

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(d) OF
THE SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): July 31, 2012

DECISIONPOINT SYSTEMS, INC.
(Exact name of registrant as specified in its charter)

Delaware	000-54200	37-1644635
(State of Incorporation)	(Commission File Number)	(IRS Employer Identification No.)

8697 Research Drive
Irvine, CA 92618
(Address of principal executive offices) (Zip code)

(949) 465-0065
(Registrant's telephone number, including area code)

Copies to:
Gregory Sichenzia, Esq.
Sichenzia Ross Friedman Ference LLP
61 Broadway
New York, New York 10006
Phone: (212) 930-9700
Fax: (212) 930-9725

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01. Entry into a Material Definitive Agreement.

On July 31, 2012 ("Closing Date"), DecisionPoint Systems, Inc. ("Company") entered into an asset purchase agreement ("Purchase Agreement") with MacroSolve, Inc. ("Seller"). Pursuant to the Purchase Agreement, the Company purchased the business (including substantially all the related assets) of the Seller's Illume Mobile division ("Illume Mobile"), for a purchase price of \$1,000,000, of which \$250,000 was paid in cash and \$750,000 was paid in the form of 617,284 shares of the Company's common stock. The shares were valued at \$1.215 per share based on the weighted-average trading price of the Company's common stock over the twenty trading days prior to the Closing Date. Pursuant to the Purchase Agreement, the Company may be required to make an additional payment ("Additional Payment") to the Seller of up to \$500,000 of which 50% will be paid in cash, and 50% will be paid in shares of the common stock of the Company. The value of the shares will be based on the closing price of the Company's common stock on the one year anniversary of the Closing Date. The Additional Payment will be paid within 30 days of the one year anniversary of the Closing Date, and will be determined as follows:

(a) If Net Revenue (as defined in the Purchase Agreement) attributable to Illume Mobile, during the one year period commencing on the Closing Date) is \$1,500,000 or less, the Additional Payment will be \$0.

(b) If Net Revenue is greater than \$1,500,000 but less than \$2,000,000, the Additional Payment will be \$100,000.

(c) If Net Revenue is at least \$2,000,000 but less than \$3,000,000, the Additional Payment will be equal to the sum of (i) \$100,000 plus (ii) 40% of the excess of the Net Revenue amount over \$2,000,000.

(d) If Net Revenue is \$3,000,000 or more, the Additional Payment will be \$500,000.

The Company paid Sigma Capital Advisors a fee of \$45,000 for services provided in connection with the Purchase Agreement.

In connection with the Purchase Agreement, on the Closing Date, the Company and the Seller entered into a patent license agreement ("License Agreement"), pursuant to which the Seller granted the Company a non-exclusive license under a patent held by the Seller pertaining to information collection using mobile computers ("Licensed Patent") to make, have made, sell, offer for sale or import any product or service which in the absence of the License Agreement would infringe upon at least one claim of the Licensed Patent (including specifically Seller's ReForm™ Development Platform) in and into the United States and to practice the Licensed Methods (as defined in the License Agreement), in the United States, during the term of the Licensed Patent. The Company agreed to pay the Seller a licensing fee/royalty payment of (i) 7.5% of Net Revenues (as defined in the License Agreement) received from the sale of Software Products (as defined in the License Agreement) and/or Licensed Methods, and (ii) 5% of Net Revenues from the sale of Custom Development Services (as defined in the License Agreement). The Seller also granted to the Company an option to purchase a non-exclusive perpetual license under the Licensed Patent at a purchase price of \$500,000.

In connection with the Purchase Agreement, on the Closing Date, the Company and the Seller entered into a non-competition and non-solicitation agreement ("Non-Competition Agreement"). Pursuant to the Non-Competition Agreement, for a period of three years commencing on the Closing Date, the Seller agreed not to engage in activities in the United States and Canada competitive with the products sold by Illume Mobile as of July 31, 2012, and the Company agreed not to engage in activities in the United States and Canada competitive with the products sold by Seller (not related to the assets sold pursuant to the Purchase Agreement). The Seller also agreed, for a period of three years, not to solicit or hire (unless such employee has been terminated by the Company) employees of the Company, and the Company agreed, for a period of three years, not to solicit employees of the Seller (except as contemplated by the Purchase Agreement).

In connection with the shares of common stock issued or issuable under the Purchase Agreement, the Company relied on Section 4(2) of the Securities Act of 1933, as amended, for transactions not involving a public offering.

The descriptions of the terms of the Purchase Agreement, the License Agreement, and the Non-Competition Agreement do not purport to be complete and are qualified in their entirety by these agreements copies of which are included as Exhibits to this Report.

Item 2.01 Completion of Acquisition or Disposition of Assets.

See Item 1.01.

Item 3.02 Unregistered Sales of Equity Securities.

See Item 1.01 above.

Item 9.01 Financial Statements and Exhibits.

(a) Financial Statements of business acquired. The required financial statements will be filed no later than 71 calendar days after the date of the filing of this report on Form 8-K.

(b) Pro forma financial information. The required pro forma financial information will be filed no later than 71 calendar days after the date of the filing of this report on Form 8-K.

(c) Shell Company Transaction

N/A

(d) Exhibits

Exhibit Number	Description
2.1	Asset Purchase Agreement
10.1	License Agreement
10.2	Non-Competition Agreement

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

DECISIONPOINT SYSTEMS, INC.

Dated: August 6, 2012

By: /s/ Roy A. Ceccato

Name: Roy A. Ceccato

Title: Vice President - Finance

ASSET PURCHASE AGREEMENT

This **Asset Purchase Agreement** (this "**Agreement**") is made and entered into as of the **31st day of July, 2012**, by and between DecisionPoint Systems, Inc., a Delaware corporation ("**Purchaser**"); and MacroSolve, Inc., an Oklahoma corporation ("**Seller**").

RECITALS

- A. Seller owns and operates, as a division of Seller ("Illume"), the business of developing, marketing and selling mobile Apps.
- B. Purchaser desires to acquire, and Seller desires to sell, all of the assets of Seller directly relating to Illume.
- C. Purchaser and Seller (the "**Parties**") desire to evidence their agreement to the terms and conditions of the purchase and sale of said assets as set forth in this Agreement.

In consideration of the recitals and the representations, warranties and covenants set forth in this Agreement, the Parties hereby agree as follows:

ARTICLE I
DEFINITIONS

1.1 **Defined Terms.** As used in this Agreement, each of the following terms has the meaning specified below:

"**Accounts Payable**" means any and all trade accounts payable, accrued expenses and other current liabilities of Seller arising out of the business of Illume.

"**Accounts Receivable**" means any and all accounts and notes receivable of Seller arising out of the business of Illume.

"**Acquisition Shares**" has the meaning specified in Section 2.2.

"**Affiliate**" means, with respect to any Person, each other Person that directly or indirectly (through one or more intermediaries or otherwise) controls, is controlled by, or is under common control with such Person. The term "**control**" (including the terms "**controlled by**" and "**under common control with**") means the possession, directly or indirectly, of the actual power to direct or cause the direction of the management policies of a Person, whether through the ownership of stock or other equity interests, by contract, credit arrangement or otherwise.

"**Agreement**" means this Asset Purchase Agreement, as amended, supplemented or modified from time to time in accordance with the express terms hereof.

"**Assets**" has the meaning specified in Section 2.1.

"**Assumed Liabilities**" has the meaning specified in Section 2.3.

"**Basket**" has the meaning specified in Section 9.6(b).

"**Claim**" has the meaning specified in Section 9.1.

"**Closing**" means the consummation of the purchase and sale of the Assets hereunder which shall occur on the Closing Date.

"**Closing Date**" has the meaning specified in Section 3.1.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Earn-Out Payment**" has the meaning specified in Section 2.2.

"**Employment Agreements**" means employment agreements between the Purchaser the individuals set forth on Schedule 3.1(i), in a form reasonably acceptable to the Purchaser a form of which is set forth on Appendix V.

"**Illume**" has the meaning specified in the Recitals to this Agreement.

"**Illume Contracts**" means all written and oral agreements, contracts, purchase orders, sales orders, commitments and understandings directly relating to Illume to which Seller is a party, by which Seller is directly or indirectly bound, or to which any of the Assets may be subject. All such Illume Contracts are listed on **Schedule 2.1**.

"**Illume Employee Benefit Plans**" means "employee benefit plans," as defined in Section 3(3) of ERISA, including severance pay, sick leave, vacation pay, salary continuation for disability, retirement, deferred compensation, bonus, long-term incentive, hospitalization, medical insurance, life insurance and scholarship programs, maintained by Seller or to which Seller has contributed or is obligated to contribute relating specifically to Illume or covering Illume employees.

"**Illume Permits**" means any and all permits, licenses, variances, exemptions, orders, franchises, approvals, consents, registrations and authorizations of all Governmental Authorities held by Seller directly relating to the ownership, use or operation of Illume or the Assets.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended.

"**GAAP**" means generally accepted accounting principles, as recognized by the U.S. Financial Accounting Standards Board (or any generally recognized successor), consistently applied.

