect to any matter relating to the IP Property (including, without limitation, the income or profit derivable from the sale of, or the expenses to be incurred in connection with, the IP Property, the physical condition of any tangible IP Property, the value of the IP Property (or any portion thereof), the transferability of the IP Property or any portion thereof, the merchantability or fitness of the IP Property or any other portion of the IP Property for any particular purpose, or any other matter or thing relating to the IP Property or any portion thereof). Without in any way limiting the foregoing, Seller hereby disclaims any warranty (express or implied) of merchantability or fitness for any particular purpose as to any portion of the IP Property. Buyer further acknowledges that Buyer has conducted an independent inspection and investigation of the physical condition of the IP Property and all such other matters relating to or affecting or comprising the IP Property as Buyer deemed necessary or appropriate and that in proceeding with its acquisition of the IP Property, Buyer is doing so based solely upon such independent inspections and investigations. Accordingly, except only for the representations set forth in **Section 5** above (which exception shall be subject to Section 10.12 hereof), Buyer will accept the IP Property at the Closing "AS IS, "WHERE IS," and "WITH ALL FAULTS."

8. Bankruptcy Court Approvals.

Promptly following the Effective Date (and in no event later than three (3) days thereafter), Seller will make a motion (the “**IP Property Sale Motion**”) for an order by the Bankruptcy Court, which order shall be in form reasonably satisfactory to Buyer, approving the sale of the IP Property to Buyer, on the terms and conditions set forth in this Agreement (the “**IP Property Sale Order**”). Following the filing of the IP Property Sale Motion, Seller shall use reasonable efforts to obtain entry of the IP Property Sale Order.

9. Termination.

9.1 Termination by Mutual Consent. This Agreement may be terminated at any time prior to the Closing Date by mutual written agreement of the Parties.

9.2 Termination by Either Buyer or Seller. This Agreement may be terminated at any time prior to the Closing Date by either Buyer or Seller if any governmental authority shall have issued an order or taken any other action permanently restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated hereby and either (i) thirty (30) days shall have elapsed from the issuance of such order or other action and such order or other action has not been removed or vacated, or (ii) such order or other action shall have become final and non-appealable.

9.3 Termination by Seller. This Agreement may be terminated at any time prior to the Closing Date by Seller as follows:

9.3.1 if there has been a material breach by Buyer, it being agreed that Seller shall not have the right to so terminate this Agreement unless Buyer has failed to cure the applicable default within five (5) days following its receipt of written notice thereof from Seller;

9.3.2 if Seller’s condition precedent specified in **Section 4.1** shall not have been satisfied or waived and shall have become impossible to satisfy, unless the failure of such condition to have been satisfied was caused primarily by a material breach by Seller; or

9.3.3 if the IP Property Sale Order is not entered by the Bankruptcy Court on or before 5:00 p.m. Eastern time on _____, 2016 (the “**IP Order Entry Date**”); or

9.3.4 if the Closing Date shall not have occurred on or before 5:00 p.m. Eastern time on _____, 2016 (the “**Outside Date**”).

9.4 Termination by Buyer. This Agreement may be terminated at any time prior to the Closing Date by Buyer as follows:

9.4.1 if there has been a material breach by Seller;

9.4.2 if any Buyer’s condition precedent specified in **Section 4.2** shall not have been satisfied or waived and shall have become impossible to satisfy, unless the failure of such condition to have been satisfied was caused primarily by a material breach by Buyer;

9.4.3 if either of the Jointly Administered Bankruptcy Cases is dismissed or converted to a case under chapter 7 of the Bankruptcy Code;

9.4.4 upon the closing of the sale (in a single transaction or a series of transactions) of the IP Property or the sale of a material portion of the IP Property to any Person other than Buyer or a designee of Buyer, which sale has been approved by entry of an order of the Bankruptcy Court;

9.4.5 if the IP Property Sale Order is not entered by the Bankruptcy Court on or before 5:00 p.m. Eastern time on the IP Order Entry Date; or

9.4.6 if the Closing Date shall not have occurred on or before 5:00 p.m. Eastern time on the Outside Date.

