

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

REPAIRIFY, INC., doing business as )  
Collision Diagnostic Services, )  
a Delaware corporation, )

Plaintiff, )

v. ) Case No. 3:16-CV-984-J-34 JRK

AIRPRO DIAGNOSTICS, LLC, a )  
Florida limited liability company, )  
CHARLES OLSEN and )  
WILFREDO RODRIGUEZ, )

Defendants. )

\_\_\_\_\_ )

**SECOND AMENDED COMPLAINT**

Plaintiff, Repairify, Inc. (“Repairify”), files this second amended complaint pursuant to the Court’s instructions at the January 20, 2017 hearing, and sues defendants, AirPro Diagnostics, LLC (“AirPro”), Charles Olsen (“Olsen”) and Wilfredo Rodriguez (“Rodriguez”), and alleges:

1. Repairify, which does business as Collision Diagnostic Services, is a Delaware corporation having its principal place of business at 600 Development Drive, Suite 100, Plano, Texas 75074.

2. AirPro is a Florida limited liability company having its principal place of business at 6873 Phillips Industrial Boulevard, Suite C, Jacksonville, Florida 32256. On

information and belief, AirPro's members are Lonnie E. Margol, Scotty West, and Stephen Casella, each of whom is a natural person domiciled in Florida.

3. Olsen is a natural person and on information and belief is domiciled at 985 West Tennessee Terrace, Jacksonville, Florida 32259.

4. Rodriguez is a natural person and on information and belief is domiciled at Jacksonville, Florida.

5. This is an action for (i) false and misleading advertising under the Lanham Act, 15 U.S.C. § 1125; (ii) violation of Florida's Unfair Trade Practices Act, §§ 501.201, *et. seq.*, Fla. Stat.; (iii) breach of contract, §§ 542.33 and 542.335, Fla. Stat.; and (iv) tortious interference under Florida common law.

6. The Court has subject-matter jurisdiction over this action pursuant to 15 U.S.C. § 1121, and 28 U.S.C. §§ 1331 and 1367. The Court also has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1332, as there is complete diversity of citizenship among the parties and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

7. The Court has personal jurisdiction over defendants at least because they reside in the State of Florida, conduct business in Florida, and have committed acts in the State of Florida giving rise to the claims asserted herein.

8. Venue is proper in this District under 28 U.S.C. § 1391(b) because defendants reside in this District, and also because a substantial portion of the events giving rise to Repairify's claims occurred in this District.

**A. Repairify bought the operating assets of Collision Diagnostic Services.**

9. On June 3, 2015, Repairify bought the operating assets of the Collision Diagnostic Services (“CDS”) business of AES Technologies, LLC (“AES”) out of bankruptcy for \$4,750,000.00, plus additional consideration. CDS was in the business of remote scanning of computer modules in automobiles and other vehicles and marketed and sold a product known as the asTech (the “asTech Product”) that performed this remote scanning. Copies of the body of the Asset Purchase Agreement (“APA”) and the executed Bill of Sale are attached as Exhibits 1 and 2, respectively.

10. Following the CDS acquisition, Repairify has continued to market and sell the asTech Product and related scanning services under the name “Collision Diagnostic Services” in interstate commerce. A printout of Repairify’s website is attached as Exhibit 3. The asTech Product is a device that enables the remote scanning, diagnostic, and/or programming services by Repairify of an automobile located at a body shop or other remote location. Modern automobiles can have up to 50 computer modules within them that can control up to 80 percent of an automobile’s mechanical and electrical functions, such as braking, steering control, traction control, collision avoidance, and fuel oxygen mixture. When an automobile develops a fault associated with one of these functions, the associated computer module generates what is known as a “trouble code.” In order to properly diagnose and repair the fault, a mechanic must be able to electronically scan the automobile’s computer modules to determine the car’s trouble codes.

11. To perform a remote scan, the asTech Product is connected to an automobile’s data link connector (“DLC”), a standardized connector that is often located

under the dashboard. The asTech Product is then connected via the Internet to a second asTech Product located at a Repairify facility in Plano, Texas, or Jacksonville, Florida. The second asTech Product is in turn connected to a scan tool appropriate to the particular automobile being scanned. This scan tool is located at the same Repairify facility. A master Repairify technician then uses the scan tool to remotely scan the automobile's computer modules over the Internet and generate a report of the scan results. In addition to scanning, the asTech Product can be used to program an automobile's computer modules, for example reprogramming an automobile's airbag control module following a collision.

12. The asTech Product and the remote scanning services provided by Repairify are covered by U.S. Patent No. 8,688,313 (the "Patent"), which Repairify also acquired from AES in connection with the acquisition of the CDS business. Repairify's revenues are derived exclusively from the sale of the asTech Product and the scanning services Repairify performs for mechanics and body shops that have purchased the asTech Product. A copy of the Patent is attached as Exhibit 4. Olsen is listed on the Patent as an inventor of the asTech Product.

13. Because the asTech Product enables Repairify to perform remote vehicle scanning and programming, the asTech Product and related services allow a body shop to scan vehicles with true OEM (original equipment manufacturer) factory scan tools without the need to purchase and maintain multiple expensive OEM factory scan tools.

14. Scan tools can generally be classified into two categories: OEM factory scan tools and aftermarket scan tools. OEM factory scan tools are produced by each

individual automaker, e.g., Ford, Chevrolet, and Toyota. An automaker's OEM scan tool provides complete and up-to-date software that can scan and program all of the computer modules in vehicles made by that OEM. One downside with OEM factory scan tools, however, is that in order to provide coverage for multiple makes of automobiles, a body shop must typically purchase and maintain multiple OEM factory scan tools, which can be prohibitively expensive. For example, certain OEM factory scan tools can cost more than \$100,000. The asTech Product, however, gives a body shop access to a broad selection of OEM factory scan tools located at Repairify's facilities. Thus, body shops, and ultimately the vehicle owners, save the cost of purchasing and maintaining an array of OEM factory scan tools, and at the same time receive the benefit of the comprehensive and up-to-date scanning capabilities offered by OEM factory scan tools.

15. Aftermarket scan tools, on the other hand, are made by companies not affiliated with OEMs. These scan tools provide basic scanning and programming capabilities for many cars, but lack the comprehensive capabilities of OEM factory scan tools. Indeed, even the highest end aftermarket scan tools will not provide coverage for all computer modules for most cars, and will be one to two model years out of date.

16. Thus, Repairify differentiates itself in the marketplace because its patented asTech Product and services perform comprehensive, up-to-date remote scanning and programming through the use of OEM factory scan tools. While AirPro advertises that it is in the business of remote scanning and programming of computer modules in vehicles, it does not and cannot remotely perform the same comprehensive OEM factory scans that Repairify offers.

**B. Defendants unfairly compete with Repairify.**

17. On information and belief, from 2013-2015, Lonnie E. Margol (“Margol”) was the chief executive officer (“CEO”) of AES, overseeing the CDS business. Mr. Margol’s employment at AES was terminated prior to Repairify’s acquisition of the CDS business. At that same time, Olsen was employed as Director of Advanced Remote Diagnostics and Technical Support for CDS.

18. Following the CDS acquisition, Repairify hired Olsen as Director of Advanced Remote Diagnostics and Technical Support, the position he held at CDS before Repairify acquired the CDS business. In his capacity as Director of Advanced Remote Diagnostics and Technical Support, Olsen had access to highly confidential technical, business, customer, and financial information relating to the CDS business, including trade secrets acquired by Repairify in the CDS acquisition and the Patent. Consequently, in consideration of his employment at Repairify, Olsen signed an employment agreement (attached as Exhibit 5; the “Olsen Employment Agreement”). The Olsen Employment Agreement precludes Olsen from (i) disclosing Repairify’s confidential information (para. 1), (ii) soliciting Repairify’s employees (para. 2), and (iii) competing with Repairify (para. 3).

19. In paragraph 1 of the Olsen Employment Agreement, Olsen agreed not to disclose Repairify’s confidential, proprietary information on the following terms:

The Employee covenants and agrees with the Company that he shall not, either while he is a Company employee or at any time two (2) years thereafter, use for his own benefit, or for the benefit of any other person, or to the detriment of the

Company, or disclose to any person, firm or corporation, any secret, private or confidential information or other proprietary knowledge of and concerning the business or affairs of the Company which he may have acquired in the course of, or as incident to, his employment or other association with the Company (whether relating to past, present or prospective clients, customers, associates and employees or otherwise).

20. In paragraph 2 of the Olsen Employment Agreement, Olsen agreed not to solicit Repairify's employees on the following terms:

The Employee covenants and agrees with the Company that, while he is a Company employee or at any time two (2) years thereafter, he will not directly or indirectly, as an individual or on behalf of a firm, corporation, partnership or other entity, engage, solicit, entice, urge or otherwise encourage any employees of the Company to terminate his employment relationship with the Company.

21. Olsen agreed in paragraph 3 of the Olsen Employment Agreement not to compete with Repairify on the following terms:

The Employee covenants and agrees with the Company that while he is a Company employee or at any time two (2) years thereafter, he shall not compete with the Company in the "Restricted Territory." Competition means competition with any business being carried on by the Company at the time the Employee ceases to be an employee of the Company. "Restricted Territory" means anywhere in North Florida or where Discover Technologies conducting business.

22. The restrictions in Sections 1 through 3 of the Olsen Employment Agreement are reasonable in time, area, and line of business, and are reasonably necessary to protect Repairify's legitimate business interests, including at least the need

to protect trade secrets, and to protect customer goodwill for Repairify's business in the automotive collision repair market in the "Restricted Territory."

23. In or around November 2015, after Olsen signed the Olsen Employment Agreement, Olsen and Repairify reached disagreement over the terms of Mr. Olsen's employment. Consequently, Repairify terminated Olsen's employment on November 17, 2015. Olsen's non-compete and non-disclosure agreement survived his termination from Repairify and is in full force and effect today.

24. Thereafter, on information and belief, on April 11, 2016, Mr. Margol founded AirPro and now serves as its CEO. Based at least on information contained on the AirPro website, <http://airprodiagnostics.com>, a printout of which is attached as Exhibit 6, AirPro competes directly with Repairify in North Florida and throughout the United States, and offers a competing product to the AsTech Product called the AirPro (the "AirPro Product"), as well as competing remote automobile scanning services. According to AirPro's advertisements and other statements, the AirPro Product comprises an aftermarket scan tool and does not make use of OEM factory scan tools.

25. In or about May or June 2016, without providing notice to Repairify, Olsen became AirPro's Executive Director of Operations. Even prior to Olsen's involvement with AirPro, Repairify raised concerns with Olsen that he was not abiding by the terms of the Olsen Employment Agreement (see letter attached as Exhibit 7). In light of the earlier concerns raised by Repairify, Olsen's failure to inform Repairify of his intention to work for AirPro in competition with Repairify demonstrates Olsen's bad faith. On information and belief, AirPro knew of Olsen's non-compete and non-disclosure



agreement with Repairify, but AirPro nevertheless hired Olsen, inducing him to breach his employment agreement with Repairify and allow AirPro to unfairly compete with Repairify in the market.

26. Repairify knows that Olsen has solicited at least one Repairify employee, and probably others, to quit Repairify and come to work for AirPro.