"**Governmental Authority**" means any national, state, county or municipal government, domestic or foreign, any agency, board, bureau, commission, court, department or other instrumentality of any such government, or any arbitrator in any case that has jurisdiction over Purchaser or Seller, as the case may be, or any of its properties or assets.

"**Indemnified Person**" has the meaning specified in Section 9.1.

"**Indemnifying Party**" has the meaning specified in Section 9.1.

"**Intellectual Property Rights**" means any and all proprietary and technical information, patents and patent rights, patent applications, service marks (registered and unregistered), trademarks (registered and unregistered), trademark and service mark applications, copyrights, trade secrets, web domains, web pages, web content, supplier lists and other supplier information, customer lists and other customer information, price lists, advertising and promotional materials, field performance data, research materials, other proprietary intangibles, databases, processes, technical know-how, business and product know-how, engineering and other drawings, designs, plans, methods, engineering and manufacturing specifications, technology, inventions, processes, methods, formulas, procedures, sales history, model numbers, literature and phone numbers, and operating and quality control manuals and data directly relating to and used exclusively for the business of Illume, including the Intellectual Property Rights set forth on Schedule 2.1.

"**Knowledge**" (whether or not capitalized) means (a) with respect to a natural Person, the actual knowledge of that Person, and (b) with respect to a Person which is a business entity, the actual knowledge of each of the officers, directors, managers, members and partners of such entity.

"**Lease**" means that certain Lease Agreement covering that part of the seventh floor of the building located 1717 South Boulder Avenue, Tulsa, Oklahoma, to be assumed by Purchaser, to be executed and delivered by each of Seller and Purchaser pursuant to Section 3.2 and 3.3, respectively, a form of which is attached hereto as **Appendix III**.

"**License Agreement**" means that certain License Agreement to be executed and delivered by each of Seller and Purchaser pursuant to Section 3.2 and 3.3, respectively, a form of which is attached hereto as **Appendix I**.

"**Lien**" means any lien, mortgage, security interest, pledge, deposit, production payment, restriction, burden, encumbrance, rights of a vendor under any title retention or conditional sale agreement, or lease or other arrangement substantially equivalent thereto.

"Material Adverse Effect" means (a) when used with respect to Seller, a result or consequence that would materially adversely affect the condition (financial or otherwise), results of operations or business of Illume (taken as a whole) or the aggregate value of the Assets, or would materially impair the ability of Illume (taken as a whole) to own, hold, develop and operate its assets or would impair Seller's ability to perform its obligations hereunder or consummate the transactions contemplated hereby; and (b) when used with respect to Purchaser, a result or consequence that would materially impair the ability of Purchaser to own, hold, develop and operate the Assets in the manner operated by Seller prior to the Closing Date, or would impair Purchaser's ability to perform its obligations hereunder or consummate the transactions contemplated hereby.

"Net Revenue" means all billings or other revenues attributable to the Assets (including without limitation with respect to operations or referrals relating to software development work) during the one year period commencing on the Closing Date (including, without limitation, all billings for such period which are paid in subsequent periods), net of discounts and returns.

"Non-Assignable Contract(s)" has the meaning specified in Section 2.4.

"Non-Competition and Non-Solicitation Agreement" means that certain Non-Competition and Non-Solicitation Agreement to be executed and delivered by each of Seller and Purchaser pursuant to Section 3.2 and 3.3, respectively, a form of which is attached hereto as **Appendix II**.

"Parties" has the meaning specified in the Recitals to this Agreement.

"Permitted Liens" means (a) Liens for Taxes, assessments or other governmental charges or levies if the same shall not at the particular time in question be due and delinquent; (b) Liens of carriers, warehousemen, mechanics, laborers, materialmen, landlords, vendors, workmen and operators arising by operation of law in the ordinary course of business or by a written agreement existing as of the date hereof for sums not yet due; (c) Liens incurred in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation (other than ERISA) which would not, individually or in the aggregate, result in a Material Adverse Effect on Seller or Illume; and (d) Liens incurred in the ordinary course of business to secure the performance of bids, tenders, trade contracts, leases, statutory obligations, surety and appeal bonds, performance and repayment bonds and other obligations of a like nature.

"Person" (whether or not capitalized) means any natural person, corporation, company, limited or general partnership, joint stock company, joint venture, association, limited liability company, trust, bank, trust company, business trust or other entity or organization, whether or not a Governmental Authority.

"Purchase Price" has the meaning specified in Section 2.2.

"Purchaser" has the meaning specified in the introductory paragraph of this Agreement.

"Purchaser Claims" has the meaning specified in Section 9.6(b).

"Purchaser Representative" means any manager, officer or other authorized representative of Purchaser (including legal, accounting and financial advisors and agents authorized to act on behalf of Purchaser).

"Related persons" (whether or not capitalized) has the meaning specified in Section 9.1.

"Responsible Officer" means, with respect to either Party, any Manager, the Chairman, Chief Executive Officer, Chief Operating Officer, President, Chief Financial Officer or any Vice President of such Party.

"Securities Act" means the Securities Act of 1933, as amended.

"Seller" has the meaning specified in the introductory paragraph of this Agreement.

"Seller Representative" means any director, officer or other authorized representative of Seller (including legal, accounting and financial advisors and agents authorized to act on behalf of Seller).

"Taxes" means taxes of any kind, levies or other like assessments, customs, duties, imposts, charges or fees, including income, gross receipts, ad valorem, value added, excise, real or personal property, asset, sales, use, federal royalty, license, payroll, transaction, capital, net worth and franchise taxes, estimated taxes, withholding, employment, social security, workers compensation, utility, severance, production, unemployment compensation, occupation, premium, windfall profits, transfer and gains taxes or other governmental taxes imposed or payable to the United States or any state, local or foreign governmental subdivision or agency thereof, and in each instance such term shall include any interest, penalties or additions to tax attributable to any such Tax.

"Third-Party Consent" means the consent or approval of any Person other than any of Seller, Purchaser or any Governmental Authority.

"Transition Services Agreement" means that certain Transition Services Agreement to be executed and delivered by each of Seller and Purchaser pursuant to Section 3.2 and 3.3, respectively, a form of which is attached hereto as **Appendix IV**.

"VWAP" means the weighted average trading price of the Purchaser's common stock on the Over-the-Counter Bulletin Board (or such other market on which Purchaser's common stock may then trade) over the twenty trading days prior to the Closing Date, provided that, such price will not be lower than \$1.20 or higher than \$1.50.

1.2 Other Definitional Provisions.

- (a) All references in this Agreement to Schedules, Appendixes, Articles, Sections, subsections and other subdivisions refer to the corresponding Exhibits, Schedules, Articles, Sections, subsections and other subdivisions of or to this Agreement unless expressly provided otherwise. Titles appearing at the beginning of any Articles, Sections, subsections or other subdivisions of this Agreement are for convenience only, do not constitute any part of this Agreement, and shall be disregarded in construing the language hereof.
- (b) Schedules to this Agreement are attached hereto and by this reference incorporated herein for all purposes.
- (c) The words "**this Agreement**," "**herein**," "**hereby**," "**hereunder**" and "**hereof**," and words of similar import, refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited. The words "**this Article**," "**this Section**" and "**this subsection**," and words of similar import, refer only to the Article, Section or subsection hereof in which such words occur. The word "**or**" is not exclusive, and the word "**including**" (in its various forms) means including without limitation.
- (d) Pronouns in masculine, feminine or neuter genders shall be construed to state and include any other gender, and words, terms and titles (including terms defined herein) in the singular form shall be construed to include the plural and vice versa, unless the context otherwise requires.

ARTICLE II PURCHASE AND SALE

2.1 **Purchase and Sale.** At the Closing, upon the terms and subject to the conditions contained herein, Seller shall sell, transfer, assign, convey and deliver to Purchaser, and Purchaser shall purchase, accept and acquire from Seller, all of Seller's right, title and interest in and to all of the business of Seller relating to Illume, all of the goodwill associated with the Illume business and all of the assets set forth on **Schedule 2.1** (collectively and individually, the "**Assets**"). For avoidance of doubt, the "**Assets**" shall not include any Accounts Receivable arising before the Closing, the furnishings in Kendall Carpenter's office or filing areas, the computers and office equipment used by Kendall Carpenter, Jim McGill and any other non-retained executive.

2.2 **Purchase Price and Earn Out.** In full consideration for the purchase of the Assets, contemporaneous with the conveyance and delivery of the Assets to Purchaser at the Closing, Purchaser shall (a) pay to Seller the sum of One Million Dollars (\$1,000,000.00) (the "**Purchase Price**") of which Seven Hundred Fifty Thousand Dollars (\$750,000) shall be delivered as shares of the common stock of Purchaser (the "**Acquisition Shares**") and Two Hundred Fifty Thousand Dollars (\$250,000) shall be delivered in cash by check or wire transfer of immediately available funds, and (b) assume all of the Assumed Liabilities. The number of shares of the common stock of Purchaser shall be calculated by dividing \$750,000 by the VWAP.