9.5 Effect of Termination. In the event of termination by either Party of this Agreement pursuant to this **Section 9**, written notice thereof shall as promptly as practicable be given to the other Party and thereupon this Agreement shall terminate and the transactions contemplated hereby shall be abandoned without further action by the Parties hereto. Upon termination of this Agreement, (a) this Agreement shall cease to have any force or effect and the Parties shall cease to have any further obligation or liability hereunder to each other, except for any material breach occurring on or before the date of such termination and except pursuant to **Section 2.2.3** (return of Earnest Money Deposit), this **Section 9.5** (Effect of Termination), and **Sections 10.1** (Attorneys' Fees), **10.2** (Notices), **10.5** (Severability), **10.10** (Payment of Fees and Expenses), **10.11** (Limitation of Liability), **10.18** (Non-Recourse), and **10.20** (Jurisdiction), as such obligations are affected by any defined terms contained herein relating thereto or any general principles of interpretation or construction set forth in **Section 10.21**) and (b) all filings, applications and other submissions made pursuant to the transactions contemplated hereby shall, to the extent practicable, be withdrawn from the government authority or person to which made.

10. Miscellaneous.

10.1 Attorneys' Fees. In the event that either Party hereto brings an action or other proceeding to enforce or interpret the terms and provisions of this Agreement, the prevailing Party in that action or proceeding shall be entitled to have and recover from the non-prevailing Party all such fees, costs and expenses (including, without limitation, all court costs and reasonable attorneys' fees) as the prevailing Party may suffer or incur in the pursuit or defense of such action or proceeding.

10.2 Notices. Unless otherwise provided herein, any notice, tender, or delivery to be given hereunder by any Party to the other may be effected by personal delivery in writing, or by registered or certified mail, postage prepaid, return receipt requested or by e-mail. Notices effected by personal delivery or email transmission shall be deemed to have been given immediately upon such delivery or transmission and notices effected by registered or certified mail shall be deemed to have been given two (2) business days after the date of mailing. Notices shall be addressed as set forth below, but each Party may change its address by written notice in accordance with this **Section 10.2**.

If to Seller: Outdoor Direct Corporation
300 Athens Brick Road
Athens, Texas 75751
Attn: Mr. David Baker
Email: dbaker@auroramp.com

With a copy to: Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Boulevard, 13th Floor
Los Angeles, CA 90067

Attn: Jeffrey N. Pomerantz, Esq.
E-mail: jpomerantz@pszjlaw.com

To Buyer: [Company Name]
[Address]
[Phone]
[Fax]
[Email]

10.3 Entire Agreement. This Agreement and any written Confidentiality Agreement between Buyer and Seller relating to the transactions contemplated hereby, and the documents to be executed pursuant hereto, contain the entire agreement between the Parties relating to the sale of the IP Property.

10.4 Modification. This Agreement may be modified, amended or supplemented only by a written instrument duly executed by all the Parties hereto.

10.5 Severability. Should any term, provision or paragraph of this Agreement be determined to be illegal or void or of no force and effect, the balance of the Agreement shall survive.

10.6 Captions. All captions and headings contained in this Agreement are for convenience of reference only and shall not be construed to limit or extend the terms or conditions of this Agreement.

10.7 Further Assurances. Each Party hereto will execute, acknowledge and deliver any further assurance, documents and instruments reasonably requested by any other Party for the purpose of giving effect to the transactions contemplated herein or the intentions of the Parties with respect thereto; provided that such obligation shall not be deemed to require Seller to assume, incur or pay any material cost or expense or otherwise accept any burden, obligation or liability that materially increases those otherwise imposed upon Seller by this Agreement.