27. In addition, since its formation in April 2016, AirPro, in an effort to lure away Repairify’s customers, has engaged in false and/or misleading advertising designed to mislead customers into believing that the AirPro Product can perform the same comprehensive OEM factory scans that Repairify offers, but which the AirPro cannot do without the use of OEM factory scan tools. For example, AirPro has made the following false and/or misleading claims in interstate commerce about using OEM scanning, diagnostics, calibrating and programming:

<b>AirPro’s misleading and literally false claims</b>	<b>Citation</b>
<p>“AirPro is capable of delivering OEM dealership-level services using a plurality of OEM and high-level, enhanced, independent, proprietary software. These services include scanning, diagnostics, calibrating and programming.”</p> <p>“Thru the AirPro, APD is immediately able to deliver state-of-the-art, dealership-level, remote scanning, programming, and calibration services covering over 98% of all vehicles back to 1996.”</p> <p>“APD currently offers the collision repair industry the following:...OEM diagnostics and programming capabilities”</p>	<p>Printout from AirPro’s webpage, attached as Exhibit 6, page 2, which has been on AirPro’s webpage since at least August 2, 2016</p>
<p>“The AirPro is a true OEM compliant scan-tool”</p> <p>This page also falsely and/or misleadingly compares AirPro’s device with Repairify’s asTech device. For example, AirPro implies that the asTech device is not a true OEM compliant</p>	<p>Printout from AirPro’s webpage, attached as Exhibit 6, page 3, which has been on AirPro’s webpage since at least</p>

<p>scan tool: “The AirPro is a true OEM compliant scan-tool vs. a non-OEM (aftermarket) communication interface device or translator which translates the vehicle module’s electronic signals to the language of the internet ‘TCIP’ and then translates it back to communicate with a scan-tool.”<sup>1</sup></p> <p>AirPro’s comparison is false and/or misleading because as one OEM (Chrysler/Mopar) has stated in its Scan Tool Position Statement, the asTech device is OEM compliant because it uses the Mopar diagnostic scan tool: “This procedure must be performed using the Mopar wiTECH diagnostic scan tool or at a company such as Collision Diagnostic Services that diagnostically remotely scans the vehicle using FCA US<sup>2</sup> scan tools in conjunction with their patented asTech device, to verify the status of all air bag squibs, prior to removing deployed air bags from the vehicle for disposal.” (the Mopar Scan Tool Position Statement is attached as Exhibit 14).</p>	<p>August 2, 2016</p>
<p>“Both OEM and aftermarket scan-tools are connected directly to a vehicle via OEM validated interfaces as designed by manufacturers”</p>	<p>Printout from AirPro’s webpage, attached as Exhibit 6, page 4, which has been on AirPro’s webpage since at least August 2, 2016</p>
<p>AirPro’s “method allows the use and functionality of OEM diagnostic software ...”</p> <p>“APD’s diagnostic specialists ... perform the required procedures as dictated by OEM and industry standards”</p> <p>AirPro’s press release also falsely and/or misleadingly compares AirPro’s device with Repairify’s asTech device. For example, AirPro implies that the asTech device “differs widely from the design and intended function of ALL vehicle scan tools” (page 2). As noted above, as one OEM (Chrysler/Mopar) has stated in its Scan Tool Position Statement, the asTech device is OEM compliant because it uses the Mopar diagnostic scan tool.</p>	<p>AirPro September 19, 2016 press release, attached as Exhibit 8</p>

<sup>1</sup> AirPro does not mention the asTech device by name, but the patented asTech device is the only device that AirPro’s comparison would apply to.

<sup>2</sup> “FCA” is an abbreviation for Fiat Chrysler Automobiles.

“True OEM Compliant”	AirPro marketing e-mail in late December 2016, attached as Exhibit 9
“True OEM diagnostics and programming capabilities”	
“OEM dealership-level scanning and programming functionality”	AirPro January 10, 2017 press release, attached as Exhibit 10
“OEM compliant scan tool”	
“The remote diagnostic technician performs the procedures needed for pre-or post-repair scan analysis, diagnostic functions, system calibrations or module programming in conjunction with available OEM and aftermarket service information sources.”	AirPro’s Executive Director of Operations’ December 19, 2016 draft report to a national collision industry committee, attached as Exhibit 11
“Both OEM and aftermarket scan-tools are connected directly to a vehicle via OEM validated interfaces as designed by manufacturers.” AirPro makes this false and/or misleading representation in comparison with the asTech device, which AirPro does not mention by name and instead describes in thinly veiled terms while acknowledging that the device is “patented” and “exclusive to the specific service provider”	
“A Few Key Features of AirPro Diagnostics’ services:***OEM diagnostics and programming”	AirPro marketing e-mail in July 2016, attached as Exhibit 12

28. AirPro has also made other false and/or misleading statements concerning Repairify’s asTech Product. Specifically, Repairify is selling a second generation version of the asTech Product called the “asTech 2.” As of July 20, 2016, more than 110 customers of Repairify have purchased and were using the asTech 2 device, and more than 500 asTech 2 devices were expected to ship (and were shipped) to customers in August 2016 alone. Notwithstanding the availability of the asTech 2, AirPro at a national industry conference in mid-July 2016 contacted existing customers of Repairify and false and/or misleadingly told them that the asTech 2 would not be available for six months, in an effort to induce those customers of Repairify to switch to the AirPro Product.

29. Olsen's continued employment at AirPro, and AirPro's false and/or misleading advertising and misrepresentations, are causing irreparable harm to Repairify's business.

30. In addition to the foregoing, Repairify is investigating whether AirPro is infringing Repairify's Patent and using its trade secrets. Repairify has raised with AirPro concerns that AirPro might be infringing the Patent and misappropriating its trade secrets, and AirPro has agreed to provide to Repairify a demonstration of the AirPro Product, although AirPro has yet to offer a date certain for the demonstration and appears to be intentionally delaying the demonstration. Repairify reserves all rights.

31. Any conditions precedent to the bringing of this action have been performed, been waived or have occurred.

**Count One**

**(False advertising in violation of 15 U.S.C. §§ 1125, et. seq. against AirPro)**

32. Repairify incorporates the allegations of paragraphs 1 through 29 and 31 above.

33. AirPro has made materially false and/or misleading advertising statements in interstate commerce, including false and/or misleading statements regarding the capabilities of the AirPro Product and concerning the availability of the asTech 2, both of which are offered, sold, leased, and/or used in interstate commerce. AirPro distributes and advertises the AirPro Product nationally through its website *http://airprodiagnostics.com*, and has specifically solicited customers in at least Montana, Hawaii, and Kentucky, and upon information and belief in its home state of Florida.

34. AirPro's statements regarding the capabilities of the AirPro Product and the availability of the asTech 2 device are literally false. To the extent not literally false, these statements are misleading to consumers. For example, AirPro's statements regarding the capabilities of the AirPro Product are at a minimum misleading because a consumer may believe that the AirPro Product can perform the same comprehensive scans as an OEM factory scan tool, when it cannot. The representations regarding the asTech 2 are at a minimum misleading because a consumer may believe that the asTech 2 has not been launched yet, and that the consumer would be unable to obtain an asTech 2 for at least six months.

35. These false and/or misleading statements have the capacity to deceive, and on information and belief have deceived, Repairify's customers.

36. AirPro's statements regarding the capabilities of the AirPro Product are material to customers' purchasing decisions, at least because the breadth of scanning and programming that can be performed by a scanning product is an important factor consumers rely on in making purchasing decisions.

37. Similarly, AirPro's false and/or misleading statements regarding the availability of the asTech 2 are also material to customers' purchasing decisions because consumers will incorrectly believe that they are unable to purchase an asTech 2.

38. AirPro's false and/or misleading advertising has injured Repairify, and is likely to continue to harm Repairify at least through the loss of actual and potential customers for the asTech Product. A number of customers have already expressed confusion due to these false and/or misleading statements. Repairify is likely to lose

goodwill and customers if consumers believe the AirPro Product is capable of performing OEM factory scans, and that the asTech 2 will not be available for six months.

39. As a direct and proximate result of AirPro's false and/or misleading advertising, Repairify has been substantially and irreparably harmed. Unless restrained by this Court, AirPro will cause further irreparable injury to Repairify. Repairify has no adequate remedy at law. Repairify has a substantial likelihood of success on the merits and is entitled to injunctive relief enjoining AirPro, its agents and employees, and all persons acting in concert or participation with it, from engaging in further unfair trade practices. The injury to Repairify outweighs any possible harm to AirPro from entry of an injunction and the public interest to prevent false advertising will be served by entry of an injunction.

40. Repairify is entitled to recover from AirPro the damages AirPro's false and/or misleading advertising have caused Repairify, including attorneys' fees and costs it has sustained and will sustain, and any gains, profits and advantages obtained by AirPro as a result of its acts of false and/or misleading advertising as alleged above. At present, the amount of such damages, gains, profits, and advantages cannot be fully ascertained by Repairify, but will be established according to proof at trial.

**WHEREFORE**, Repairify respectfully requests a judgment against AirPro as follows: (1) find that AirPro has engaged in false and/or misleading advertising in violation 15 U.S.C. §§ 1125, *et seq.*; (2) issue a preliminary and permanent injunction enjoining AirPro, and its respective affiliates, agents, attorneys, employees, officers, servants, assigns and successors, and all persons, firms, and corporations acting in

concert with either of them, from making false and/or misleading statements regarding the (a) AirPro Product or the scanning services offered by AirPro and (b) the asTech Product (including without limitation the asTech 2 device) and Repairify's business; (3) order AirPro to render a full and complete accounting to Repairify for its respective profits and other advantages received from its violation of the law; (4) enter judgment for Repairify against AirPro for all damages suffered by Repairify and for any profits or gains by AirPro attributable to its violation of 15 U.S.C. §§ 1125, *et seq.* pursuant to 15 USC § 1117(a); (5) award Repairify its costs and disbursements relating to this action, including reasonable attorneys' fees and costs pursuant to 15 USC § 1117(a); (6) award Repairify pre-judgment and post-judgment interest, to the fullest extent available, on the foregoing; and (7) grant such other relief as the Court determines is just and proper.

**Count Two**  
**(Violation of Florida's Deceptive and Unfair**  
**Trade Practices Act § 501.204, et. seq. Fla. Stat. against AirPro)**

41. Repairify incorporates the allegations of paragraphs 1 through 27, 29 and 31 above.

42. AirPro has made materially false and/or misleading advertising statements in interstate commerce including in the state of Florida, including false and/or misleading statements regarding the capabilities of the AirPro Product and concerning the availability of the asTech 2 Product, both of which are offered, sold, leased, and/or used in interstate commerce. AirPro distributes and advertises the AirPro Product nationally through its website <http://airprodiagnostics.com>, and has specifically solicited customers

in at least Montana, Hawaii, and Kentucky, and upon information and belief in its home state of Florida.

43. The statements regarding AirPro's capabilities are false and/or misleading because a consumer may believe that the AirPro Product can perform the same comprehensive scans as an OEM factory scan tool, when it cannot. The statements regarding the asTech 2 are false and/or misleading because a consumer may believe that the asTech 2 has not been launched yet, and that the consumer would be unable to receive an asTech 2 for at least six months.

44. On information and belief, AirPro knew or should have known that its statements regarding AirPro's capabilities and asTech 2's availability were false and/or misleading. On information and belief, these misrepresentations were intentionally used to induce consumers to rely on them and purchase the AirPro Product and services. AirPro's false and/or misleading advertising has injured Repairify, and is likely to continue to harm Repairify at least through the loss of actual and potential customers for the asTech Product. A number of customers have already expressed confusion due to these false statements. Repairify is likely to lose goodwill and customers if consumers believe the AirPro Product is capable of performing OEM factory scans, and that the asTech 2 will not be available for six months. As such, AirPro's willful, wanton, and malicious false and/or misleading advertising statements violate standards of unfairness and deception set forth in Florida statutes, including at least Section 817.41, Florida Statutes.



45. In addition, AirPro's false and/or misleading statements violate standards of unfairness and deception set forth in the federal statutes, including at least the Lanham Act. As discussed above, the advertising is false and/or misleading. These statements have the capacity to deceive, and on information and belief have deceived, customers of Repairify. These false and/or misleading statements are material to customers' purchasing decisions, at least because the breadth of scanning and programming that can be performed by a scanning product is an important factor consumers rely on in making purchasing decisions. Similarly, false and/or misleading statements regarding the availability of the asTech 2 are also material because consumers will incorrectly believe that they are unable to purchase an asTech 2.

46. As a direct and proximate result of defendants' violation of Section 501.204, Florida Statutes, Repairify has been substantially and irreparably harmed. Repairify is aggrieved by defendants' unfair or deceptive acts or practices for the purposes of the Florida Deceptive and Unfair Trade Practices Act (Fla. Stat. §§ 501.201, *et seq.*). Repairify has no adequate remedy at law. Unless restrained by this Court, defendants will cause further irreparable injury to Repairify. Repairify has a substantial likelihood of success on the merits and is entitled to injunctive relief enjoining defendants, their agents and employees, and all persons acting in concert or participation with them from engaging in any further unfair trade practices. The injury to Repairify outweighs any possible harm to defendants from entry of an injunction and the public interest to protect against unfair and deceptive trade practices will be served by entry of an injunction.

47. Repairify is entitled to recover from AirPro the damages defendants' unfair trade practices have caused Repairify, including attorneys' fees and costs it has sustained and will sustain, and any gains, profits and advantages obtained by defendants as a result of their unfair trade practices. At present, the amount of such damages, gains, profits, and advantages cannot be fully ascertained by Repairify, but will be established according to proof at trial.