In addition, within thirty days of the date that is one year from the Closing Date, Purchaser shall deliver to the Seller the Earn-Out Payment (which will be paid 50% in cash and 50% in common stock of Purchaser, valued at the last closing price of the Purchaser's common stock on the Over-the-Counter Bulletin Board (or such other market on which Purchaser's common stock may then trade) on the one year anniversary of the Closing Date (or, if such date is not a trading day, on the most recent trading day), determined as follows:

- (a) If Net Revenue is \$1,500,000 or less, the Earn-Out Payment will be \$0.
- (b) If Net Revenue is greater than \$1,500,000 but less than \$2,000,000, the Earn-Out Payment will be \$100,000.
- (c) If Net Revenue is at least \$2,000,000 but less than \$3,000,000, the Earn-Out Payment will be equal to the sum of (i) \$100,000 plus (ii) 40% of the excess of the Net Revenue amount over \$2,000,000.
- (d) If Net Revenue is \$3,000,000 or more, the Earn-Out Payment will be \$500,000.

2.3 **Limited Assumption of Liabilities.** Purchaser is not assuming, accepting or undertaking any debt, obligation, duty or liability of Seller of any kind whatsoever, accrued, contingent or otherwise, whether arising out of the operation, use or ownership of the Assets, the manufacture or sale of products, or otherwise (including with respect to Taxes) except for the obligations under the Illume Contracts arising after the Closing set forth on Schedule 2.3 (the "**Assumed Liabilities**"). For the avoidance of doubt, the "**Assumed Liabilities**" shall not include any Accounts Payable arising with respect to the period before the Closing. At the Closing, Purchaser shall assume the Assumed Liabilities.

2.4 **Non-Assignable Contracts.** In the case of any Illume Contracts which are by their terms, by virtue of their subject matter or by operation of law, not assignable to Purchaser without the consent of a third party (the "**Non-Assignable Contracts**"), Seller shall use reasonable efforts before and after the Closing to obtain any consents necessary to convey to Purchaser the Non-Assignable Contracts or the benefits thereof. In the event that any such consent is not obtained, and the Closing occurs, Seller shall provide Purchaser with the same economic and other benefits of any such Non-Assignable Contract as if it had been assigned on the Closing Date. Nothing in this Agreement shall be construed as an attempt or an agreement to assign or cause the assignment of any Non-Assignable Contract, unless such consent shall have been given, or as to which all the remedies for the enforcement thereof enjoyed by Seller would not, as a matter of law, pass to Purchaser as an incident of the assignments provided by this Agreement. The Non-Assignable Contracts are set forth on Schedule 2.4. Seller represents and warrants to Purchaser that, other than as set forth on Schedule 2.4, there are no Non-Assignable Contracts.

2.5 **Delivery of Assets.** Title to and possession of the Assets shall be delivered and transferred by Seller to Purchaser at the Closing.

2.6 **Instruments of Conveyance and Transfer.** At the Closing, Seller shall execute and deliver to Purchaser, as appropriate, one or more special warranty deeds, bills of sale, instruments of assignment, certificates of title, registrations, licenses and other documents as may be reasonably necessary or appropriate (a) to vest in Purchaser title to all of the Assets, free and clear of any and all Liens (other than Permitted Liens), (b) to carry out the transactions contemplated by this Agreement, and (c) to evidence Purchaser's undertaking and assumption of the Assumed Liabilities (which instrument shall also be executed by Purchaser).

2.7 **Allocation.** The Purchase Price shall be allocated among the Assets as set forth on **Schedule 2.7**.

2.8 **Retained Employees.** On or prior to the Closing Date, the employees of Seller listed on Schedule 2.8 will be offered employment with Purchaser, effective on the Closing Date, on terms determined by Purchaser.

ARTICLE III CLOSING

3.1 **Closing.** The Closing will take place at the offices of Seller, 1717 South Boulder Avenue, Tulsa, Oklahoma, with the execution and delivery of this Agreement (the "**Closing Date**").

3.2 **Closing Obligations of Seller.** At the Closing, Seller shall deliver to Purchaser:

- (a) instruments of conveyance and transfer described in Section 2.6 executed by Seller;
- (b) the License Agreement executed by Seller;
- (c) the Non-Competition and Non-Solicitation Agreement executed by Seller;
- (d) the Lease executed by Seller together with an executed consent of Veteran Properties, L.L.C. thereto;
- (e) the Transition Services Agreement executed by Seller;
- (f) a legal opinion of Seller's counsel in a form reasonably acceptable to Purchaser;
- (g) evidence satisfactory to Purchaser that Arvest Bank's Lien on the Assets will be released contemporaneously with Closing and that Purchaser has permission from Arvest Bank to file a UCC-3 amendment filing with the Tulsa County Clerk terminating Arvest Bank's Lien on the Assets;
- (h) a certificated dated as of the Closing Date, executed by the Seller's corporate secretary in form and substance satisfactory to the Purchaser, certifying in each case as to the organizational documents of the Seller and the approval of the board of directors of the Seller approving the transactions contemplated by this Agreement and the documents to be entered into in connection with this Agreement;
- (i) a certificate, dated as of the Closing Date, executed by an authorized officer of the Seller in form and substance satisfactory to the Seller certifying in each case as to the fulfillment of its obligations under this Agreement and that the Representations and Warranties contained in this Agreement are true as of the Closing Date;
- (j) the Employment Agreements executed by the individuals set forth on Schedule 3.1 (i); and
- (k) such other certificates and documents as may be called for under this Agreement or as Purchaser may reasonably request.

3.3 **Closing Obligations of Purchaser.** At the Closing, Purchaser shall deliver to Seller:

- (a) the Purchase Price (provided that, the Purchaser may deliver stock certificates for the Acquisition Shares within 5 business days of the Closing) and the payments to be made for the pro-rated month of July, 2012 pursuant to the Lease and the Transition Services Agreement, by check or wire transfer to the account designated by Seller, in immediately available funds;
- (b) an instrument evidencing Purchaser's undertaking and assumption of the Assumed Liabilities executed by Purchaser;
- (c) the License Agreement executed by Purchaser;
- (d) the Non-Competition and Non-Solicitation Agreement executed by Purchaser;
- (e) the Lease executed by Purchaser;
- (f) the Transition Services Agreement executed by Purchaser;
- (g) the Employment Agreements executed by Purchaser;
- (h) such other certificates and documents as may be called for under this Agreement.

**ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF SELLER**

Seller hereby represents and warrants to Purchaser as follows:

4.1 **Organization.** Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Oklahoma, and has the requisite power and authority to own, lease and operate the properties of Illume, to conduct the business of Illume as it is presently being conducted, and to enter into and perform its obligations under this Agreement.

4.2 **Authority.** Seller has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder. The execution, delivery and performance of this Agreement by Seller have been duly authorized by all necessary corporate and/or other action, and no further corporate or other action is necessary on the part of Seller for Seller to execute and deliver this Agreement and to consummate and perform its obligations hereunder.

4.3 **Validity and Binding Effect.** This Agreement has been duly executed and delivered on behalf of Seller and constitutes the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles, regardless of whether enforceability is considered in a proceeding at law or in equity.

4.4 **No Violations.** The execution and delivery of this Agreement do not, and the consummation of the transactions contemplated hereby and compliance by Seller with the provisions hereof will not, conflict with, result in any violation of or default (with or without notice or lapse of time or both) under, give rise to a right of termination, cancellation or acceleration of any obligation or to the loss of a material benefit under, or result in the creation of any Lien on any of the Assets under, any provision of (a) the Certificate of Incorporation or Bylaws or other organizational documents of Seller; (b) any loan or credit agreement, note, bond, mortgage, indenture, lease, permit, concession, franchise, license or other contract, agreement or instrument applicable to Seller; or (c) any judgment, order, decree, statute, law, ordinance, rule or regulation applicable to Seller or any of its properties or assets.

4.5 **Consents and Approvals.** No consent, approval, order or authorization of, registration, declaration or filing with, or permit from, any Governmental Authority is required by or with respect to Seller in connection with the execution and delivery of this Agreement by Seller or the consummation by Seller of the transactions contemplated hereby and no Third-Party Consent that has not been obtained is required by or with respect to Seller in connection with the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby.

4.6 **Assets.** Seller has title to all of the Assets, and the Assets are being conveyed to Purchaser, free and clear of any Liens other than Permitted Liens and the Lien of Arvest Bank on the Assets that will be terminated at Closing.

4.7 **Absence of Certain Changes or Events.** Since January 1, 2012, Seller has operated the Illume business only in the usual and ordinary course and consistent with past practices, and Seller has not done any of the following:

- (a) suffered any material loss, damage, destruction or other casualty (whether or not covered by insurance) with respect to the Assets;
- (b) increased benefits or benefit plan costs or changed bonus, insurance, pension, compensation or other benefit plans or arrangements or granted any bonus or increase in wages, salary or other compensation or made any other change in employment terms to any officers, directors or employees of Illume (except in the ordinary course of business and consistent with past practices); or
- (c) agreed, whether in writing or otherwise, to do either of the foregoing.

4.8 **Commitments.** Seller has not entered into, and the Assets are not bound by, any commitment (whether or not in writing) which may, in any material respect, prevent the transactions contemplated by this Agreement.

4.9 **Compliance with Laws.** Seller is not in violation of, or in default under, and no event has occurred that (with notice or the lapse of time or both) would constitute a violation of or default under any applicable law, rule, regulation, order, writ, decree or judgment of any Governmental Authority applicable to Illume; and no investigation or review by any Governmental Authority is pending or, to the knowledge of Seller, threatened with respect to Illume.