10.8 Waiver. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver; provided, however, that the consent of a Party to the Closing shall constitute a waiver by such Party of any condition precedent to Closing not satisfied as of the Closing Date.

10.9 Brokerage Obligations. Seller and the Buyer each represent and warrant to the other that, other than Piper Jaffrey and Hilco-Streambank (all of whose fees, commissions and other compensation shall be borne and paid solely by Seller pursuant to a separate agreement between Seller and such entities), such Party has incurred no liability to any broker or agent with respect to the payment of any commission or other compensation regarding the consummation of the transaction contemplated hereby.

10.10 Payment of Fees and Expenses. Except as otherwise expressly provided in this Agreement, each Party to this Agreement shall be responsible for, and shall pay, all of its own fees and expenses, including those of its counsel, incurred in the negotiation, preparation and consummation of the Agreement and the transaction described herein.

10.11 Limitation of Liability. No Party shall have any liability or obligation under or by reason of this Agreement for any punitive, special, indirect, incidental or consequential damages

whatsoever, including, but not limited to loss of profits or business interruptions. In no event shall Seller have any liability or obligation under or by reason of this Agreement in any amount exceeding the Purchase Price.

10.12 Survival. The respective representations and warranties of Buyer and Seller under **Section 5** and **Section 6** of this Agreement, respectively, shall lapse and cease to be of any further force or effect effective upon the Closing. Except as provided in the immediately preceding sentence, the covenants and agreements of Seller and Buyer herein, or in any certificates or other documents delivered prior to or at the Closing, shall not be deemed waived or otherwise affected by the Closing.

10.13 Assignments. This Agreement shall not be assigned by any Party hereto without the prior written consent of the other Party hereto, which consent the Parties may grant or withhold in their sole and absolute discretion; *provided*, that Buyer shall be permitted to assign its right to purchase all or any portion of the IP Property to any one or more affiliates of Buyer and *provided further* that any such assignment(s) shall in no way release or relieve Buyer from any liability or obligation under this Agreement.

10.14 Binding Effect. This Agreement shall bind and inure to the benefit of the respective heirs, personal representatives, successors, and assigns of the Parties hereto.

10.15 Applicable Law. This Agreement shall be governed by and construed in accordance with the Bankruptcy Code and to the extent not inconsistent with the Bankruptcy Code, the law of the State of Delaware applicable to contracts made and performed in such State.

10.16 Construction. In the interpretation and construction of this Agreement, the Parties acknowledge that the terms hereof reflect extensive negotiations between the Parties and that this Agreement shall not be deemed, for the purpose of construction and interpretation, drafted by either Party hereto.

10.17 Counterparts. This Agreement may be signed in counterparts. The Parties further agree that this Agreement may be executed by the exchange of facsimile signature pages provided that by doing so the Parties agree upon request of the other Party to undertake to provide original signatures as soon thereafter as reasonable in the circumstances.

10.18 Non-Recourse. No past, present or future director, officer, employee, or incorporator of Buyer or Seller shall have any liability for any obligation or liability of Buyer or Seller under this Agreement or for any claim, counter-claim, cause of action or demand based on, in respect of, or by reason of, the transactions contemplated hereby except for any claim against any individual based on the fraud or gross negligence of such individual in connection with any representations of Buyer or Seller hereunder.

10.19 Time is of the Essence. Time is of the essence in this Agreement, and all of the terms, covenants and conditions hereof.

10.20 Jurisdiction.

10.20.1 Without limiting any Party's right to appeal any order of the Bankruptcy Court, the Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any claims or disputes which may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the transactions contemplated hereby, and any and all proceedings related to the foregoing shall be filed and maintained only in the Bankruptcy Court, and the Parties hereby

consent to and submit to the jurisdiction and venue of the Bankruptcy Court and shall receive notices at such locations as indicated in **Section 10.1** hereof. The Parties hereby irrevocably waive, to the fullest extent permitted by applicable law, any objection which they may now or hereafter have to the laying of venue of any such dispute brought in such court or any defense of inconvenient forum for the maintenance of such dispute. Each of the Parties agrees that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

10.20.2 Each of the Parties hereby consents to process being served by any other Party in any suit, action or proceeding by personal delivery of a copy thereof in accordance with the provisions of **Section 10.1**.