**WHEREFORE**, Repairify respectfully requests judgment against AirPro as follows: (1) find that defendant AirPro has violated Florida's Deceptive and Unfair Trade Practices Act, Section 501.204, Fla. Stat.; (2) issue a preliminary and permanent injunction pursuant to Section 501.211, Florida Statutes, enjoining AirPro, and its respective affiliates, agents, attorneys, employees, officers, servants, assigns and successors, and all persons, firms, and corporations acting in concert with either of them, from making false or misleading statements regarding the (a) AirPro Product or the scanning services offered by AirPro and (b) the asTech Product (including without limitation the asTech 2 product) and Repairify's business; (3) order AirPro to render a full and complete accounting to Repairify for its respective profits and other advantages received from its violation of the law; (4) enter judgment for Repairify against AirPro for all damages suffered by Repairify and for any profits or gains by AirPro attributable to its violation of the law pursuant to § 501.211, Fla. Stat.; (5) award Repairify its costs and disbursements relating to this action, including reasonable attorneys' fees and costs pursuant to § 501.2105, Fla. Stat.; (6) award Repairify pre-judgment and post-judgment

interest, to the fullest extent available, on the foregoing; and (7) grant such other relief as the Court determines is just and proper.

**Count Three**  
**(Reformation of the Olsen Employment Agreement)**

48. Repairify incorporates the allegations of paragraphs 1 through 9, 17 through 25, and 31 above.

49. The Olsen Employment Agreement defined “Repairify, Inc.” as the “Company.”

50. Throughout the Olsen Employment Agreement, the parties referred to Repairify as the “Company.”

51. The intent of the section of the Olsen Employment Agreement titled “Covenant not to Compete” was to bar Olsen from competing with Repairify in North Florida and where Repairify conducts its business for two years after Olsen ceased working for Repairify.

52. The section of the Olsen Employment Agreement titled “Covenant not to Compete” reads as follows:

The Employee covenants and agrees with the Company that while he is a Company employee or at any time two (2) years thereafter, he shall not compete with the Company in the “Restricted Territory.” Competition means competition with any business being carried on by the Company at the time the Employee ceases to be an employee or the Company. “Restricted Territory” means anywhere in North Florida or where Discover Technologies conducting business.

53. The reference to “Discover Technologies” is a scrivener’s error and a mutual mistake of the parties, as it was understood by Repairify and Olsen that the last sentence of that section should instead read as follows: “‘Restricted Territory’ means anywhere in North Florida or where *the Company* is conducting business.”

54. Repairify has no relation to any “Discover Technologies,” nor does the Olsen Employment Agreement contain any other reference to “Discover Technologies.”

55. Neither Repairify nor Olsen agreed or intended to preclude Olsen from competing with Repairify where “Discover Technologies conducts business.”<sup>3</sup>

56. Equity requires that the Olsen Employment Agreement be enforced in accordance with the intent of the parties at the time of its execution.

57. There is no equitable reason to deny reformation of the Olsen Employment Agreement to replace the erroneous reference to “Discover Technologies” with the intended reference to “the Company” (*i.e.*, Repairify).

**WHEREFORE**, Repairify respectfully requests that the Court find that interests of equity deem it necessary for the Court to reform the Olsen Employment Agreement to preclude Olsen from competing with Repairify for two years after his employment with Repairify in North Florida and anywhere else *Repairify* is conducting business.

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<sup>3</sup> That is, so long as Repairify and Discover Technologies are not competing in the same places.

**Count Four**  
**(Breach of contract (non-compete provisions as**  
**allowed by §§ 542.33 and 542.335, Fla. Stat.) against Olsen)**

58. Repairify incorporates the allegations of paragraphs 1 through 31 and 49 through 57 above.

59. On or about August 6, 2015, Olsen entered into the Olsen Employment Agreement with Repairify, which includes non-disclosure and non-compete provisions. (*See Ex. 5 §§ 1 & 3.*) These provisions are reasonable in time, area, and line of business, and are reasonably necessary to protect Repairify's legitimate business interests, including at least the need to protect trade secrets, and to protect customer goodwill for Repairify's business in the automotive collision repair market in the "Restricted Territory."

60. Olsen has breached at least paragraphs 2 and 3 of the Olsen Employment Agreement at least by accepting employment by AirPro that is in direct competition with Repairify in North Florida and throughout the United States, and by soliciting Repairify's employees.

61. As a direct and proximate result of Olsen's breach, Repairify has been substantially and irreparably harmed. Repairify has no adequate remedy at law. Unless restrained by this Court, Olsen will cause further irreparable injury to Repairify. Repairify has a substantial likelihood of success on the merits and is entitled to injunctive relief enjoining Olsen, his agents, and all persons acting in concert or participation with him, from engaging in further acts of breach. The injury to Repairify outweighs any

possible harm to Olsen from entry of an injunction and the public interest to enforce restrictive covenants will be served by entry of an injunction.

62. Repairify is entitled to recover from Olsen the damages his breach has caused Repairify, including attorneys' fees and costs it has sustained and will sustain, and any gains, profits and advantages obtained by Olsen as a result of his acts of breach as alleged above. At present, the amount of such damages, gains, profits, and advantages cannot be fully ascertained by Repairify, but will be established according to proof at trial.

**WHEREFORE**, Repairify respectfully requests judgment against Olsen as follows: (1) find that Olsen breached his contract with Repairify in violation of Sections 542.33 and 542.335, Fla. Stat.; (2) issue an order requiring Olsen to comply with the terms of the Olsen Employment Agreement, including prohibiting Olsen from competing with Repairify in accordance with the terms of the Olsen Employment Agreement; (3) order Olsen to render a full and complete accounting to Repairify for his respective profits and other advantages received from his violation of the law; (4) enter judgment for Repairify against Olsen for all damages suffered by Repairify and for any profits or gains by Olsen attributable to his violation of the law; (5) award Repairify its costs and disbursements relating to this action, including reasonable attorneys' fees and costs pursuant to Sections 542.335(k) and 57.105, Fla. Stat. and Section 12 of the Olsen Employment Agreement; (6) award Repairify pre-judgment and post-judgment interest, to the fullest extent available, on the foregoing; and (7) grant such other relief as the Court determines is just and proper.

**Count Five**  
**(Tortious interference with Repairify's**  
**contractual relationship with Olsen—against AirPro)**

63. Repairify incorporates the allegations in paragraphs 1 through 31, 49 through 57, and 59 through 62 above.

64. Repairify has a valid contractual relationship with Olsen.

65. On information and belief, AirPro has intentionally and unjustifiably interfered with the Olsen Employment Agreement by hiring Olsen knowing that Olsen is subject to ongoing non-disclosure and non-compete obligations to Repairify and knowing that it is substantially certain his employment would violate those obligations. This conduct described above constitutes tortious interference with Repairify's contract with Olsen under Florida common law.

66. As a direct and proximate result of AirPro's tortious interference, Repairify has been substantially and irreparably harmed. Repairify has no adequate remedy at law. AirPro has no legal justification for their actions and, unless restrained by this Court, AirPro will cause further irreparable injury to Repairify. Repairify has a substantial likelihood of success on the merits and is entitled to injunctive relief enjoining AirPro, their agents and employees, and all persons acting in concert or participation with them from engaging in further acts of tortious interference. The injury to Repairify outweighs any possible harm to AirPro from entry of an injunction and the public interest to protect against tortious interference will be served by entry of an injunction.

67. Repairify is entitled to recover from AirPro the damages AirPro's tortious interference has caused Repairify, including attorneys' fees and costs it has sustained and

will sustain, and any gains, profits and advantages obtained by AirPro as a result of its acts of tortious interference as alleged above. At present, the amount of such damages, gains, profits, and advantages cannot be fully ascertained by Repairify, but will be established according to proof at trial.

**WHEREFORE**, Repairify respectfully requests judgment against AirPro as follows: (1) find that AirPro has tortiously interfered with Repairify's contract with Olsen in violation of Florida common law; (2) issue a preliminary and permanent injunction enjoining AirPro, and its respective affiliates, agents, attorneys, employees, officers, servants, assigns and successors, and all persons, firms, and corporations acting in concert with either of them, from tortiously interfering with Repairify's contracts; (3) order AirPro to render a full and complete accounting to Repairify for its respective profits and other advantages received from its violation of the law; (4) enter judgment for Repairify against AirPro for all damages suffered by Repairify and for any profits or gains by AirPro attributable to his violation of the law; (5) award Repairify pre-judgment and post-judgment interest, to the fullest extent available, on the foregoing; and (6) grant such other relief as the Court determines is just and proper.

**Count Six**  
**(Reformation of the Rodriguez Employment Agreement)**

68. Repairify incorporates the allegations of paragraphs 1 through 9, and 31 above.

69. Following the CDS acquisition, Repairify hired Rodriguez as master technician. In his capacity as master technician, Rodriguez had access to highly



confidential technical, business, customer, and financial information relating to the CDS business, including trade secrets acquired by Repairify in the CDS acquisition. Consequently, in consideration of his employment at Repairify, Rodriguez signed an employment agreement containing both a non-disclosure clause and a non-compete clause (the “Rodriguez Employment Agreement”), a copy of which is attached as Exhibit 13.

70. The Rodriguez Employment Agreement defined “Repairify, Inc.” as the “Company.”

71. Throughout the Rodriguez Employment Agreement, the parties referred to Repairify as the “Company.”

72. The intent of the section of the Rodriguez Employment Agreement titled “Covenant not to Compete” was to bar Rodriguez from competing with Repairify in North Florida and where Repairify conducts its business for two years after Rodriguez ceased working for Repairify.

73. The section of the Rodriguez Employment Agreement titled “Covenant not to Compete” reads as follows:

The Employee covenants and agrees with the Company that while he is a Company employee or at any time two (2) years thereafter, he shall not compete with the Company in the “Restricted Territory.” Competition means competition with any business being carried on by the Company at the time the Employee ceases to be an employee or the Company. “Restricted Territory” means anywhere in North Florida or where Discover Technologies conducting business.

74. The reference to “Discover Technologies” is a scrivener’s error and a mutual mistake of the parties, as it was understood by Repairify and Rodriguez that the last sentence of that section should instead read as follows: “‘Restricted Territory’ means anywhere in North Florida or where *the Company* is conducting business.”

75. Repairify has no relation to any “Discover Technologies,” nor does the Rodriguez Employment Agreement contain any other reference to “Discover Technologies.”

76. Neither Repairify nor Rodriguez agreed or intended to preclude Rodriguez from competing with Repairify where “Discover Technologies conducts business.”<sup>4</sup>

77. Equity requires that the Rodriguez Employment Agreement be enforced in accordance with the intent of the parties at the time of its execution.

78. There is no equitable reason to deny reformation of the Rodriguez Employment Agreement to replace the erroneous reference to “Discover Technologies” with the intended reference to “the Company” (i.e., Repairify).

**WHEREFORE**, Repairify respectfully requests that the Court find that interests of equity deem it necessary for the Court to reform the Rodriguez Employment Agreement to preclude Rodriguez from competing with Repairify for two years after his employment with Repairify in North Florida and anywhere else *Repairify* is conducting business.

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<sup>4</sup> That is, so long as Repairify and Discover Technologies are not competing in the same places.

**Count Seven**  
**(Breach of Contract (Non-Compete Provisions as allowed**  
**by §§ 542.33 and 542.335, Fla. Stat.) against Rodriguez)**

79. Repairify incorporates the allegations in paragraphs 1 through 16, 24, 31, and 69 through 78 above.

80. In paragraph 1 of the Rodriguez Employment Agreement, Rodriguez agreed not to disclose Repairify's confidential, proprietary information on the following terms:

The Employee covenants and agrees with the Company that he shall not, either while he is a Company employee or at any time two (2) years thereafter, use for his own benefit, or for the benefit of any other person, or to the detriment of the Company, or disclose to any person, firm or corporation, any secret, private or confidential information or other proprietary knowledge of and concerning the business or affairs of the Company which he may have acquired in the course of, or as incident to, his employment or other association with the Company (whether relating to past, present or prospective clients, customers, associates and employees or otherwise).

81. In paragraph 3 of the Rodriguez Employment Agreement, Rodriguez agreed not to compete with Repairify on the following terms:

The Employee covenants and agrees with the Company that while he is a Company employee or at any time two (2) years thereafter, he shall not compete with the Company in the "Restricted Territory." Competition means competition with any business being carried on by the Company at the time the Employee ceases to be an employee of the Company. "Restricted Territory" means anywhere in North Florida or where Discover Technologies conducting business.