4.10 **Permits.** Seller does not own, hold or maintain any Illume Permits. Seller is not aware of any Illume Permits necessary or required in order for Seller or Purchaser to operate the Illume business as it is currently operated.

4.11 **Litigation.** No litigation, arbitration, investigation or other proceeding of any Governmental Authority is pending or, to the knowledge of Seller, threatened against Seller, relating to the business of Illume or the Assets and Seller is not subject to any outstanding injunction, judgment, order, decree or ruling relating to Illume or the Assets. There is no litigation, proceeding or investigation pending or, to the knowledge of Seller, threatened against or affecting Seller that questions the validity or enforceability of this Agreement or any other document, instrument or agreement to be executed and delivered by Seller in connection with the transactions contemplated hereby.

4.12 **Intellectual Property.** Schedule 2.1 includes a complete and accurate list of all Intellectual Property Rights that, to Seller's knowledge, are necessary for the operation, or continued operation, of the business of Illume or for the ownership and operation, or continued ownership and operation, of any of the Assets as presently owned and operated. Seller holds valid and continuing authority in connection with Seller's use of the Intellectual Property Rights. To the knowledge of Seller, the conduct of the Illume business, and Seller's use of the Intellectual Property Rights, do not infringe any known Intellectual Property Rights or any other proprietary right of any Person. Seller has not received any written notice from any other Person pertaining to or challenging the right of Seller to use any of the Intellectual Property Rights. Other than the licenses listed on Schedule 2.1, Seller does not own or use any Intellectual Property Right pursuant to a third party license or royalty agreement and Seller has not granted any Person any rights to use Intellectual Property Rights. No employee of Seller is subject to any agreement with a prior employer or other Person that in any way adversely affects or will adversely affect the Illume business or the performance of the employee's duties as an employee. Seller has taken reasonable precautions to protect the secrecy, confidentiality and value of its trade secrets and other confidential Intellectual Property Rights, as applicable.

4.13 **Insurance.** Seller maintains insurance, with financially sound and reputable insurers, covering Seller with respect to the business of Illume in such amounts and covering such risks as are in accordance with normal industry practice for companies engaged in businesses similar to Illume and owning properties in the same general area in which Seller conducts Illume. There is no breach or material default with respect to any provision contained in any policy or binder with respect to such insurance, nor has Seller failed to give any notice or present any claim under such policy or binder in due and timely fashion.

4.14 **Contracts and Agreements.** Schedule 2.1 contains a complete and accurate list of all Illume Contracts. Each Illume Contract is in full force and effect and is enforceable in accordance with its terms; the rights of Seller under the Illume Contracts are free and clear of all Liens other than Permitted Liens; Seller has performed in all material respects all the obligations required to be performed by it under the Illume Contracts; there has been no threatened cancellation or termination of any of the Illume Contracts and there are no outstanding disputes thereunder; and each of the Illume Contracts is with an unrelated third party and was entered into on an arm's-length basis.

4.15 Employee Benefit Plans.

- (a) There is no material violation of ERISA with respect to the filing of applicable reports, documents and notices regarding any Illume Employee Benefit Plan with any Governmental Authority or the furnishing of such documents to the participants or beneficiaries of Illume Employee Benefit Plans.
- (b) With respect to Illume Employee Benefit Plans, there exists no condition or set of circumstances that could be expected to result in liability reasonably likely to have a Material Adverse Effect on Seller under ERISA, the Code or any applicable law.
- (c) With respect to Illume Employee Benefit Plans, individually and in the aggregate, there are no unfunded benefit obligations which have not been accounted for by reserves, or otherwise properly footnoted in accordance with GAAP, on Seller's financial statements, which obligations are reasonably likely to have a Material Adverse Effect on Seller.
- (d) Illume Employee Benefit Plans have been maintained, in all material respects, in accordance with their terms and in accordance with all applicable federal and state laws, and neither Seller, nor any "party in interest" or "disqualified person" with respect to Illume Employee Benefit Plans, has engaged in any "prohibited transaction" within the meaning of Section 4975 of the Code.

4.16 Labor Matters.

- (a) Seller has previously provided to Purchaser a complete and accurate list of all of the employees of Illume, showing each such employee's salary or wage rate. Schedule 4.16 contains a correct and complete list of all consultants or independent contractors performing services in connection with the operation of the business of Illume.
- (b) There are no collective bargaining agreements and other labor agreements affecting Illume. There is no pending or, to Seller's knowledge, threatened labor dispute, grievance, strike or work stoppage by the employees of Illume.

4.17 Taxes. Seller or Illume has (a) timely filed all federal, state and local returns, declarations, reports, estimates, information returns and statements required to be filed by it or on its behalf with respect to any Taxes relating to the business of Illume; (b) timely paid all Taxes relating to the business of Illume that are due and payable for which Seller may be liable, including any applicable sales taxes in the jurisdictions in which Illume sells its products; (c) complied with all applicable laws, rules and regulations relating to the payment and withholding of Taxes relating to the business of Illume; and (d) timely withheld from employee wages and paid over to the proper Governmental Authorities all amounts required to be so withheld and paid over with respect to Seller's employees who are engaged in the business of Illume.

4.18 Real Property. Except for the real estate covered by the Lease, Illume does not own, lease, or utilize any real property. Seller has delivered to Purchaser a true and complete copy of the Lease. Seller has not subleased any of the premises covered by the Lease or any portion thereof. All rental and other payments and other obligations required to be paid and performed by Seller pursuant to the Lease have been duly paid and performed.

4.19 Absence of Certain Business Practices. Neither Seller nor any of its directors, managers, employees or agents has, directly or indirectly, given or agreed to give any gift or similar benefit (other than with respect to bona fide payments for which adequate consideration has been given) to any customer, supplier, governmental employee or other Person who is or may be in a position to help or hinder the business of Illume (or assist Seller in connection with any actual or proposed transaction relating to the business of Illume): (a) which will result in Seller incurring any damage or penalty in any civil, criminal or governmental litigation or proceeding relating to the business of Illume; (b) which, if not continued in the future, could reasonably be expected to have a Material Adverse Effect on the business of Illume or which will result in Seller paying any penalty in any private or governmental litigation or proceeding relating to the business of Illume; or (c) for establishment or maintenance of any concealed fund or concealed bank account relating to the business of Illume.

4.20 Solvency.

(a) Seller is not now insolvent and will not be rendered insolvent by the consummation of the transactions contemplated by this Agreement. As used in this section, "insolvent" means that the sum of the debts and other probable liabilities of Seller exceed the present fair saleable value of Seller's assets.

(b) Immediately after giving effect to the consummation of the transactions contemplated by this Agreement: (i) Seller will be able to pay its liabilities as they become due in the usual course of business, (ii) Seller will not have unreasonably small capital with which to conduct its present or proposed business and (iii) Seller will have assets (calculated at fair market value) that exceeds its liabilities.

4.21 Books and Records. All books, records and files of Seller relating to the Assets and the business of Illume (a) have been prepared, assembled and maintained in accordance with usual and customary policies and procedures; and (b) fairly and accurately reflect the ownership, use, enjoyment and operation by Seller of the Assets and the business of Illume.

4.22 Warranties, Etc. All products sold and any services rendered by Seller in connection with the operation of the business of Illume have been, in all material respects, in conformity with all applicable contractual commitments and all expressed or implied warranties. No products heretofore manufactured, processed, distributed, sold, delivered or leased by Seller in connection with the operation of the business of Illume or services rendered by Seller in connection with the operation of the business of Illume are now subject to any software guarantee, Claim for product liability or patent or other Intellectual Property Rights indemnity.

4.23 Condition of Assets. All of the Assets are in good operating condition and repair, ordinary wear and tear excepted. Seller has provided Purchaser access to all operating and maintenance logs relating to the Assets. No Asset is in need of material repairs, modifications or upgrades (other than maintenance in accordance with the manufacturer's recommended maintenance described in the manufacturer's manuals that have been made available to Purchaser).

4.24 Securities Laws Representations.

(a) The Acquisition Shares will be acquired for investment purposes for Seller's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof. Seller has neither any present intention of effecting, nor any agreement, understanding or arrangement with any Person regarding, the sale, the granting of any participation in or any other distribution or transfer of any of the Acquisition Shares.

(b) Seller has had an opportunity to ask questions and receive answers from Purchaser regarding the terms and conditions of the offering of the Acquisition Shares pursuant to this Agreement and the business, operations, properties and assets of Purchaser.

(c) Seller acknowledges that it is able to fend for itself, can bear the economic risk of its investment in the Acquisition Shares and has such knowledge and experience in financial or business matters such that it is capable of evaluating the merits and risks of its investment in the Acquisition Shares. Seller has not been organized for the purpose of acquiring the Acquisition Shares.

(d) Seller is an “accredited investor” within the meaning of Rule 501, as presently in effect, of Regulation D under the Securities Act.