10.21 **Interpretation and Rules of Construction**. In this Agreement, except to the extent that the context otherwise requires:

10.21.1 when a reference is made in this Agreement to an Article, Section, Exhibit or Schedule, such reference is to an Article or Section of, or an Exhibit or a Schedule to, this Agreement unless otherwise indicated;

10.21.2 the headings and captions used in this Agreement are for reference purposes only and do not affect in any way the meaning or interpretation of this Agreement;

10.21.3 whenever the words “include,” “includes” or “including” are used in this Agreement, they are deemed to be followed by the words “without limitation”;

10.21.4 the words “hereof,” “herein” and “hereunder” and works of similar import, when used in this Agreement, refer to this Agreement as a whole and not to any particular provision of this Agreement;

10.21.5 all terms defined in this Agreement have the defined meanings when used in any certificate or other document made or delivered pursuant hereto, unless otherwise defined therein;

10.21.6 the definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms;

10.21.7 any law defined or referred to herein or in any agreement or instrument that is referred to herein means such law or statute as from time to time amended, modified or supplemented, including by succession of comparable successor laws;

10.21.8 references to a person are also to its permitted successors and assigns;
and

10.21.9 the use of “or” is not intended to be exclusive unless expressly indicated otherwise.

IN WITNESS WHEREOF, Buyer and Seller have executed this Agreement as of the day and year first above written.

BUYER:

[Company Name]

By: _____
Name: _____
Its: _____

SELLER:

Outdoor Direct Corporation,
a Texas Corporation,
Debtor and Debtor in Possession

By: _____
Name: _____
Its: _____

SCHEDULES

Schedule 1.1
Schedule 5.5

IP Property
IP Property Disclosure Schedule

SCHEDULE 5.5

Description of Active IP Encumbrances As of December 2, 2015

Outdoor Direct Corporation

Mag Instrument: In settlement of patent and trade dress litigation in the early to mid 1990s, ODC (fka Brinkmann) agreed to maintain the quality of certain “mini” aluminum flashlights having an appearance similar to Mag Instrument’s Mini-Maglite flashlight, and to annual inspections of the ODC flashlights by a third party to ensure such quality control. Brinkmann also agreed to certain restrictions related to Mag Instrument’s patents on the Mini-Maglite, but all such patents have long ago expired.

Brinks Network: in an agreement to settle a trademark opposition proceeding in early 2015, ODC (fka Brinkmann) agreed to permanently refrain from filing any applications to register the marks BRINKMANN HOME SECURITY or BRINKMANN SECURITY, alone or in combination with other words or designs; and Brinkmann must comply with “Prominent Non-Objectionable Use” standard (PNOU) when using BRINKMANN on outdoor lighting packaging with any of the following wording: (i) security or home security or analogous wording; (ii) security or home security; (ii) SAFETY - CONVENIENCE – SECURITY; (iii) DETERS INTRUDERS; and (iv) HOME/GUARD. PNOU requires that the word in question (i) is as physically distant from BRINKMANN as packaging allows, (ii) is not more than 75% of the size of BRINKMANN; and (iii) is not more prominent in color or type of font than BRINKMANN.

Skyline (GRILL KING): in a co-existence agreement to resolve a cancellation proceeding in mid to late 2015, ODC (fka Brinkmann) has agreed not to use or apply to register the marks GRILL KING or GRILLKING for any barbecue accessories and/or utensils, and not to materially change its existing channels of trade for its grills under its mark GRILL KING.