82. The restrictions in paragraphs 1 and 3 of the Rodriguez Employment Agreement are reasonable in time, area, and line of business, and are reasonably necessary to protect Repairify's legitimate business interests, including at least the need to protect trade secrets, and to protect customer goodwill for Repairify's business in the automotive collision repair market in the "Restricted Territory."

83. In August 2016, after Rodriguez signed the Rodriguez Employment Agreement, Rodriguez voluntarily terminated his employment at Repairify and informed Repairify that he was going to work at a Toyota dealership. Rodriguez's non-compete and non-disclosure agreement survived Rodriguez's termination from Repairify and are in full force and effect today.

84. On information and belief, in or about August 2016, without providing notice to Repairify, instead of going to work for a Toyota dealership, which would not have been a violation of the Rodriguez Employment Agreement, Rodriguez went to work for an AirPro affiliate, but does scanning work for AirPro and therefore is in competition with Repairify. On information and belief, AirPro knew of Rodriguez's non-compete and non-disclosure agreement with Repairify, but tried to disguise Rodriguez's work for AirPro by having an affiliate technically employ Rodriguez. AirPro nevertheless has Rodriguez perform scanning work for AirPro, inducing him to breach his employment agreement with Repairify and allow AirPro to unfairly compete with Repairify in the market.

85. Rodriguez has breached at least paragraph 3 of the Rodriguez Employment Agreement at least by performing scanning work for AirPro that is in direct competition with Repairify in North Florida and throughout the United States.

86. As a direct and proximate result of Rodriguez's breach, Repairify has been substantially and irreparably harmed. Repairify has no adequate remedy at law. Unless restrained by this Court, Rodriguez will cause further irreparable injury to Repairify. Repairify has a substantial likelihood of success on the merits and is entitled to injunctive relief enjoining Rodriguez, his agents, and all persons acting in concert or participation with him, from engaging in further acts of breach. The injury to Repairify outweighs any possible harm to Rodriguez from entry of an injunction and the public interest to enforce restrictive covenants will be served by entry of an injunction.

87. Repairify is entitled to recover from Rodriguez the damages his breach has caused Repairify, including attorneys' fees and costs it has sustained and will sustain, and any gains, profits and advantages obtained by Rodriguez as a result of his acts of breach as alleged above. At present, the amount of such damages, gains, profits, and advantages cannot be fully ascertained by Repairify, but will be established according to proof at trial.

**WHEREFORE**, Repairify respectfully requests judgment against Rodriguez as follows: (1) find that Rodriguez breached his contract with Repairify in violation of Sections 542.33 and 542.335, Fla. Stat.; (2) issue an order requiring Rodriguez to comply with the terms of the Rodriguez Employment Agreement, including prohibiting Rodriguez from competing with Repairify in accordance with the terms of the Rodriguez

Employment Agreement; (3) order Rodriguez to render a full and complete accounting to Repairify for his respective profits and other advantages received from his violation of the law; (4) enter judgment for Repairify against Rodriguez for all damages suffered by Repairify and for any profits or gains by Rodriguez attributable to his violation of the law; (5) award Repairify its costs and disbursements relating to this action, including reasonable attorneys' fees and costs pursuant to Sections 542.335(k) and 57.105, Fla. Stat. and Section 12 of the Rodriguez Employment Agreement; (6) award Repairify pre-judgment and post-judgment interest, to the fullest extent available, on the foregoing; and (7) grant such other relief as the Court determines is just and proper.

**Count Eight**  
**(Tortious interference with Repairify's**  
**contractual relationship with Rodriguez—against AirPro)**

88. Repairify incorporates the allegations in paragraphs 1 through 17, 24, 31, 69 through 78, and 80 through 87 above.

89. Repairify has a valid contractual relationship with Rodriguez.

90. On information and belief, AirPro has intentionally and unjustifiably interfered with the Rodriguez Employment Agreement by inducing Rodriguez to perform scanning work for AirPro, knowing that Rodriguez is subject to ongoing non-disclosure and non-compete obligations to Repairify and knowing that it is substantially certain his scanning work for AirPro would violate those obligations. This conduct described above constitutes tortious interference with Repairify's contract with Rodriguez under Florida common law.

91. As a direct and proximate result of AirPro's tortious interference, Repairify has been substantially and irreparably harmed. Repairify has no adequate remedy at law. AirPro has no legal justification for their actions and, unless restrained by this Court, AirPro will cause further irreparable injury to Repairify. Repairify has a substantial likelihood of success on the merits and is entitled to injunctive relief enjoining AirPro, their agents and employees, and all persons acting in concert or participation with them from engaging in further acts of tortious interference. The injury to Repairify outweighs any possible harm to AirPro from entry of an injunction and the public interest to protect against tortious interference will be served by entry of an injunction.

92. Repairify is entitled to recover from AirPro the damages AirPro's tortious interference has caused Repairify, including attorneys' fees and costs it has sustained and will sustain, and any gains, profits and advantages obtained by AirPro as a result of its acts of tortious interference as alleged above. At present, the amount of such damages, gains, profits, and advantages cannot be fully ascertained by Repairify, but will be established according to proof at trial.

**WHEREFORE**, Repairify respectfully requests judgment against AirPro as follows: (1) find that AirPro has tortiously interfered with Repairify's contract with Rodriguez in violation of Florida common law; (2) issue a preliminary and permanent injunction enjoining AirPro, and its respective affiliates, agents, attorneys, employees, officers, servants, assigns and successors, and all persons, firms, and corporations acting in concert with either of them, from tortiously interfering with Repairify's contracts; (3) order AirPro to render a full and complete accounting to Repairify for its respective

profits and other advantages received from its violation of the law; (4) enter judgment for Repairify against AirPro for all damages suffered by Repairify and for any profits or gains by AirPro attributable to his violation of the law; (5) award Repairify pre-judgment and post-judgment interest, to the fullest extent available, on the foregoing; and (6) grant such other relief as the Court determines is just and proper.

**JURY DEMAND**

Plaintiff Repairify demands a trial by jury on all issues so triable in this action.

SMITH HULSEY & BUSEY

By /s/ James A. Bolling  
Michael E. Demont  
James A. Bolling  
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**Certificate of Service**

I certify that on February 13, 2017, I electronically filed a copy of the foregoing with the Clerk of the Court by using the CM/ECF system. I further certify that I mailed the foregoing document and the notice of electronic filing by first-class mail to the following non-CM/ECF participant: None.

*/s/ James A. Bolling*

---

Attorney

951158.1

**ASSET PURCHASE AND CONTRIBUTION AGREEMENT**

**BY AND AMONG**

**AES TECHNOLOGIES, LLC,**

**AUTOMOTIVE ELECTRONIC SOLUTION PROVIDERS, LLC,**

**REPAIRIFY HOLDINGS, LLC**

**AND**

**REPAIRIFY, INC.**

**Dated as of June 3, 2015**

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**EXHIBITS**

- Exhibit A Form of Assignment and Assumption Agreement
- Exhibit B Form of Bill of Sale
- Exhibit C Form of Deposit Arrangement Order
- Exhibit D Form of Parent LLC Agreement
- Exhibit E Form of Patent Assignment Agreement
- Exhibit F Form of Sale Order

**ANNEXES**

- Annex 1 Seller Disclosure Schedule

THIS ASSET PURCHASE AND CONTRIBUTION AGREEMENT, dated as of June 3, 2015, by and among **AES TECHNOLOGIES, LLC**, a Florida limited liability company ("**AEST**"), and **AUTOMOTIVE ELECTRONIC SOLUTION PROVIDERS, LLC**, a Florida limited liability company ("**AESP**," and together with AEST, "**Seller**"), **REPAIRIFY HOLDINGS, LLC**, a Delaware limited liability company ("**Parent**") and **REPAIRIFY, INC.**, a Delaware corporation ("**Buyer**").

WITNESSETH:

WHEREAS, Seller is a provider of remote diagnostic solutions and services to the collision industry (the "**Business**") and owns or has the right to use all of the Transferred Assets;

WHEREAS, Parent owns all of the outstanding capital stock of Buyer;

WHEREAS, Seller wishes to sell to Buyer the Purchased Assets, and Buyer wishes to purchase from Seller all of the Purchased Assets and assume from Seller all of the Assumed Liabilities, all on the terms and subject to the conditions set forth herein;

WHEREAS, Seller wishes to contribute and transfer to Parent the Contributed Assets, and Parent desires to accept and receive, all of the Contributed Assets, all on the terms and subject to the conditions set forth herein;

WHEREAS, Seller has commenced cases under chapter 11 of title 11 (the "**Chapter 11 Cases**") of the United States Code, 11 U.S.C. § 101 et seq. (the "**Bankruptcy Code**"), on October 31, 2014 (the "**Petition Date**") in the United States Bankruptcy Court for the Middle District of Florida, Jacksonville Division (the "**Bankruptcy Court**"); and

WHEREAS, in connection with the Chapter 11 Cases and on the terms and subject to the conditions contained in this Agreement and following entry of the Sale Order (as defined herein), Seller shall sell, transfer and assign to Buyer, and Buyer shall purchase and acquire from Seller, pursuant to Sections 105, 363 and 365 of the Bankruptcy Code, the Transferred Assets, and assume from Seller the Assumed Liabilities, all as more specifically provided herein and in the Sale Order.

NOW, THEREFORE, in consideration of the mutual promises, covenants, representations and warranties made herein and of the mutual benefits to be derived herefrom, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

ARTICLE I

DEFINITIONS

1.1 Defined Terms. As used in this Agreement, the following terms shall have the meanings set forth below (each such meaning to be equally applicable to both the singular and plural forms of the respective terms so defined).

“**Acquisition Proposal**” means a proposal (other than by Buyer or its Affiliates) relating to any sale, transfer or other disposition of all or any substantial portion of the Transferred Assets to one or more Persons (other than Buyer or its Affiliates) however proposed to be effected.

“**AESP**” has the meaning specified in the Preamble.

“**AEST**” has the meaning specified in the Preamble.

“**Affiliate**” means, with respect to any specified Person, any Person directly or indirectly Controlling or Controlled by, or under direct or indirect common Control with, such specified Person.

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

“**Ancillary Agreements**” means the Assumption Agreement, Bill of Sale, Patent Assignment Agreement, the Parent LLC Agreement, and the other agreements, instruments and documents required to be delivered at the Closing hereunder.

“**Assumed Contracts**” has the meaning specified in Section 6.7 hereof.

“**Assumed Liabilities**” has the meaning specified in Section 2.3(a) hereof.

“**Assumption Agreement**” means the Assignment and Assumption Agreement substantially in the form attached hereto as Exhibit A.

“**Avoidance Actions**” means any and all avoidance, recovery, subordination or other actions or remedies that may be brought on behalf of the Debtors or their estates under the Bankruptcy Code or applicable non-bankruptcy law, including, without limitation, actions or remedies under sections 510, 542, 543, 544, 545, 547, 548, 549, 550, 551, 552 and 553 of the Bankruptcy Code.

“**Bankruptcy Code**” has the meaning specified in the Recitals.

“**Bankruptcy Court**” has the meaning specified in the Recitals.

“**Bankruptcy Rules**” means the Federal Rules of Bankruptcy Procedure.

“**Bill of Sale**” means the Bill of Sale substantially in the form attached hereto as Exhibit B.

“**Books and Records**” has the meaning specified in this Article 1.

“**Breakup Fee**” has the meaning specified in Section 8.3 hereof.

“**BUF Termination Provision**” has the meaning specified in Section 8.3 hereof.

“**Business**” has the meaning specified in the Recitals to this Agreement.



“**Business Day**” means any day, excluding Saturday, Sunday and any day on which banks in the City of Jacksonville, Florida are authorized or required by Law or other governmental action to close.

“**Business Employees**” means employees who provide services for the Business as of the date hereof, and any Person Seller hires after the date hereof and before the Closing Date to work primarily or exclusively for the Business.

“**Business Parties**” has the meaning specified in Section 3.18 hereof.

“**Buyer**” has the meaning specified in the Preamble to this Agreement.

“**Buyer Disclosure Schedule**” has the meaning specified in the introductory language to Article IV hereof.

“**Buyer Indemnitee**” has the meaning specified in Section 11.3 hereof.

“**Cash Balance**” has the meaning specified in Section 2.5(a) hereof.

“**Cash Component**” has the meaning specified in Section 2.5(a) hereof.