(e) Seller understands that the Acquisition Shares are characterized as “restricted securities” under United States federal securities laws inasmuch as they are being acquired from Purchaser in a transaction not involving a public offering and that, under such laws and applicable regulations, such Acquisition Shares may be resold without registration under the Securities Act only in certain limited circumstances. Seller is familiar with Rule 144 promulgated under the Securities Act, as presently in effect, and understands the resale limitations imposed thereby and by the Securities Act. Seller understands that an investment in the Acquisition Shares involves an extremely high degree of risk and may result in a complete loss of Seller’s investment. Seller understands that the Acquisition Shares have not been and will not be registered under the Securities Act and have not been and will not be registered or qualified in any state in which they are offered, and thus Seller will not be able to resell or otherwise transfer such Acquisition Shares unless such Acquisition Shares are subsequently registered under the Securities Act and registered or qualified under applicable state securities laws, or an exemption from such registration or qualification is available.

(f) Seller has no immediate need for liquidity in connection with such Seller’s investment in the Acquisition Shares, does not anticipate that it will be required to sell the Acquisition Shares in the foreseeable future and has the capacity to sustain a complete loss of its investment in the Acquisition Shares.

(g) Seller understands that the instruments evidencing the Acquisition Shares may bear a legend substantially in the following form:

“THE SECURITIES REPRESENTED BY THIS INSTRUMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”). THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF A REGISTRATION STATEMENT IN EFFECT WITH RESPECT TO THE SECURITIES UNDER THE SECURITIES ACT OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED OR UNLESS SOLD PURSUANT TO RULE 144 OF THE SECURITIES ACT.”

(i) Seller acknowledges and confirms that it has read this Agreement in its entirety, that it has been given the opportunity to consider the Agreement and seek independent legal counsel and advice and that it enters into this Agreement voluntarily and intending to be legally bound.

ARTICLE V REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser hereby represents and warrants to Seller as follows:

5.1 **Organization.** Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has the requisite power and authority to own, lease and operate its properties and to conduct its business as it is presently being conducted.

5.2 **Authority.** Purchaser has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder. The execution, delivery and performance of this Agreement by Purchaser have been duly authorized by all necessary corporate and other action, and no further corporate or other action is necessary on the part of Purchaser for Purchaser to execute and deliver this Agreement and to consummate and perform its obligations hereunder.

5.3 **Validity and Binding Effect.** This Agreement has been executed and delivered on behalf of Purchaser and constitutes the legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles, regardless of whether enforceability is considered in a proceeding at law or in equity.

5.4 **Funding.** Purchaser has available adequate funds in an aggregate amount sufficient to pay (a) all amounts required to be paid to Seller upon the Closing under this Agreement, and (b) all expenses incurred or which will be incurred by Purchaser in connection with this Agreement and the transactions contemplated hereby.

ARTICLE VI COVENANTS

6.1 **Brokers' Fees.** Each of Seller and Purchaser represents and warrants to the other that, except as set forth on Schedule 6.1, it has not incurred any liability for brokerage fees, finder's fees, agent's commissions, or other similar forms of compensation in connection with or in any way related to the transactions contemplated by this Agreement. Each of Seller and Purchaser agrees to indemnify, defend and hold the other and its related persons harmless from any claim or demand for any commission, fee or other compensation by any broker, finder, agent or similar intermediary claiming to have been employed by or on behalf of the indemnifying party, and to bear the cost of attorneys' fees and expenses incurred in defending against any such claim.

6.2 **Additional Arrangements.** Subject to the terms and conditions herein provided, each of Seller and Purchaser shall take, or cause to be taken, all action and shall do, or cause to be done, all things necessary, appropriate or desirable under applicable laws and regulations or under applicable governing agreements to consummate and make effective the transactions contemplated by this Agreement, including using such Party's reasonable efforts to obtain all necessary waivers, consents and approvals and effecting all necessary registrations and filings. Each of Seller and Purchaser shall take, or cause to be taken, all action or shall do, or cause to be done, all things necessary, appropriate or desirable to cause the covenants and conditions applicable to the transactions contemplated hereby to be performed or satisfied as soon as practicable. In addition, if any Governmental Authority shall have issued any order, decree, ruling or injunction, or taken any other action that would have the effect of restraining, enjoining or otherwise prohibiting or preventing the consummation of the transactions contemplated hereby, each of Seller and Purchaser shall use reasonable efforts to have such order, decree, ruling or injunction or other action declared ineffective as soon as practicable.

6.3 **Proration of Property Taxes.** Seller and Purchaser shall adjust and apportion all ad valorem taxes on personal property or other like charges levied, assessed or imposed upon any of the Assets, all as of the Closing Date. Should any such tax, assessment or charge be undetermined on the Closing Date, the last determined tax, assessment or charge shall be used for the purpose of adjustment. All adjustments shall be made as soon as practicable after Closing and invoiced to Purchaser.

6.4 **Payment of Expenses.** Each of Purchaser and Seller shall bear its own expenses incurred in connection with the transactions contemplated herein, including all fees and expenses of agents, representatives, counsel and accountants engaged by it.

6.5 **Public Announcements.** Seller and Purchaser shall consult with each other before issuing any press release or otherwise making any public statement with respect to the transactions contemplated by this Agreement and shall not issue any press release or make any such public statement prior to obtaining the approval of the other Party; provided, however, that such approval shall not be required where such release or announcement is required by applicable law, securities regulations or stock exchange rules.

6.6 **Further Assurances.** From time to time after the Closing, each of the Parties will execute and deliver such further instruments of conveyance and transfer and take such other action as the other Party may reasonably request in order to more effectively convey and transfer the Assets and to assist in completing the transactions contemplated by this Agreement.

6.7 **Taxes.** Purchaser shall bear and pay any applicable sales and/or use taxes and other transfer taxes payable in connection with the sale of assets contemplated by this Agreement. Seller shall be responsible for remitting any applicable sales and/or use taxes and other transfer taxes collected to the appropriate state agencies. Purchaser shall also pay any Taxes or fees required to register the change of ownership of Assets from Seller to Purchaser. Each of Seller and Purchaser shall prepare and file with the Internal Revenue Service, along with its federal tax return, Form 8594, Asset Acquisition Statement, allocating the value of the Assets, as set forth in **Schedule 2.7**. Oklahoma sales tax on the value attributable to fixed assets sold to Purchaser shall be invoiced to Purchaser at closing and shall be paid to Seller within fifteen (15) days of closing.

6.8 **Invoices.** Purchaser shall timely pay all invoices received by it whether they be received prior to the date of this Agreement or following the date of this Agreement relating to Accounts Payable arising with respect to the period before the Closing and relating to the business of Illume.

ARTICLE VII

[INTENTIONALLY OMITTED]

ARTICLE VIII

[INTENTIONALLY OMITTED]

ARTICLE IX INDEMNIFICATION AND THIRD PARTY CLAIMS

9.1 **Indemnification.** Each of Seller and Purchaser (each an "**Indemnifying Party**"), hereby agrees to indemnify, defend and hold harmless the other Party, and its directors, managers, officers, employees and controlled and controlling persons (hereinafter, collectively, "**related persons**"), from and against all Claims asserted against, resulting to, imposed upon or incurred by such Party or such Party's related persons (an "**Indemnified Person**"), to the extent resulting from (a) the inaccuracy or breach of any representation or warranty of the Indemnifying Party contained in or made pursuant to this Agreement, or (b) the breach of any covenant of the Indemnifying Party contained in or made pursuant to this Agreement. As used in this Article IX, the term "Claim" shall include (x) all debts, liabilities and obligations, (y) all losses, damages, costs and expenses, including pre- and post-judgment interest, penalties, court costs and attorneys' fees and expenses, and (z) all demands, claims, actions, costs of investigation, causes of action, proceedings, arbitrations, judgments, settlements and assessments, whether or not ultimately determined to be valid.

9 . 2 **Pre-Closing Operations.** Seller further hereby agrees to indemnify, defend and hold harmless Purchaser and Purchaser's related persons from and against all Claims asserted against, resulting to, imposed upon or incurred by Purchaser with respect to (a) any liabilities of Seller which are not Assumed Liabilities, or (b) the ownership, operation, use or enjoyment of the Assets by Seller prior to the Closing.

9 . 3 **Post-Closing Operations.** Purchaser further hereby agrees to indemnify, defend and hold harmless Seller and Seller's related persons from and against all Claims asserted against, resulting to, imposed upon or incurred by Seller with respect to (a) any of the Assumed Liabilities, (b) the ownership, operation, use or enjoyment of the Assets by Purchaser after the Closing or (c) obligations under the Illume Contracts arising after the Closing.

9 . 4 **Defense of Third Party Claims.** In the event any Claim is asserted against any Indemnified Person by a third party, the Indemnified Person shall with reasonable promptness notify the Indemnifying Party of such Claim. If the Indemnified Person does not so notify the Indemnifying Party within 15 days after becoming aware of such Claim, then the Indemnifying Party shall, if such delay materially prejudices the Indemnifying Party with respect to the defense of such Claim, be relieved of liability hereunder in respect of such Claim but only to the extent of the damage caused by such delay. In any such proceeding, following receipt of notice properly given, the Indemnifying Party shall be entitled, at its sole discretion, to assume the entire defense of such Claim (with counsel selected by it which is reasonably satisfactory to the Indemnified Person or Persons), and the Indemnifying Party shall bear the entire cost of defending such Claim. The Indemnifying Party shall not have the right to settle any such Claim without the written consent of the Indemnified Person or Persons. In the event of the assumption of the defense by the Indemnifying Party, the Indemnifying Party shall not be liable for any further legal or other expenses subsequently incurred by the Indemnified Persons in connection with such defense unless otherwise agreed to in writing by the Indemnifying Party or as herein provided; provided, however, the Indemnified Persons shall have the right to participate in such defense, at their own cost, and the obligation to cooperate therewith.