A&J Manufacturing: An agreement settling a patent infringement dispute in November 2015 related to certain ODC (fka Brinkmann) multi-function (gas and charcoal) grills, including an ITC proceeding, Federal District Court litigation, and an *Inter Partes* Review of A&J’s asserted utility patent, provides for a complete release of ODC and its customers, dismissal with prejudice of the District Court litigation, ODC’s withdrawal of its Federal Circuit appeal of the ITC decision, and termination of the IPR proceeding, without any payments between the parties. The settlement leaves in place a Limited Exclusion Order (LEO) entered in the ITC proceeding that prohibits ODC’s importation and sale of ODC discontinued models 810-3821-S, 810-3800-S, and 810-3802-S. The settlement also precludes ODC from challenging or assisting others in challenging A&J’s asserted patents, and from interfering with A&J’s grill business and other business-related endeavors while the agreement remains in force.

Copreci: In settlement of a patent infringement dispute in April 2014 related to certain grills and conversion kits for converting the grills between natural gas and LPG, ODC (fka Brinkmann) accepted a royalty-bearing license under Copreci’s asserted patents, agreed to termination of an *Inter Partes* Review on one of Copreci patents, and agreed not to challenge any of the licensed Copreci patents unless Copreci has asserted or threatened to assert those patents against ODC or its vendors, distributors, resellers, or customers.

Fox Run: In settlement of an infringement dispute in 2012, ODC (fka Brinkmann) accepted a royalty-bearing license under U.S. Patent No. 7,896,520 entitled “Repositionable Lighting Device for Grilling Utensils.”

EXHIBIT A

**Bill of Sale and Assignment
(IP Property)**

EXHIBIT A

BILL OF SALE AND ASSIGNMENT

(IP Property)

Reference is hereby made to that certain Asset Purchase Agreement dated May __, 2016 by and between [Company Name] ("**Buyer**"), and Outdoor Direct Corporation, a Texas corporation formerly known as The Brinkmann Corporation, as Chapter 11 debtor in possession ("**Seller**") (the "**Purchase Agreement**"). Except for terms specifically defined in this Bill of Sale and Assignment (this "**Bill of Sale**"), all capitalized terms used herein shall have the same meanings as such terms have when utilized in the Purchase Agreement.

Pursuant to the Purchase Agreement, this Bill of Sale is entered into as of this ____ day of _____, 2016 by the undersigned Assignor ("**Assignor**") in favor of Buyer under the Purchase Agreement ("**Assignee**") concurrently with the Closing under the Purchase Agreement.

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

- 1. Assignment.** Subject to Section 2 hereof, Assignor hereby agrees to assign and transfer to Assignee, and does hereby transfer and assign, all right, title, and interest of Assignor in and to any and all of its Intellectual Property Rights, including the items identified in **Schedule 1.1(c)** (collectively, the "**IP Materials**"), including any and all renewals and extensions of such intellectual property rights that may be secured under the laws now or hereafter pertaining thereto in the United States or in any other country and also including the right to enforce, bring suit, and otherwise collect all damages related to infringement of the IP Materials by any third party. For purposes of this Bill of Sale, "Intellectual Property Rights" means all rights in intellectual property (other than any Excluded Assets) owned by Assignor in any jurisdiction, including without limitation rights in, arising out of, or associated with Works of Authorship, including without limitation rights in maskworks, product packaging and advertising materials, and databases and rights granted under the Copyright Act ("Copyrights"); rights in, arising out of, or associated with inventions (whether patentable or not), including without limitation rights granted under the Patent Act ("Patent Rights"); rights in, arising out of, or associated with Trademarks, including without limitation rights granted under the Lanham Act and all common law trademark rights ("Trademark Rights") and all attendant goodwill associated with said Trademark Rights; rights in, arising out of, or associated with confidential information, including without limitation rights granted under the Uniform Trade Secrets Act, know-how, all information required to manufacture the products associated with the IP Materials, customer lists, vendors, suppliers, etc. ("Trade Secret Rights"); rights in, arising out of, or associated with a person's name, voice, signature, photograph, or likeness, including without limitation rights of personality, privacy, and publicity ("Personality Rights"); rights of attribution and integrity and other moral rights of an author ("Moral Rights"); and rights in, arising out of, or associated with domain names ("Domain Name Rights") whether arising under the laws of the United States or any other country.
- 2. Excluded Assets.** For avoidance of doubt, notwithstanding any other provision of this Bill of Sale or **Schedule 1.1** to the contrary, neither the "IP Materials" nor the "Intellectual Property Rights" include any Excluded Assets or any right, title or interest of Assignor therein or thereto, and nothing set forth in this Bill of Sale shall be construed to effect or require the assignment, sale, transfer or conveyance of any Excluded Assets or any such right, title or interest.