“**Causes of Action**” means all actions, causes of action, Claims, liabilities, obligations, rights, suits, debts, damages, judgments, remedies, demands, setoffs, defenses, recoupments, crossclaims, counterclaims, third-party claims, indemnity claims, contribution claims or any other claims disputed or undisputed, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, in law, equity or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases.

“**Chapter 11 Cases**” has the meaning specified in the Recitals.

“**Claim**” means a “claim” as defined in section 101 of the Bankruptcy Code.

“**Closing**” has the meaning specified in Section 2.6 hereof.

“**Closing Date**” has the meaning specified in Section 2.6 hereof.

“**COBRA**” means Part 6 of Subtitle B of Title I of ERISA, Code §4980B, and any similar state Law.

“**Code**” means the Internal Revenue Code of 1986, or any subsequent legislative enactment thereof, as amended and in effect from time to time, including any rules and regulations promulgated thereunder.

“**Confidential Information**” has the meaning specified in Section 5.9 hereof.

“**Consents**” means consents, approvals, authorizations, declarations, filings or registrations with, or notices to, any Governmental Entity or other third party, including any consents required from, or notices required to be delivered to, counterparties to Contracts in

connection with any assignment thereof pursuant to the transactions contemplated hereby. In the case of Contracts, the term “Consent” also means (including for purposes of Section 6.5 hereof) (a) an approval of a contractual counterparty to an amendment or modification to an existing Contract to provide for separate Contracts, one in favor of the Business and one or more in favor of any business or businesses retained by Seller or its Affiliates, and (b) a consent or approval of a contractual counterparty that is made in connection with an amendment or modification to a Contract that is consistent with the terms set forth in Section 5.3(b) hereof.

“*Contracts*” has the meaning specified in this Article I.

“*Contributed Assets*” means all Intellectual Property Rights (other than Patent Rights) owned, used or held for use in the Business, together with all rights to collect royalties, products and proceeds in connection therewith, all rights to sue and bring other claims for past, present and future infringement, misappropriation or other violation of any of the foregoing, and all rights to recover damages (including attorneys’ fees and expenses) or lost profits in connection therewith, and all goodwill related to the Business.

“*Control*”, including, with correlative meanings, “*Controlling*”, “*Controlled by*” and “*under common Control*”, of a Person means the power to direct or cause the direction of the management and policies of such Person, directly or indirectly, whether through ownership of voting securities, by contract or otherwise.

“*Cure Costs*” means the amounts necessary to cure all defaults, if any, and to pay all actual pecuniary losses, if any, that have resulted from such defaults, under the Contracts which Buyer, in its sole discretion, request be assumed and assigned, in each case as of the Petition Date and to the extent required by Section 365 of the Bankruptcy Code and any order of the Bankruptcy Court, which amounts (if not already paid or to be paid in the Ordinary Course of Business pursuant to an order of the Bankruptcy Court) shall be identified to Buyer on Section 1.1 of the Seller Disclosure Schedule.

“*Deposit*” has the meaning specified in Section 2.6(a) hereof.

“*Deposit Arrangement Order*” means an order substantially in the form attached hereto as Exhibit C and otherwise in form and substance satisfactory to Seller and Buyer.

“*DIP Lender*” means AEST Bridge Lending Company, LLC, a Florida limited liability company, together with its successors and assigns.

“*DIP Loan*” means the loan of \$350,000 which is made by the DIP Lender to Seller, as a Chapter 11 debtor, as evidenced by the DIP Loan Documents.

“*DIP Loan Agreement*” means that certain Debtor-in-Possession Credit and Security Agreement, dated as of December 16, 2014 by and between Seller and the DIP Lender.

“*DIP Loan Documents*” means the DIP Loan Agreement and any agreements, documents or instruments executed or delivered in connection therewith, as the same may be amended, modified, supplemented or restated from time to time.

**“DIP Motion”** means AEST and AESP’s *Emergency Motion for Entry of Interim and Final Orders: (I) Authorizing Debtors to Obtain Post-Petition Financing on A Super-Priority, Secured and Priming Lien Basis, (II) Approving Agreement Relating to the Foregoing, (III) Modifying the Automatic Stay, (IV) Granting Interim Relief, (V) Scheduling a Final Hearing and Prescribing Form and Manner with Respect Thereto, and (VI) Requesting an Emergency Hearing Jurisdiction and Venue* [Docket No. 39] dated December 4, 2014.

**“DIP Order”** means the *Final Order (I) authorizing AEST and AESP to obtain post-petition financing on a super-priority, secured and priming lien basis, (II) approving agreements relating to the foregoing and (III) modifying the Automatic Stay* [Docket No. 84] dated February 19, 2015.

**“Encumbrance”** means any Lien, encumbrance, Claim, right, demand, charge, mortgage, deed of trust, option, pledge, security interest or similar interests, title defects, hypothecations, easements, rights of way, restrictive covenants, encroachments, rights of first refusal, preemptive rights, judgments, conditional sale or other title retention agreements and other impositions, imperfections or defects of title or restrictions on transfer or use of any nature whatsoever.

**“Environment”** means navigable waters, waters of the contiguous zone, ocean waters, natural resources, surface waters, ground water, drinking water supply, land surface, subsurface strata, ambient air, both inside and outside of buildings and structures, man-made buildings and structures, and plant and animal life.

**“Environmental Claim”** means any claim under Environmental Laws or principles of common law relating to pollution or protection of the Environment at any of the current or past operations of the Business.

**“Environmental Laws”** means all Laws relating to pollution, protection of the Environment, or the emission, discharge, release or threatened release of pollutants, contaminants or industrial, toxic or hazardous substances or wastes into the Environment or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants or industrial, toxic or hazardous substances or wastes, including the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., the Clean Air Act, 42 U.S.C. § 7401 et seq., the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 121 et seq., the Asbestos Hazard Emergency Response Act, 15 U.S.C. § 2601 et seq., Safe Drinking Water Act, 42 U.S.C. § 300f et seq., the Oil Pollution Act of 1990 and analogous state acts.

**“Environmental Notice”** means any written directive, notice of violation or infraction, or other notice from any Governmental Entity respecting any Environmental Claim.

**“Environmental Permit”** means any Permit, letter, clearance, consent, waiver, closure, exemption, decision or other action required under or issued, granted, given, authorized by or made pursuant to Environmental Law.

“*Equity Consideration*” means 4,500,000 Series B Preferred Units and 1,500,000 Class A Common Units (as such terms are defined in the Parent LLC Agreement) issued by Parent.

“*ERISA*” means the Employee Retirement Security Act of 1974, as amended.

“*Escrow Agent*” has the meaning specified in Section 2.6(a) hereof.

“*Excluded Assets*” means Seller’s direct and indirect right, title and interest in, to and under the following assets, properties and rights, in each case to the extent existing immediately prior to Closing:

(a) all cash, cash equivalents, bank accounts and marketable securities of Seller or its Affiliates;

(b) all Non-Assigned Contracts;

(c) all insurance policies and all of Seller’s or its Affiliates’ rights thereunder, including in respect of claims against insurance carriers;

(d) all amounts owed by any Affiliate of Seller, on the one hand, to Seller or another Affiliate of Seller, on the other hand;

(e) (i) all Tax Returns; (ii) all Books and Records which Seller is required by Law to retain or that Seller determines are necessary or advisable to retain (it being understood, however, that copies of such Books and Records shall be, to the extent permitted by Law, included in the Transferred Assets); (iii) all records, reports, correspondence and memoranda prepared or received by Seller or any of its Affiliates (including all analyses relating thereto so prepared or received) and all valuations, expressions of interest and bids received from all Persons, in each case, in connection with the offer or sale of the Business in connection with an auction or otherwise or the transactions contemplated under this Agreement; (iv) a copy of all consolidating and consolidated financial information and all other accounting records prepared or used in connection with the preparation of the Unaudited Financial Statements, including working papers; and (v) any document or other item subject to attorney-client or similar privilege;

(f) the corporate charter, qualifications to conduct business as a foreign corporation, arrangements with registered agents relating to foreign qualifications, taxpayer and other identification numbers, seals, minute books, stock transfer books, certificates for capital stock, blank stock certificates, and other documents relating to the organization, maintenance and legal existence of Seller as a corporation;

(g) all rights of Seller and its Affiliates under this Agreement and any Ancillary Agreement to which Seller or its Affiliates are a party;

(h) all rights under, and assets held by, the Seller Benefit Plans and other employee benefit plans, programs, arrangements and agreements, including any retirement benefit and post-retirement health benefit plans, programs, arrangements and agreements;

(i) any Causes of Action of Seller, including any Avoidance Actions, other than the Transferred Causes of Action;

(j) all rights, claims, credits, refunds, Causes of Action and rights of set-off against third parties pertaining to the Excluded Assets or the Excluded Liabilities;

(k) any claims, rights and interest in and to any refunds of income Taxes of Seller and its Affiliates with respect to the operation of the Business or the Transferred Assets or otherwise for taxable years or periods ending on or prior to the Closing Date, and all beneficial interests in any portion of such a refund with respect to the operation of the Business or the Transferred Assets or otherwise for any taxable year or period beginning before and ending after the Closing Date, for the portion of such taxable year or period ending on or prior to the Closing Date; and

(l) AEST's 20% interest in AES Manufacturing, LLC.

***“Excluded Liabilities”*** means all Liabilities or obligations of Seller or its Affiliates (or otherwise relating to Seller, its Affiliates, any equityholder, the Business or the Transferred Assets), which are not included in the Assumed Liabilities, including, without limitation, any of the following:

(a) all Liabilities of Seller or its Affiliates for Taxes;

(b) except to the extent that Liabilities are assumed pursuant to Section 2.3 (which shall be Assumed Liabilities), any claims, demands, proceedings or causes of action subject to or covered by insurance policies;

(c) all Liabilities of Seller relating to or otherwise arising, whether before, on or after the Closing, out of, or in connection with the Excluded Assets;

(d) all accounts payable and accrued liabilities of the Business incurred in the Ordinary Course of Business and any other Liabilities of a type reflected on the Unaudited Financial Statements or in the notes thereto, the Seller Disclosure Schedule, or the Interim Balance Sheet;

(e) all Liabilities of Seller or its Affiliates for accrued but unused vacation and personal days of Transferred Employees;

(f) all Liabilities arising under the DIP Loan Documents;

(g) all Liabilities in respect of products developed, sold or licensed, or services provided, marketed or sold, in connection with the Business at any time before, on or after the Closing Date, excluding such obligations arising after the Closing Date related to any of the Transferred Assets, Assumed Liabilities, or assigned Contracts;

(h) all Liabilities in respect of any infringement, misappropriation or other violation of the Intellectual Property Rights of any Person arising prior to the Closing Date;

(i) all Liabilities for Taxes with respect to the operation of the Business or the ownership or use of the Transferred Assets;

(j) all Liabilities relating to the Buyer's employment or termination of employment of any Person, including any of the Business Employees, former employees and any Business Employees who are not Transferred Employees, including all obligations and Liabilities relating to compensation, benefits and severance;

(k) all Liabilities relating to the Seller Benefit Plans and other employee benefit plans, programs, arrangements and agreements to which Seller has any liability, including any retirement benefit, COBRA obligations and post-retirement health benefit plans, programs, arrangements and agreements;

(l) all Liabilities arising as a result of being the owner or occupant of, or operator of the activities conducted at, the Leased Property at any time prior to the Closing Date, including all obligations and Liabilities relating to personal injury, property damage, the Environment or waste disposal; and

(m) all other Liabilities arising out of or relating to the conduct of the Business or the ownership or use of the Transferred Assets, whether before, or on the Closing Date.

**"Final Order"** means an order or judgment of the Bankruptcy Court or any other court of competent jurisdiction entered by the Clerk of the Bankruptcy Court or such other court on the docket in the Chapter 11 Cases or the docket of such other court, which has not been modified, amended, reversed, vacated or stayed and as to which (i) the time to appeal, petition for *certiorari*, or move for a new trial, re-argument or rehearing has expired and as to which no appeal, petition for *certiorari* or motion for a new trial, re-argument or rehearing shall then be pending or (ii) if an appeal, *writ of certiorari*, new trial re-argument or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court or other court of competent jurisdiction shall have been affirmed by the highest court to which such order was appealed, or *certiorari* shall have been denied, or a new trial, re-argument or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for *certiorari* or move for a new trial, re-argument or rehearing shall have expired, as a result of which such order shall have become final in accordance with Rule 8002 of the Bankruptcy Rules; provided, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be filed relating to such order, shall not cause such order not to be a Final Order.