9 . 5 **Survival.** The representations, warranties, covenants and agreements made in this Agreement or in any certificate or instrument delivered in connection herewith shall be in full force and effect notwithstanding any investigation made by or disclosure made to any Party, whether before or after the date hereof, shall survive the execution and delivery of this Agreement, and shall survive the Closing and continue to be applicable and binding thereafter for the period set forth in Section 9.6(a) (except with respect to Claims relating to Taxes, which shall survive indefinitely). At the end of such period, the same shall terminate and be extinguished, except to the extent a Claim has been asserted during such period.

9.6 **Limit on Indemnity Obligations.**

- (a) Except with respect to Claims for Taxes as set forth in Section 9.5, no Indemnified Person shall be entitled to seek indemnification from any Indemnifying Party pursuant to Section 9.1, Section 9.2 or Section 9.3 with respect to any Claim unless such Indemnified Person notifies such Indemnifying Party of such Claim within three years after the Closing Date.
- (b) If the total amount of all Claims which Purchaser or any of its related persons has the right to assert against Seller under this Article IX ("**Purchaser Claims**") does not exceed an amount equal to one percent of the Purchase Price (the "**Basket**"), then Seller shall have no obligation under this Article IX with respect to any such Claim. If the total amount of all Purchaser Claims exceeds the Basket, then Seller's obligations under this Article IX shall include the amount of the Basket and the amount by which the aggregate amount of all Purchaser Claims exceeds the Basket.
- (c) Seller's obligations for Purchaser Claims shall be limited to an aggregate maximum amount equal to Twenty (20) Percent of the Purchase Price, except with respect to Claims relating to Taxes or resulting from fraud by the Seller, for which no limits to Seller's obligations will apply.
- (d) Except as otherwise specifically provided in this Agreement, in the absence of fraud, the sole and exclusive remedy of both Purchaser and Seller hereunder or otherwise in connection with Claims for matters covered in Sections 9.1, 9.2 and 9.3 shall be restricted to the indemnification rights set forth in this Article IX.

ARTICLE X MISCELLANEOUS

10.1 **Governing Law and Disputes.** This Agreement shall be governed by and construed in accordance with the substantive law of the State of Oklahoma without giving effect to the principles of conflicts of law thereof. If a dispute arises out of or relates to this Agreement, or the breach hereof, the parties agree first to try in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association, before resorting to arbitration. Thereafter, any remaining unresolved controversy or claim arising out of or relating to this Agreement, or breach hereof, shall be settled by arbitration before a sole arbitrator (a former federal judge, unless otherwise mutually agreed to by the parties Seller and the Purchaser in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The seat of the arbitration shall be in Tulsa, Oklahoma, U.S.A. and the decision of the arbitrators shall be final. The prevailing party shall be entitled to reasonable attorney's fees in addition to costs and necessary disbursements.

10.2 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original, but all of which together shall constitute one and the same agreement. Signatures transmitted by facsimile or in portable document format (pdf) shall be deemed to be original signatures.

10.3 **Assignment; Binding Effect.** Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by either of the Parties (whether by operation of law or otherwise) without the prior written consent of the other Party. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of and be enforceable by the Parties and their respective successors and permitted assigns.

10.4 **Entire Agreement.** This Agreement (including the Exhibits and Schedules hereto and any documents referred to herein) constitutes the entire agreement between the Parties, and supersedes any prior understandings, agreements, arrangements and representations between the Parties, written or oral, to the extent they related in any way to the subject matter hereof.

10.5 **Notices.** All notices, requests, demands, claims and other communications required or permitted to be given hereunder shall be in writing and shall be sent by (a) personal delivery (effective upon delivery), (b) facsimile (effective on the next day after transmission), (c) recognized overnight delivery service (effective on the next day after delivery to the service), or (d) registered or certified mail, return receipt requested and postage prepaid (effective on the third day after being so mailed), in each case addressed to the intended recipient as set forth below:

If to Purchaser:

DecisionPoint Systems, Inc.
8697 Research Dr.
Irvine, California 92618

Attention: Nicholas R. Toms
Chief Executive Officer

With a copy (which shall not constitute notice) to:
Sichenzia Ross Friedman Ference LLP
61 Broadway
New York, New York 10006

If to Seller:

MacroSolve, Inc.
1717 South Boulder Avenue, Suite 700
Tulsa, OK 74119
Attention: Chief Financial Officer

With a copy (which shall not constitute notice) to:
James C. McGill
2121 South Yorktown, #1103
Tulsa, OK 74114

Either Party may change its address for receiving notices by giving written notice of such change to the other Party in accordance with this Section 10.5.

10.6 **Amendment.** This Agreement may be amended by the Parties at any time only by a written instrument signed on behalf of each of the Parties.

10.7 **Severability.** Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction. If any provision of this Agreement is so broad as to be unenforceable, such provision shall be interpreted to be only so broad as is enforceable.

10.8 **Waivers.** Either of the Parties may, to the extent legally allowed: (a) extend the time for the performance of any of the obligations or other acts of the other Party, (b) waive any inaccuracies in the representations and warranties contained herein or in any document delivered pursuant hereto, and (c) waive performance of any of the covenants or agreements, or satisfaction of any of the conditions, contained herein. Any agreement on the part of a Party to any such extension or waiver shall be valid only if set forth in a written instrument signed on behalf of such Party. Except as provided in this Agreement, no action taken pursuant to this Agreement, including any investigation by or on behalf of either Party, shall be deemed to constitute a waiver by the Party taking such action of compliance with any representations, warranties, covenants or agreements contained in this Agreement. The waiver by either Party of a breach of any provision hereof shall not operate or be construed as a waiver of any prior or subsequent breach of the same or any other provision hereof.

10.9 **Enforcement of Agreement.** The Parties agree that irreparable damage would occur in the event that any provision of this Agreement was not performed in accordance with the terms hereof or was otherwise breached. Accordingly, the Parties hereby agree that each Party shall be entitled to seek an injunction to prevent a breach of this Agreement and shall be entitled to specific performance of the terms and provisions hereof in addition to any other remedy at law or in equity.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

"Purchaser"

DecisionPoint Systems, Inc.

By: /s/ Nicholas R. Toms
Nicholas R. Toms, CEO

"Seller"

MacroSolve, Inc.

By: /s/ Kendall W. Carpenter
Kendall W. Carpenter, CFO

Schedules

- 2.1 - Assets and Contracts
- 2.3 - Assumed Liabilities
- 2.4 - Non-Assignable Contracts
- 2.7 - Allocation of Purchase Price
- 2.8 - Retained Employees
- 3.1(i) Employment Agreements
- 4.16 - Consultants
- 6.1 Broker Fees

Appendixes

- I - License Agreement
- II - Non-Competition and Non-Solicitation Agreement
- III - Lease
- IV - Transition Services Agreement
- V - Form of Employment Agreement

LICENSE AGREEMENT

This License Agreement ("Agreement") effective as of the 31st day of July, 2012, by and between MacroSolve, Inc., a corporation organized under the laws of Oklahoma, U.S.A., having a business address at 1717 South Boulder Avenue, Suite 700, Tulsa, Oklahoma 74119 ("Licensor"), and Decision Point Systems, Inc., a company organized under the laws of Delaware having a business address at 4 Armstrong Road, Shelton, CT 06484, ("Licensee").

WHEREAS, Licensor is the owner of U.S. Patent No. 7,822,816, pertaining to Information Collection Using Mobile Computers, and;

WHEREAS, Licensor is willing to grant and Licensee wishes to receive a non-exclusive license under U.S. Patent No. 7,822,816 to make, use, sell, offer for sale and import information collection systems in and into the U.S. as described and claimed in said Patent.

NOW, THEREFORE, in consideration of the mutual covenants and promises made herein and for other good and valuable consideration, the parties agree as follows:

I. DEFINITIONS

1.1 "Licensed Patent" shall mean U.S. Patent No. 7,822,816 issued on October 26, 2010 assigned to Licensor and entitled ***SYSTEM AND METHOD FOR DATA MANAGEMENT***"

1.2 "Licensed Products" shall specifically include Licensee's ReForm™ Development Platform, Licensee's services or products that include the use of questionnaires answered remotely, as well as any other product or service which in the absence of this Agreement would infringe at least one claim of the Licensed Patent.

(a) for the purposes of this Agreement, Software Products shall mean Licensed Products offered for sale by Licensor which do not require any additional software development in order to be used for the intended purpose.

(b) for the purposes of this Agreement, Custom Development Services shall mean software development performed to create a new Software Product or to improve upon an existing Software Product.