3. **Consideration.** In exchange for assignments made by Assignor herein, Assignee shall pay Assignor the amount set forth in the Purchase Agreement in accordance with the terms thereof.
4. **Cooperation Following the Execution.** Assignor covenants and agrees to execute and deliver further instruments of transfer and assignment and take such other action as Buyer may reasonably request to more effectively transfer and assign to and vest in Buyer the IP Materials; *provided, however*, that nothing herein shall be deemed to require Assignor to execute or deliver any such further document or instrument or take any such action to the extent that the same could in any material way increase the burdens, obligations or liabilities otherwise imposed upon Assignor by the Purchase Agreement.
5. **Power of Attorney.** If at any time after the Closing Date the signature of Assignor shall be required in connection with the filing of any application, registration, or other document reasonably necessary to further the prosecution of any letters patent, copyright, or trademark assignments or applications for registrations pertaining to the IP Materials and the Intellectual Property Rights, and Assignee has not received such signature within fifteen (15) days of making written request therefor in accordance with the Purchase Agreement, and regardless of whether such signature has not been received by reason of Assignor's inability or unwillingness to provide the same or otherwise, Assignor hereby irrevocably designates and appoints Assignee and its duly authorized officers and agents as its agents and attorneys-in-fact, to execute and file on its behalf and stead any and all such applications, registrations, or other such documents with the same legal force and effect as if executed by Assignor; *provided, however*, that Assignee shall not be authorized under this Section 5 to execute any such application, registration, or other such document or take any other action to the extent that the same could in any material way increase the burdens, obligations or liabilities otherwise imposed upon Assignor by the Purchase Agreement, and Assignee shall indemnify and hold harmless Assignor from and against any costs, losses or liabilities arising out of any action taken by Assignee on behalf of Assignor in reliance upon this Section 5.
6. **Other Matters.** This Bill of Sale and the provisions hereof are subject to the terms and conditions set forth in the Purchase Agreement (including, without limitation, the acknowledgement and disclaimer set forth in Section 7 of the Purchase Agreement and the survival provisions set forth in Section 10.12 of the Purchase Agreement) and the IP Property Sale Order. Assignor and Buyer hereby acknowledge and agree that the provisions of this Bill of Sale shall not modify or extend the force and effect or survival of the terms and provisions of the Purchase Agreement and the IP Property Sale Order. In the event of a conflict between the terms and provisions of this Bill of Sale and the terms and provisions of the Purchase Agreement and the IP Property Sale Order, the terms and provisions of the Purchase Agreement and the IP Property Sale Order shall prevail, govern and control in all respects without limitation.

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IN WITNESS WHEREOF, Seller has executed this Bill of Sale and Assignment as of the day and year set forth above.

SELLER:

Outdoor Direct Corporation,
a Texas corporation,
Debtor and Debtor in Possession

By: _____
Name: _____
Its: _____

[Signature Page to Bill of Sale and Assignment – IP Property]

EXHIBIT B

IP PROPERTY SALE ORDER