**"Financial Statements"** has the meaning specified in Section 3.3(a) hereof.

**"GAAP"** means United States generally accepted accounting principles as in effect on the date of this Agreement.

**"Governmental Entities"** means any foreign, federal, state or local governmental, administrative or regulatory authority, agency or court.

**"Hazardous Materials"** means: (a) any material, chemical, waste, product, derivative, compound, mixture, solid, liquid, mineral or gas, in each case, whether naturally occurring or

manmade, that is hazardous, acutely hazardous, toxic, or words of similar import or regulatory effect under Environmental Laws; and (b) any petroleum or petroleum-derived products, radon, radioactive materials or wastes, asbestos in any form, lead or lead-containing materials, urea formaldehyde foam insulation and polychlorinated biphenyls.

**“Intellectual Property Rights”** means all of the following in any jurisdiction throughout the world, and all corresponding rights, presently or hereafter existing, whether arising by operation of law, contract, license or otherwise: (a) trademarks or service marks or names, including all trademark or service mark registrations, trade dress, logos, trade names, business names, corporate names, Internet domain names, and all other indicia of origin, together with all applications, registrations, and renewals in connection therewith, and all goodwill associated with any of the foregoing (**“Marks”**); (b) copyrights, copyrightable works and other works of authorship, including applications, registrations, and renewals in connection therewith, (c) patent rights, including issued patents, applications, divisionals, continuations, and continuations in part, reissues, reexaminations, patents of additions, utility models and inventors’ certificates (**“Patent Rights”**), (d) trade secrets and other proprietary or confidential information, including know-how, processes, methods, techniques, inventions, inventor’s notes, drawings and designs, (e) Software, (f) all other proprietary and intellectual property rights, and (g) all copies and tangible embodiments or descriptions of any of the foregoing (in whatever form or medium).

**“Interim Balance Sheet”** has the meaning specified in Section 3.3(a) hereof.

**“IRS”** means the Internal Revenue Service of the United States of America.

**“Knowledge”** means, when used with respect to Seller, the actual knowledge of Gary Burman, Donney Lamey, Walter McIntyre, Chuck Olson and Brent Williams for the periods of their respective management of the Seller.

**“Law”** means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, or other requirement or rule of law of any Governmental Entity.

**“Leased Property”** means the real property described in Section 3.7 of the Seller Disclosure Schedule.

**“Legal Requirement”** means requirements of all federal, state and local laws, statutes, codes, rules, regulations, ordinances, judgments, determinations, orders, decrees, opinions, writs, injunctions, acts and the like of any Governmental Entity.

**“Liability”** means any claim, debt, liability, obligation or commitment of any nature whatsoever (whether known or unknown, asserted or unasserted, fixed, absolute or contingent, matured or unmatured, accrued or unaccrued, liquidated or unliquidated or due or to become due), whenever or however arising (including those arising out of any contract or tort, whether based on negligence, strict liability or otherwise), and including all costs and expenses related thereto.

**“Licensed Software”** means all Software licensed to Seller and used in the Business.

“**Lien**” means any lien, pledge, mortgage, charge, security interest, encumbrance, title retention agreement, claim, option or similar third-party interest or claim.

“**Liquidating Trust Agreement**” means the liquidating trust created pursuant to the Liquidating Trust Agreement for AES and AESP by and among AES, AESP and Brent C. Williams, as Liquidating Trustee, attached to the Plan of Liquidation and to be dated as of the confirmation date of the Plan of Liquidation.

“**Liquidating Trust**” means the liquidating trust created pursuant to the Liquidating Trust Agreement.

“**Loss**” has the meaning specified in Section 11.3 hereof.

“**Marks**” has the meaning specified in this Article I.

“**Material Adverse Effect**” means any event, change, development or circumstance that, individually or together with any one or more other events, changes, developments or circumstances, has had or would reasonably be expected to have a material adverse effect on the condition (financial or otherwise) or results of operations of the Business, taken as a whole; provided, however, that a Material Adverse Effect shall not include any event, change, development or circumstance resulting from (a) any failure by the Business to meet internal or published projections, budgets, estimates or forecasts of revenues, earnings or other measures of financial or operating performance for any period (except that the underlying causes for such failures may be included), (b) any changes affecting any of the industries in which the Business operates generally, any services which the Business offers generally, the economy generally or general worldwide economic conditions (except to the extent that such conditions affect the Business disproportionately as compared with other businesses or participants in the industry in which the Business operates), (c) national or international political or social conditions, including an outbreak or escalation of hostilities involving the United States, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack (except to the extent that such changes affect the Business disproportionately as compared with other businesses or participants in the industry in which the Business operates), (d) any act of God, (e) any changes in general legal or regulatory conditions or applicable Laws or accounting rules, including GAAP, or the interpretation thereof (except to the extent that such changes affect the Business disproportionately as compared with other businesses or participants in the industry in which the Business operates) or (f) the announcement or pendency of the transactions contemplated by this Agreement or the identity of the parties to this Agreement (including any termination of, reduction in, or other negative impact on, relationships or dealings, contractual or otherwise, with any customers, suppliers, resellers, distributors or employees (including the threatened or actual termination, suspension, modification or reductions in such relationships) of the Business or Seller due to the announcement or pendency of the transactions contemplated by this Agreement).

“**Material Contracts**” has the meaning specified in Section 3.11(a) hereof.

“**Non-Assigned Contract**” has the meaning specified in Section 5.7(a) hereof.

“**Non-BUF Termination Provision**” has the meaning specified in Section 8.3 hereof.



“**Ordinary Course of Business**” means the ordinary and usual course of normal day-to-day operations of the Business consistent with past practice.

“**Outside Date**” has the meaning specified in Section 8.1(j) hereof.

“**Owned Software**” means all Software owned by Seller.

“**Parent**” has the meaning set forth in the Preamble.

“**Parent LLC Agreement**” means the Amended and Restated Limited Liability Company Agreement of Parent, dated as of the date of Closing attached hereto as Exhibit D.

“**Patent Assignment Agreement**” means the the Patent Assignment Agreement substantially in the form attached hereto as Exhibit E.

“**Patent Rights**” has the meaning specified in this Article I.

“**Permits**” has the meaning specified in Section 3.14 hereof.

“**Permitted Liens**” means, collectively, mechanic’s, materialman’s, workman’s, serviceman’s and other similar Liens.

“**Person**” means a corporation, association, limited liability company, partnership, organization, trust, unincorporated organization, company, business, individual, government or political subdivision thereof or governmental agency.

“**Petition Date**” has the meaning specified in the recitals.

“**Plan of Liquidation**” means the Joint Plan of Liquidation of Debtors, AEST and AESP, which will be filed in connection with the Seller’s Chapter 11 Cases.

“**Prohibition**” has the meaning specified in Section 6.6 hereof.

“**Purchase Price**” has the meaning specified in Section 2.5(a) hereof.

“**Purchased A/R**” has the meaning specified in this Article I.

“**Purchased Assets**” means the Transferred Assets other than the Contributed Assets.

“**Real Property Lease**” has the meaning specified in Section 3.7 hereof.

“**Reference Balance Sheet Date**” has the meaning specified in Section 3.3(b) hereof.

“**Registered Intellectual Property Rights**” has the meaning specified in Section 3.9(a) hereof.

“**Release**” means any actual or threatened release, spilling, leaking, emitting, discharging, injecting, leaching, dumping, disposing or allowing to escape or migrate into or through the

environment (including ambient air (indoor or outdoor), surface water, groundwater, land surface or subsurface strata or within any building, structure, facility or fixture).

**“Restricted Period”** has the meaning specified in Section 5.10(a) hereof.

**“Sale Motion”** means the motion or motions of seeking approval and entry of the Sale Order and the transactions contemplated by this Agreement.

**“Sale Order”** means an order in the form attached hereto as Exhibit F and otherwise in form and substance satisfactory to Seller and Buyer.

**“Seller”** has the meaning specified in the Preamble to this Agreement.

**“Seller Benefit Plans”** has the meaning specified in Section 3.16 hereof.

**“Seller Disclosure Schedule”** has the meaning specified in the introductory language to Article III hereof.

**“Set-Off Amount”** has the meaning specified in Section 11.4 hereof.

**“Software”** means computer programs, including any software implementations of algorithms, tools, applets, models and methodologies, data, databases, compilations and other electronic data files, and all documentation for the foregoing.

**“Source Code”** means the human-readable (as opposed to machine-readable) form of computer programming code for any Software.

**“Stache Claim”** means the amount of \$319,981.66, plus accrued and unpaid interest from May 1, 2015 through the Closing, which is owed to Stache Investments Corporation.

**“Tax”** means any federal, foreign, state, county, local and other tax (including income, gross receipts, transfer, excise, property, ad valorem, franchise, license, sales, use, goods and services, value added, withholding, estimated, occupancy, capital, profits, employment, unemployment compensation, payroll related, import duties and other governmental charges and assessments), whether or not measured in whole or in part by net income, and including deficiencies, interest, additions to tax or interest, and penalties with respect thereto.

**“Tax Return”** means any return, report, declaration, form, claim for refund or information return or statement relating to Taxes, including any schedule or attachment thereto or any amendment thereof.

**“Transfer Taxes”** has the meaning specified in Section 10.1 hereof.

**“Transferred Assets”** means all of Seller’s right, title and interest in and to all of the assets, rights and properties, whether tangible or intangible, real, personal or mixed, owned or used by the Business or Seller, including, without limitation, the following:

(a) Subject to Section 5.7, all written contracts, purchase or other orders, leases, licenses, commitments, instruments and other agreements to which Seller is a party, including the Assumed Contracts (collectively, the “**Contracts**”), and all rights and benefits thereunder;

(b) all personal property and interests therein, including furniture, furnishings, office equipment, communications equipment, machinery and equipment and spare parts, that is physically located on the Leased Property;

(c) all refunds, deposits, prepayments and prepaid expenses;

(d) all trade accounts or notes receivable of the Business (collectively, the “**Purchased A/R**”), along with the right to receive copies of any and all supporting documentation in connection with such Purchased A/R;

(e) all Intellectual Property Rights owned, used or held for use in the Business, including those listed on Section 3.9(a)(i) of the Disclosure Schedule, together with all rights to collect royalties, products and proceeds in connection therewith, all rights to sue and bring other claims for past, present and future infringement, misappropriation or other violation of any of the foregoing, and all rights to recover damages (including attorneys’ fees and expenses) or lost profits in connection therewith;

(f) all marketing information, marketing research and data and customer and mailing lists and all promotional and advertising materials, whether existing in print, video, online, magnetic or other media, and all stationery, forms, labels and other similar materials used exclusively in the Business;

(g) subject to Section 5.2(b), originals or copies of all books, records, ledgers, files, reports, accounts, data, plans and operating records, whether in hard copy, electronic format, magnetic or other media, in any case, used in the Business (“**Books and Records**”);

(h) subject to Section 2.2, the Transferred Causes of Action;

(i) all telephone numbers and Uniform Resource Locators (and all of the contents of such Uniform Resource Locators); and

(j) all goodwill exclusively relating to the Business or any of the foregoing.

“**Transferred Causes of Action**” means all claims against Business Parties, including Causes of Action and other rights of recovery, set off or recoupment of any kind, including any Avoidance Actions against the Business Parties, except any and all claims against Lonnie Margol, Nationwide Parts Distributors, Inc., AES Manufacturing, LLC, or any constituents, Affiliates, or any business or entity owned or controlled by Lonnie Margol, Nationwide Parts Distributors, Inc., or AES Manufacturing, LLC, including Causes of Action and other rights of recovery, set off or recoupment of any kind, including any Avoidance Actions against Lonnie Margol, Nationwide Parts Distributors, Inc., AES Manufacturing, LLC, or any constituents, Affiliates, or any business or entity owned or controlled by Lonnie Margol, Nationwide Parts Distributors, Inc., or AES Manufacturing, LLC. By way of clarification, any and all claims, Causes of Action and other rights of recovery, set off or recoupment of any kind, including any

Avoidance Actions of Seller currently existing or arising in the future against Lonnie Margol, Nationwide Parts Distributors, Inc., AES Manufacturing, LLC, or any constituents, Affiliates, or any business or entity owned or controlled by Lonnie Margol, Nationwide Parts Distributors, Inc., or AES Manufacturing, LLC shall remain with Seller and shall not be sold, transferred, or assigned by this Agreement.

**“Transferred Employee”** has the meaning specified in Section 5.5(a) hereof.

**“Transferred Intellectual Property Rights”** means all Intellectual Property Rights included in the Transferred Assets.