1.3 "Licensed Territory" shall mean the United States of America and its territories ("U.S.").

1.4 "Licensed Methods" shall specifically include Licensee's ReForm™ Development Platform, Licensee's services or products that include the use of Questionnaires answered remotely, as well as any other methods, including computer software programs, which in the absence of this Agreement would infringe at least one claim of the Licensed Patent.

1.5 "Third Party" shall mean a company or entity not owned or controlled by Licensor or Licensee.

1.6 "Net Revenues" shall mean the amount of money received from the sale of Licensed Products or Licensed Methods less sales commissions, if any, paid to a Third Party for services relating to the sale.

1.7 "Questionnaire" means a part of an application that is used to collect information from a user or from a device on which the application runs.

II. GRANT OF NON-EXCLUSIVE LICENSE

2.1 Licensor hereby grants and Licensee hereby accepts a non-exclusive license under the Licensed Patent to make, have made, use, sell, offer for sale or import Licensed Products in and into the Licensed Territory and to practice the Licensed Methods in the Licensed Territory. This license shall terminate at the same time this agreement terminates.

2.2 Licensee is not granted any right to sub-license, in whole or in part, the Licensed Patent, but shall have the right to procure manufacturing from third party contractors and to permit its customers to use the Licensed Products.

III. PAYMENTS TO LICENSOR

3.1 License Fee/Royalty

Licensee shall pay Licensor a licensing fee/royalty equal to Seven and One-Half Percent (7.5%) of the Net Revenues received from the sale of Software Products and/or Licensed Methods and Five Percent (5%) of the Net Revenues received from the sale of Custom Development Services.

3.2 Past Infringement

In consideration of the purchase of certain assets of Licensor by Licensee, no fees related to past sales of Licensed Products and/or Licensed Methods shall be due upon execution of this Agreement.

3.3 Non-Cash Consideration

Licensee shall not receive from Licensee's customers, business partners, or affiliates anything of value in lieu of cash payments in consideration for any rights under this Agreement without the express prior written permission of Licensor.

3.4 Paid Up License Option

Licensee shall have the right to purchase a non-exclusive, non-transferable, perpetual, fully paid up, non-sub-licensable license under United States Patent Number 7,822,816 to make, have made, use, sell, offer for sale or import Licensed Products in and into the Licensed Territory and to practice the Licensed Methods in the Licensed Territory for a net purchase price of Five Hundred Thousand Dollars (\$500,000.00).

IV. ACCOUNTING, RECORDS, PAYMENT

4.1 Licensee shall keep accurate records of the sale of all Licensed Products and/or Licensed Methods and report such sales to Licensor within thirty (30) days of the end of each calendar quarter. Licensee shall pay royalty fees to Licensor within thirty (30) days of the end of each calendar quarter in which a Licensed Product and/or Licensed Method is sold. Licensee shall pay interest on the amount of royalties past due at a rate of one and one-half percent (1.5%) per month from the actual due date. Licensee shall accompany each payment with a report specifying the name of each customer which purchased a Licensed Product and/or Licensed Method and the dollar amount of each purchase order. Licensor shall keep the contents of each report confidential.

4.2 Payment shall be made by wire transfer directly to:

Account Name:
Account No.:
Routing No.:
Name of Bank:

4.3 Licensor shall have the right to inspect the records and facilities of Licensee once a year on reasonable notice and during regular business hours, to verify Licensee's reports and payments under this Agreement. The entire cost for such inspection shall be borne by Licensor unless the inspection reveals Licensee's reports or payments to be in error by five percent (5%) or more, in which case, Licensee shall reimburse Licensor for the cost of such inspection and pay a Twenty Five Thousand Dollar (\$25,000) penalty.

V. PATENT MARKING

Licensee shall mark or label all Licensed Products and/or Licensed Methods with appropriate patent notice as provided in 35 U.S.C. § 287 (i.e., "patent" or "pat." No. 7,822,816) before the Licensee sells, leases or disposes of any of the Licensed Products and/or Licensed Methods. Licensee shall have no obligation to mark its products with the patent after it expires, or is subject to a final order that the patent is invalid, unenforceable, or otherwise inapplicable to the Licensed Products and/or Licensed Methods.

VI. WARRANTIES AND INDEMNIFICATION

Licensee agrees to defend, indemnify, and hold harmless Licensor against all claims and actions as a result of any sales, property damage, or personal injury sustained by Licensee, its employees, or other parties, as a result of use of the Licensed Patent or Licensed Products.

licensor disclaims any warranty as to validity of the licensed patent, non-infringement of licensed products, and any warranty as to the accuracy, sufficiency or suitability of the licensed products and assumes no responsibility or liability for loss or damages, whether direct, indirect, consequential, or incidental which might arise out of other's use of the licensed products, which shall be entirely at licensee's risk and peril. licensor shall have no obligation to defend any claim or suit, or to hold harmless or indemnify licensee against any allegation of infringement or violation of any patent right of a third party by reason of licensee's use of the licensed products.

VII. TERM AND TERMINATION

7.1 The term of this Agreement shall start as of the effective date listed above and shall continue in force until the expiration or invalidation date of the Licensed Patent, or termination at an earlier date pursuant to another provision of this Agreement.

7.2 This Agreement may be terminated:

- (a) By the mutual, written agreement of the Licensor and Licensee;
- (b) In the event either party defaults or breaches any of the provisions of this Agreement, the other party may terminate this Agreement by giving the defaulting or breaching party thirty (30) days written notice thereof; provided, however, that if the defaulting or breaching party, within the thirty (30) day period referred to, cures said default or breach, this Agreement shall continue in full force and effect the same as if such default or breach had not occurred.
- (c) If the Licensee files for bankruptcy or becomes or is insolvent.

VIII. DISPUTES

If a dispute arises out of or relates to this Agreement, or the breach hereof, the parties agree first to try in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association, before resorting to arbitration. Thereafter, any remaining unresolved controversy or claim arising out of or relating to this Agreement, or breach hereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The seat of the arbitration shall be in Tulsa, Oklahoma, U.S.A. and the decision of the arbitrators shall be final. The prevailing party shall be entitled to reasonable attorney's fees in addition to costs and necessary disbursements.

IX. NOTICES

Any notice or report made pursuant to this Agreement shall be considered proper and effective if mailed by registered mail, postage prepaid, addressed as shown below unless subsequently changed by written notice to the other party.

For Licensor: Chief Executive Officer
MacroSolve, Inc.
1717 South Boulder Avenue, Suite 700
Tulsa, Oklahoma 74119
For Licensee:

X. GENERAL PROVISIONS

10.1 **waiver.** Waiver by either party of any breach or default of any of the provisions herein set forth shall not be deemed a waiver as to any subsequent or any other breach or default.

10.2 **modification, force majeure.** Any amendment or modification of this Agreement or any right hereunder shall not be effective unless made in writing and signed by both of the parties hereto. Neither party will be liable for delays in performance due to circumstances beyond its reasonable control.

10.3 **successors and assigns.** All terms and provisions of this Agreement shall be binding upon and inure for the benefit of the parties hereto, and their successors and assigns and legal representatives, except that Licensee may not assign this Agreement nor any right granted hereunder, in whole or in part, without Licensor's prior written consent. For purposes of this Agreement, a change of control by and of Licensee shall be deemed an assignment and Licensor's prior written consent is required to assign this Agreement, such consent not to be unreasonably withheld; provided, however, that Licensor specifically reserves the right to withhold consent if the party assuming control of the Licensee is involved in a dispute with the Licensor.

10.4 **governing law; severability.** This Agreement shall be governed by the laws of the State of Oklahoma, U.S.A. If any provisions of the Agreement or the application of any such provision shall be held to be contrary to law, the remaining provisions of this Agreement shall continue in full force and effect.

10.5 **entire agreement.** The parties acknowledge that this Agreement expresses their entire understanding and agreement, and that there have been no warranties, representations, covenants of understandings made by either party to the other except such as are expressly set forth herein.

10.6 The Parties shall keep the terms of this Agreement confidential as to non-parties and they shall not disclose such terms for any purpose except (i) with the prior written consent of the other; (ii) the Parties may disclose the terms of their settlement to their employees, agents, attorneys, accountants, insurers and other financial professionals as necessary; (iii) MacroSolve may disclose the terms of this agreement to potential licensees who agree to keep the information confidential, provided that Licensee is not identified; and (iv) as otherwise required by law or court order. If either of the Parties is required by law or Court order to disclose any part of this settlement or Agreement to a third party, it may do so by first providing the other party prior written notice of the disclosure and an opportunity to seek a remedy.

MACROSOLVE, INC.

DECISION POINT SYSTEMS, INC.

By: /s/ KENDALL W. CARPENTER

Name: Kendall W. Carpenter

Title: CFO

Date: July 31, 2012

By: /s/ NICHOLAS R. TOMS

Name: Nicholas R. Toms

Title: CEO

Date: July 31, 2012

NON-COMPETITION AND NON-SOLICITATION AGREEMENT

THIS NON-COMPETITION AND NON-SOLICITATION AGREEMENT (this "**Agreement**"), dated as of this 31st day of July, 2012 (the "**Effective Date**"), is entered into by and between MacroSolve, Inc., an Oklahoma corporation ("**MacroSolve**") and DecisionPoint Systems, Inc., a Delaware corporation ("**DecisionPoint**"). Capitalized terms used and not otherwise defined in this Agreement shall have the respective meanings ascribed to such terms in that certain Asset Purchase Agreement (the "**Asset Purchase Agreement**"), dated as of July 31, 2012, by and between MacroSolve and DecisionPoint.