**“Transferred Systems”** has the meaning set forth in Section 3.9(g) hereof.

**“Unaudited Financial Statements”** has the meaning specified in Section 3.3(a) hereof.

1.2 Interpretation. The words “hereof”, “herein” and “hereunder” and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The captions herein are included for convenience of reference only and shall be ignored in construction or interpretation hereof. References to Articles, Sections, Exhibits, Schedules and Annexes are to Articles, Sections, Exhibits, Schedules, and Annexes of this Agreement unless otherwise specified. Any capitalized terms used in any Exhibit, Schedule or Annex but not otherwise defined therein shall have the meaning set forth in this Agreement. References to “the date hereof” in this Agreement mean the date of this Agreement. Any singular term in this Agreement shall be deemed to include the plural and any plural term the singular. Whenever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation”, whether or not they are in fact following by those words or words of like import. References to any agreement or contract are to that agreement or contract as amended, modified or supplemented from time to time in accordance with the terms hereof and thereof. References to any Person include the successors and permitted assigns of that Person. Each reference in this Agreement to any Legal Requirement will be deemed to include such Legal Requirement as it hereafter may be amended, supplemented or modified from time to time and any successor thereto prior to Closing, unless such treatment would be contrary to the express terms of this Agreement. References from or through any date mean, unless otherwise specified, from and including or through and including, respectively. Any reference to “days” means calendar days unless Business Days are expressly specified. If any action under this Agreement is required to be done or taken on a day that is not a Business Day, then such action shall not be required to be done or taken on such day but on the first succeeding Business Day thereafter. References to “\$” shall mean U.S. dollars. This Agreement and the Ancillary Agreements shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting or causing any instrument to be drafted. If a word or phrase is defined, the other grammatical forms of such word or phrase have a corresponding meaning.

## ARTICLE II

### SALE AND PURCHASE OF ASSETS

#### 2.1 Contribution and Purchase and Sale of Assets.

(a) Contribution of the Contributed Assets. Pursuant to Sections 105, 363 and 365 of the Bankruptcy Code and upon the terms and subject to the conditions set forth in this Agreement and the Sale Order, at the Closing, Seller shall contribute to the Parent, all of Seller's right, title and interest in and to all of the Contributed Assets, free and clear of all Liens, Claims and Encumbrances (other than such Liens, Claims and Encumbrances included in the Permitted Liens) and Parent shall issue to AEST the Equity Consideration.

(b) Contribution by the Parent of the Contributed Assets. Immediately after the contribution by the Seller pursuant to Section 2.1(a), Parent shall, without any further action, contribute the Contributed Assets to the Buyer.

(c) Purchase of the Purchased Assets. Pursuant to Sections 105, 363 and 365 of the Bankruptcy Code and upon the terms and subject to the conditions set forth in this Agreement and the Sale Order, Seller shall sell and assign to Buyer, and Buyer shall purchase, at the Closing, all of Seller's right, title and interest in and to all of the Purchased Assets, free and clear of all Liens, Claims and Encumbrances (other than such Liens, Claims and Encumbrances included in the Permitted Liens).

2.2 Excluded Assets. Notwithstanding anything in this Agreement to the contrary, the Transferred Assets shall not include, and Seller and its Affiliates shall retain the Excluded Assets, including all direct and indirect right, title and interest in and to the Excluded Assets.

#### 2.3 Liabilities; Excluded Assets.

(a) Upon the terms and subject to the conditions set forth in this Agreement and except as specifically excluded pursuant to the provisions of this Agreement, Buyer shall assume at the Closing and shall pay, perform and discharge when due, all Liabilities of Seller set forth on Section 2.3(a) of the Seller Disclosure Schedule (the "*Assumed Liabilities*").

(b) Other than the Assumed Liabilities, Buyer shall not assume or be responsible for any obligations or Liabilities of Seller or any of its Affiliates, whether related to the Business or otherwise.

(c) For purposes of clarity, notwithstanding anything herein to the contrary, Buyer shall not assume and shall not be obligated to pay, perform or discharge any Liabilities or obligations of Seller or its Affiliates, which are not included in the Assumed Liabilities, including, without limitation, the Excluded Assets.

#### 2.4 Cure Costs; Disclosure Schedule Updates.

(a) At the Closing, Buyer shall fund all Cure Costs and Seller shall pay all Cure Costs. Notwithstanding anything in this Agreement to the contrary, Buyer may revise any Seller

Disclosure Schedule setting forth the Contracts, the Transferred Assets and the Excluded Assets to (i) include in or exclude from the definition of Transferred Assets (pursuant to the applicable Seller Disclosure Schedule) and to include in the definition of Excluded Assets, any Transferred Assets, including any Contract or other asset not previously included in the Transferred Assets, at any time on or prior to the Closing, and, upon notification to Seller, Seller shall be required to give reasonable notice to the counter parties to any such Contract, and (ii) exclude from the definition of Transferred Assets (pursuant to the applicable Seller Disclosure Schedule) and to include in the definition of Excluded Assets, any Transferred Asset, including any Contract or other assets of Seller previously included in the Transferred Assets and not otherwise included in the definition of Excluded Assets, at any time on or prior to the Closing; provided that no such change of the Schedules, the definition of Transferred Assets, or the definition of the Excluded Assets shall reduce the amount of the Purchase Price. If any Contract is added to (or excluded from) the Transferred Assets as permitted by this Section 2.4, Seller shall promptly take such steps as are reasonably necessary, including, if applicable, payment or adequate assurance of payment of all Cure Costs (which shall be funded by Buyer in cash at Closing) and prompt delivery of notice to the non-debtor counterparty, to cause such Contracts to be assumed by Seller, and assigned to Buyer, on the Closing Date (or excluded under the Sale Order and this Agreement).

2.5 Purchase Price.

(a) The aggregate purchase price to be paid by Buyer and Parent to Seller for the Transferred Assets (the “**Purchase Price**”) shall be: (i) the amount of the Deposit, plus (ii) an amount in cash equal to \$3,600,000 (the “**Cash Balance**,” and together with the Deposit, the “**Cash Component**”), plus (ii) the amount of the Assumed Liabilities, plus (iii) the Equity Consideration.

(b) The Purchase Price shall be satisfied by Buyer and Parent at the Closing as follows:

(i) Buyer shall distribute the Cash Balance as follows:

A. Buyer shall deliver, on behalf of Seller, an amount, if any, equal to the outstanding principal balance of DIP Loan, plus all accrued and unpaid interest and other obligations as of the Closing Date, via wire transfer of immediately available funds to the DIP Lender;

B. Buyer shall fund all Cure Costs and Seller shall pay directly to the obligees the Cure Costs;

C. Buyer shall pay the Stache Claim; and

D. Any remaining amount shall be paid to Seller.

(ii) With respect to the Assumed Liabilities, Buyer shall assume such Assumed Liabilities at the Closing.

(iii) The Deposit shall be delivered to Seller by the Escrow Agent.

(iv) Parent shall deliver to AEST the Equity Consideration.

2.6 Buyer's Deposit.

(a) After the execution and delivery of this Agreement by Seller, Buyer and Parent, and within two Business Days of the Bankruptcy Court's issuance of the Deposit Arrangement Order, Buyer shall deliver to Seller's bankruptcy counsel, Akerman LLP, as escrow agent (the "*Escrow Agent*"), a cash earnest money deposit in the amount of \$400,000 (the "*Deposit*").

(b) The Deposit shall be non-refundable to Buyer for all purposes, except as expressly set forth in Section 8.3.

2.7 Closing. Subject to the satisfaction of all the conditions set forth in Articles VI and VII or the waiver thereof by the party entitled to waive the applicable condition, the closing of the transactions contemplated by this Agreement (the "*Closing*") shall take place remotely via the exchange of electronic copies of documents and confirmation of other matters necessary to consummate the Closing, or at such other time or place as Seller and Buyer may mutually agree in writing, on the date that is no earlier than fourteen (14) days following the date upon which the Sale Order becomes a Final Order, unless Seller obtains from the Bankruptcy Court a waiver of the stay of the Sale Order provided under Federal Rule of Bankruptcy Procedure 6004(h). If such waiver of the stay of the Sale Order is obtained, Buyer and Seller may close after the satisfaction of all the conditions set forth in Articles VI and VII, or the waiver thereof by the party entitled to waive the applicable condition, and if Seller agrees in writing to close on a date earlier than fourteen (14) days after entry of the Sale Order. The date on which the Closing occurs is referred to herein as the "*Closing Date*." Unless otherwise agreed by the parties in writing, the Closing shall be deemed effective and all right, title and interest of Seller in and to the Transferred Assets to be acquired by Parent and Buyer hereunder shall be considered to have passed to Parent and Buyer and the assumption of all of the Assumed Liabilities by Buyer shall be considered to have occurred as of 12:01 a.m. Eastern Time on the Closing Date.

2.8 Closing Deliveries. At the Closing:

(a) Seller shall deliver or cause to be delivered to Buyer:

(i) counterparts of each Ancillary Agreement to which Seller or one of its Affiliates is a party, duly executed by Seller or the applicable Affiliate, including the Bill of Sale;

(ii) the officer's certificate required to be delivered pursuant to Section 6.5;

(iii) a true and correct copy of the Sale Order, substantially in the form attached hereto as Exhibit F; and

(iv) written confirmation from the DIP Lender, in form and substance acceptable to Buyer and Seller, that the DIP Loan has been satisfied in full and all liens and security interests granted under the DIP Loan Documents have been released by the DIP Lender.

- (b) Buyer shall deliver or cause to be delivered to (or at the direction of) Seller:
  - (i) payment of the Cash Component in immediately available funds, in accordance with the wire instructions received from the Seller;
  - (ii) evidence of the issuance of the Equity Consideration by Parent to AEST (which, for the avoidance of doubt, shall be the fully executed Parent LLC Agreement);
  - (iii) counterparts of each Ancillary Agreement to which Buyer is a party, duly executed by Buyer, including the Assumption Agreement; and
  - (iv) the officer's certificate required to be delivered pursuant to Section 7.4.

### ARTICLE III

#### REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the Unaudited Financial Statements or the disclosure schedules dated as of the date hereof and attached hereto as Annex 1 (the "*Seller Disclosure Schedule*"), Seller hereby represents and warrants to Buyer (except with respect to any representation or warranty that is made as of a specific date) as follows:

3.1 Organization and Standing. AEST is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of Florida. AESP is a limited liability company duly incorporated, validly existing and in good standing under the Laws of the State of Florida. Seller (a) has all requisite corporate power and authority to own, lease or license its property and to conduct the Business as presently conducted and (b) is duly qualified or licensed to do business as a foreign corporation in all jurisdictions where the nature of the Business or the properties owned or leased by it makes such qualification or licensing necessary.

3.2 Authorization; Non-contravention; Consents.

(a) Seller has the requisite corporate authority to execute and deliver this Agreement and each of the Ancillary Agreements to which it is a party, to perform its obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance of this Agreement have been, and the execution, delivery and performance of the Ancillary Agreements to which it is a party at Closing will be, duly authorized by all necessary corporate action on the part of Seller. This Agreement has been, and each of the Ancillary Agreements to which it is a party when executed by Seller will be, duly executed and delivered by Seller and constitutes, or when executed by Seller will constitute, legal, valid and binding obligations of Seller, enforceable against it in accordance with their respective terms except to the extent that the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or other similar Laws relating to creditors' rights generally and to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law).

(b) The execution and delivery of this Agreement does not, and the execution and delivery of each of the Ancillary Agreements to which Seller is a party will not, and the



performance and consummation by Seller of any of the transactions contemplated herein or therein will not, (i) contravene, conflict with or constitute or result in a breach or violation of, or a default under: (A) the certificate of formation or operating agreement of Seller, (B) subject to and assuming entry of the Sale Order, any order of any Governmental Entity applicable to Seller, or (C) any Law applicable to Seller; (ii) result in the creation of a Lien on any Transferred Assets; or (iii) contravene, conflict with or constitute or result in a breach or violation of, or a default under, or create in any party a right to cancel, modify, terminate or accelerate, or require consent or notice pursuant to, any indenture, contract, instrument or other agreement by which Seller is bound.

(c) No Consent of any Governmental Entity (except the Bankruptcy Court in connection with the Sale Order) or any other Person is required to be made or obtained by Seller in connection with the execution and delivery of this Agreement or any Ancillary Agreement to which Seller is a party and the performance of the transactions contemplated hereby and thereby, except as may be necessary as a result of any facts or circumstances relating to Buyer or its Affiliates.