RECITALS

A. Pursuant to the terms of the Asset Purchase Agreement, DecisionPoint is purchasing from MacroSolve all of the assets, including the goodwill, directly relating to "Illume," a business involving the development and sale of mobile Apps (such purchase as contemplated by the Asset Purchase Agreement, is collectively referred to as the "**Transaction**").

B. MacroSolve and DecisionPoint have each agreed to execute and deliver this Agreement, which execution and delivery is a requirement to close the Transaction.

NOW, THEREFORE, in consideration of the foregoing and the respective covenants and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, MacroSolve and DecisionPoint hereby agree as follows:

ARTICLE I
NON-COMPETITION AND NON-SOLICITATION

1.1 Non-Competition.

(a) During the period beginning on the Effective Date and ending on the third (3rd) anniversary of the Effective Date, MacroSolve shall not, directly or indirectly engage, anywhere in the Territory, in activities competitive with the products sold by Illume at the date of this Agreement. Without limiting the generality of the foregoing, during the period beginning on the Effective Date and ending on the third (3rd) anniversary of the Effective Date, MacroSolve may not issue any license to any company listed on Schedule 1.1 hereto (or any affiliate thereof or any successor thereto).

(b) During the period beginning on the Effective Date and ending on the third (3rd) anniversary of the Effective Date, DecisionPoint shall not, directly or indirectly engage, anywhere in the Territory, in activities competitive with the products sold by MacroSolve not related to the Assets at the date of this Agreement.

(c) For purposes of this Agreement, "**Territory**" means anywhere within the United States or Canada. MacroSolve acknowledges and agrees that the DecisionPoint Business is conducted nationwide and in Canada. DecisionPoint acknowledges and agrees that the MacroSolve Business is conducted nationwide and in Canada. As such, each of MacroSolve and DecisionPoint agree that the scope of the Territory defined herein is reasonable.

1.2 Non-Solicitation.

(a) During the period beginning on the Effective Date and ending on the third (3rd) anniversary of the Effective Date, MacroSolve will not:

(i) Directly or indirectly solicit, or attempt to persuade, influence or induce, or assist any other Person in so persuading or inducing, any employee of DecisionPoint to leave the employ of DecisionPoint, or to accept any other employment or position unless (in each case prior to any such inducement or attempted inducement) such employee is no longer employed by DecisionPoint or has given written notice to DecisionPoint of his intention to terminate employment with DecisionPoint. MacroSolve acknowledges that the purpose of this covenant is to enable DecisionPoint to maintain a stable workforce in order to remain in business, and that it would disrupt, damage, impair and interfere with the DecisionPoint Business if MacroSolve were to engage in such solicitation.

(ii) Hire or retain any Person employed by DecisionPoint as of the date of this Agreement or during such period, without the prior written consent of DecisionPoint (unless such Person has been terminated by DecisionPoint).

(b) During the period beginning on the Closing Date and ending on the third (3rd) anniversary of the Closing Date, DecisionPoint will not:

(i) Directly or indirectly solicit, or attempt to persuade, influence or induce, or assist any other Person in so persuading or inducing, any employee of MacroSolve to leave the employ of MacroSolve, or to accept any other employment or position unless (in each case prior to any such inducement or attempted inducement) such employee is no longer employed by MacroSolve or has given written notice MacroSolve of his intention to terminate employment with MacroSolve. DecisionPoint acknowledges that the purpose of this covenant is to enable MacroSolve to maintain a stable workforce in order to remain in business, and that it would disrupt, damage, impair and interfere with the MacroSolve Business if DecisionPoint were to engage in such solicitation. Notwithstanding anything herein to the contrary, DecisionPoint shall not be prohibited from hiring employees of MacroSolve as contemplated by the Transition Services Agreement or employees of MacroSolve listed on Schedule 2.8 of the Asset Purchase Agreement.

1.3 Expenses. Except as otherwise specified in this Agreement, the parties will pay all of their respective expenses incurred in connection with any legal proceeding concerning a dispute arising out of this Agreement.

1.4 Specific Performance and Modification.

(a) Each party hereto acknowledges that the other party hereto will have no adequate remedy at law if such party breaches any of the provisions of Article I. In the event of such a breach, the breaching party agrees that the other party hereto will have the right, in addition to any other rights it may have, to specific performance of Article I. If legal proceedings are commenced to specifically enforce any provision of Article I, the party that does not prevail in such proceedings shall pay the reasonable out-of-pocket expenses, including, without limitation, reasonable attorneys' fees, disbursements and other costs and expenses, including investigation costs, incurred by the prevailing party in such proceedings, arising out of or in connection with the claim to specifically enforce any provision of Article I.

(b) If any provision of Section 1.1 or Section 1.2 of this Agreement or the application of any such provision to any Person or circumstance shall be determined by any court of competent jurisdiction to be unenforceable by reason of its being extended for too great a period of time or too large a geographic area or over too great a range of activities, it should be interpreted to extend only over the maximum period of time, geographic area, or range of activities as to which such court would find it enforceable, and such determination of unenforceability will not affect any other provision of this Agreement.

1.1 ARTICLE II MISCELLANEOUS

2.1 Notices. Any notice, request, instruction or other document required or permitted to be given under this Agreement by any party to another party shall be made in accordance with Section 10.5 of the Asset Purchase Agreement.

2.2 Amendments and Waivers.

(a) Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by each party to this Agreement, or in the case of a waiver, by the party against whom the waiver is to be effective.

(b) No failure or delay by any party in exercising any right, power or privilege hereunder will operate as a waiver thereof nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies provided will be cumulative and not exclusive of any rights or remedies provided by law.

2.3 Successors and Assigns; Change of Control. The provisions of this Agreement will be binding upon and inure to the benefit of the parties and their respective successors and assigns; provided that neither party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the other party hereto.

2.4 No Third-Party Beneficiaries. Except as otherwise expressly provided for in this Agreement, this Agreement is for the sole benefit of the parties hereto and their permitted successors and assigns and nothing in this Agreement expressed or implied will give or be construed to give to any Person, other than the parties hereto and such permitted assigns any legal or equitable rights hereunder.

2.5 Governing Law and Disputes. This Agreement shall be governed by and construed in accordance with the substantive law of the State of Oklahoma without giving effect to the principles of conflicts of law thereof. If a dispute arises out of or relates to this Agreement, or the breach hereof, the parties agree first to try in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association, before resorting to arbitration. Thereafter, any remaining unresolved controversy or claim arising out of or relating to this Agreement, or breach hereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The seat of the arbitration shall be in Tulsa, Oklahoma, U.S.A. and the decision of the arbitrators shall be final. The prevailing party shall be entitled to reasonable attorney's fees in addition to costs and necessary disbursements.

2.6 Counterparts. This Agreement may be executed in any number of counterparts, each of which will be an original with the same effect as if the signatures on each counterpart were upon the same instrument.

2.7 Headings. The headings in this Agreement are for convenience of reference only and will not control or affect the meaning or construction of any provisions of this Agreement.

2.8 Severability and Modification. If any provision of this Agreement or the application of any such provision to any Person or circumstance is held invalid, illegal or unenforceable in any respect by a court or other tribunal of competent jurisdiction such provision will, without any actions on the part of the parties to this Agreement, be modified to the least extent necessary to cause such provision to conform to the law as determined by such court or other tribunal, and such invalidity, illegality or unenforceability will not affect any other provision of this Agreement. If any term or provision of this Agreement is deemed by a court or other tribunal of competent jurisdiction to be unenforceable and invalid for any reason, such provision will be severed from this Agreement and the remainder of this Agreement will continue in full force and effect.

2.9 Certain Interpretive Matters. This Agreement has been negotiated and drafted by both parties. No provision of this Agreement will be interpreted in favor of, or against, any of the parties hereto by reason of the extent to which any such party or its counsel participated in the drafting of this Agreement or by reason of the extent to which any such provision is inconsistent with any prior draft of this Agreement or any provision of this Agreement.

2.10 Entire Agreement. This Agreement constitutes the entire agreement among the parties with respect to the subject matter hereof. This Agreement supersedes all prior agreements and understandings, both oral and written, between the parties with respect to the subject matter of this Agreement.

[Remainder of Page Intentionally Left Blank]

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

MACROSOLVE, INC.

/s/ Kendall W. Carpenter

Kendall W. Carpenter, CFO

DECISIONPOINT SYSTEMS, INC.

/s/ Nicholas R. Toms

Nicholas R. Toms, CEO

Schedule 1.1

Companies which MacroSolve may not issue licenses to

Peak Technologies, Inc. (including Ryzex) Barcoding. com American Barcode Solutions, Inc.
Quest Solutions, Inc.
Miles Technologies, Inc.
Heartland Technologies, Inc.
The Infologix division of Stanley Black & Decker
AT&T