### 3.3 Financial Information.

(a) Attached as Section 3.3(a) of the Seller Disclosure Schedule are: (i) the unaudited financial statements of the Business consisting of the balance sheet as of December 31, 2014 and the related statements of income and retained earnings, stockholder's equity and cash flow for the fiscal year then ended (the "**Unaudited Financial Statements**") and (ii) an unaudited balance sheet as of March 31, 2015 (the "**Interim Balance Sheet**" and, together with the Unaudited Financial Statements, the "**Financial Statements**"). The Financial Statements have been internally generated by Seller on a consistent basis not necessarily in accordance with GAAP.

(b) As of the date hereof, there are no Liabilities of the Business, except (i) Liabilities of a type reflected or reserved against on the Unaudited Financial Statements, (ii) Liabilities incurred in the Ordinary Course of Business consistent with past practice since March 31, 2015 (the "**Reference Balance Sheet Date**"), (iii) Liabilities incurred in connection with or as a result of the transactions contemplated by this Agreement and the Ancillary Agreements, (iv) Liabilities for income Taxes incurred but not yet due or other Excluded Liabilities, and (v) other immaterial Liabilities (none of which are a result of a breach of any Contract or a violation of any Law).

3.4 Absence of Certain Changes. Except as contemplated by this Agreement, from and after the Reference Balance Sheet Date to the date of this Agreement, (a) the Business has in all material respects been conducted in the Ordinary Course of Business, (b) there has not occurred any Material Adverse Effect other than the Chapter 11 Cases, (c) there has not been any material damage to, or destruction or loss of, any material asset or property reflected on the balance sheet included in the Unaudited Financial Statements, whether or not covered by insurance, (d) Seller has not mortgaged, pledged or subjected to any Lien (other than Permitted Liens) any material asset, tangible or intangible, included in the Transferred Assets, except in the Ordinary Course of Business, (e) Seller has not sold, assigned, licensed, abandoned or otherwise disposed of any Transferred Intellectual Property Rights; (f) Seller has not changed its accounting methods or practices with respect to the Business in any material respect, (g) Seller has not amended any of its organizational documents, (h) Seller has not made any material

change in its cash management practices or its policies, practices and procedures with respect to collection of accounts receivable, establishment of reserves for uncollectible accounts, accrual of accounts receivable, inventory control, prepayment of expenses, payment of trade accounts payable, accrual of other expenses, deferral of revenue and acceptance of customer deposits and (i) Seller has not accelerated, terminated or cancelled, or modified or amended outside of the Ordinary Course of Business or in any manner adverse to the Business, any Contract, other than such Contracts which have been rejected pursuant to Order of the Bankruptcy Court or assumed as reflected on Schedule 6.7 hereto.

3.5 Liens; Good and Marketable Title. Except for any Permitted Liens, Seller has good and marketable title to, or in the case of any property held or used under any lease or other Contract, a valid and enforceable right to use, the Transferred Assets, free and clear of any Liens. Upon consummation of the transactions contemplated by this Agreement, Parent and Buyer shall receive good and marketable title to the tangible Transferred Assets, free and clear of any Liens, Claims or Encumbrances, other than Permitted Liens or Liens arising by reason of any action of, or circumstances relating to, Parent or Buyer.

3.6 Sufficiency of Assets. On the Closing Date (assuming receipt of all Consents, approvals and authorizations relating to the matters set forth in Section 3.2), the Transferred Assets conveyed to Parent and Buyer hereunder, together with the other rights being acquired by Parent and Buyer hereunder and the services to be provided by Seller or its Affiliates pursuant to the terms of the Ancillary Agreements, will be sufficient in all material respects to enable Buyer to operate the Business in the manner conducted by Seller immediately prior to Closing; provided, however, that nothing in this Section 3.6 shall be deemed to constitute a representation or warranty as to (a) the adequacy of the amounts of cash or working capital (or the availability of the same) in the Business, or (b) the necessity to the operation of the Business of any assets of the type included in the definition of “Excluded Assets”; provided, further, however that this Section 3.6 shall not be deemed to be breached as a result of any action that Seller or its Affiliates is required or permitted to take pursuant to Section 5.1 or for which Parent or Buyer has provided its consent (including pursuant to Section 5.1).

3.7 Leased Property. Section 3.7 of the Seller Disclosure Schedule contains a list of all Leased Property (the lease agreement, including all amendments, extensions, renewals, oral arrangements and other agreements with respect thereto, related to any Leased Property being a “*Real Property Lease*”). There are no written guarantees or similar arrangements relating to the Real Property Leases under which any Affiliate of Seller is a guarantor or surety for the obligations under any Real Property Lease. Each Real Property Lease grants Seller the right to use and occupy the demised premises thereunder, subject to the terms and conditions thereof. Seller has good and valid title to the leasehold estate under each Real Property Lease free and clear of all Liens other than Permitted Liens. Seller enjoys peaceful and undisturbed possession of the Leased Property under the Real Property Leases. To the Knowledge of Seller, there are no pending or threatened condemnation or foreclosure proceedings relating to any Leased Property.

3.8 Transactions with Affiliates. There are no contracts or agreements between Seller with respect to the Business, on the one hand, and any Affiliate of Seller or any equityholder of Seller, on the other, including any loan, guarantee or purchase or sales agreement, other than contracts or agreements which will be terminated prior to the Closing.

### 3.9 Intellectual Property.

(a) Section 3.9(a) of the Seller Disclosure Schedule sets forth a true and complete list of all of the following: (i) issuances, registrations, and applications for Intellectual Property Rights (including Internet domain names) owned by Seller (“**Registered Intellectual Property Rights**”), (ii) Owned Software and (iii) Licensed Software (other than Software licensed under shrink-wrap, click-wrap or browse-wrap agreements with a replacement cost or annual aggregate license, maintenance and subscription fees of under \$10,000). The Transferred Intellectual Property Rights are valid, subsisting and enforceable, and no patent included in the Transferred Intellectual Property Rights has been misused.

(b) Seller exclusively owns all right, title and interest in and to, or has a valid and enforceable written license to use, all Intellectual Property Rights necessary for, used or held for use in the conduct of the Business, free and clear of all Liens other than Permitted Liens. The transactions contemplated by this Agreement shall not impair the right, title or interest of Seller in or to the Transferred Intellectual Property Rights, and all of the Transferred Intellectual Property Rights shall be owned or available for use by Buyer immediately after the Closing on terms and conditions identical to those under which Seller owned or used the Transferred Intellectual Property Rights immediately prior to the Closing.

(c) The conduct of the Business does not infringe, misappropriate or otherwise violate, and has not infringed, misappropriated or otherwise violated, the Intellectual Property Rights of any Person. No claims are pending, have been asserted in writing against Seller or, to the Knowledge of Seller, have been threatened (i) challenging the validity, enforceability, ownership or use of any Transferred Intellectual Property Rights or (ii) alleging that Seller or the conduct of the Business infringes, misappropriates or otherwise violates the Intellectual Property Rights of any Person (including any unsolicited offers or demands to license any Intellectual Property Rights). The Transferred Intellectual Property Rights are not subject to any outstanding consent, settlement, decree, order, injunction, judgment or ruling restricting the use or ownership thereof.

(d) Seller has not asserted any claim of infringement, misappropriation, or other violation against any Person with respect to the Transferred Intellectual Property Rights and, to the Knowledge of Seller, no Person is infringing, misappropriating or otherwise violating any Transferred Intellectual Property Rights.

(e) Seller has taken all commercially reasonable actions, and all actions customary in its industry, to maintain, protect and enforce the Transferred Intellectual Property Rights, including the secrecy of all trade secrets and other confidential information contained therein.

(f) Each employee, agent, consultant and contractor of the Business has entered into written agreements pursuant to which he, she or it (i) agrees to protect the confidential information of the Business and (ii) assigns to Seller all Intellectual Property Rights created, authored or developed by such Person in the course of his, her or its employment or other engagement by Seller.

(g) The computer systems, including the Software, firmware, hardware, networks, interfaces, platforms and related systems, owned, leased or licensed by Seller and included in the Transferred Assets (the “*Transferred Systems*”) are sufficient for the immediate and reasonably anticipated future needs of the Business. In the last eighteen (18) months, there have been no failures, breakdowns, continued substandard performance or other adverse events affecting any Transferred Systems that have caused or could reasonably be expected to result in the material disruption or interruption in or to the use of the Transferred Systems. Seller maintains commercially reasonable security, disaster recovery and business continuity plans, procedures and facilities, acts in compliance therewith and has taken commercially reasonable steps to test such plans and procedures on a periodic basis, and such plans and procedures have been proven effective upon such testing in all material respects.

(h) The Owned Software does not include any “open source” code (as defined by the Open Source Initiative), nor has it been created in such a way that it is compiled with or linked to any such code in a manner that would (i) require the disclosure or distribution in Source Code form of any Software or any portion thereof, (ii) require the licensing of the Owned Software or any portion thereof under any open source license, or (iii) impose any other limitation, restriction, or condition on the right of Seller to use or distribute the Owned Software. Seller has not disclosed the Source Code for any Owned Software to any Person (including any escrow agent) other than employees, consultants and contractors that have signed agreements under which they are required to protect the confidentiality of the Source Code.

3.10 Insurance. As of the date hereof, all material property and liability insurance policies covering any of the Transferred Assets are in full force and effect, and no written notice of cancellation, termination or revocation or other written notice that any such insurance policy is no longer in full force or effect or that the issuer of any such insurance policy is not willing or able to perform its obligations thereunder has been received by Seller. Such policies provide for coverage in amounts deemed by Seller to be adequate, and all premiums due and payable thereon have been paid in full.

### 3.11 Contracts and Agreements.

(a) Section 3.11(a) of the Seller Disclosure Schedule sets forth the following types of material executory Contracts that are unexpired as of the date hereof, and are Transferred Assets relating to the Business to which Seller is a party or by which it or any of the Transferred Assets is bound (the “*Material Contracts*”):

- (i) any partnership, joint venture or similar agreements involving the ownership or operation of any business with any other Person;
- (ii) agreements which provide for the purchase of goods or services by Seller;
- (iii) agreements pursuant to which Seller annually receives revenue;
- (iv) agreements with a term of more than one (1) year that cannot be canceled by Seller on less than ninety (90) days’ notice without penalty;

(v) agreements prohibiting or limiting the ability of Seller to engage in any line of business, to compete with any Person or to carry on or expand the scope of the Business in any geographic area;

(vi) all licenses and other agreements with respect to Intellectual Property, including development agreements and agreements containing covenants not to sue (other than shrink-wrap, click-wrap or browse-wrap licenses for Software with a replacement cost or annual aggregate license, maintenance and subscription fees of under \$10,000);

(vii) all Real Property Leases;

(viii) agreements obligating Seller to loan any amounts to, or make any investment or capital contribution in, any Person; and

(ix) agreements for the employment of any executive, employee, or other individual on a full-time, part-time or consulting basis.

(b) There have been made available to Parent and Buyer true and complete copies of each of the items which is described or required to be described on Section 3.11(a) of the Seller Disclosure Schedule.

3.12 Labor Discussions and Troubles. As of the date hereof, Seller is not involved in any discussions with any union or group of employees concerning possible union representation of employees of Seller with respect to the Business. There are no slowdowns, stoppages, strikes or other material labor disputes applicable to a group of employees now pending or, to the Knowledge of Seller, threatened by any of Seller's employees with respect to the Business.

3.13 Claims and Litigation; Orders. Except as set forth on Section 3.13 of the Seller Disclosure Schedule, as of the date hereof, there are no actions, suits, charges, complaints, claims, proceedings, orders, judgments or decrees pending or, to the Knowledge of Seller, threatened in writing seeking to prevent or challenging the transactions contemplated hereby, and, to the Knowledge of the Seller, there is no basis for any of the foregoing. As of the date hereof, neither the Business nor the Transferred Assets are subject to any award, judgment, decree or other order of any court, other than orders entered by the Bankruptcy Court during the pendency of the Chapter 11 Cases. Except as set forth on Section 3.13 of the Seller Disclosure Schedule, there are no, and during the previous five (5) years there have not been any, actions, suits, charges, complaints, claims, proceedings, orders, judgments, decrees, audits or investigations pending or, to any Seller's Knowledge, threatened, in each case against or affecting the Business or any Transferred Asset at law or in equity, or before or by any Governmental Entity, and, to the Seller's Knowledge, there is no basis for any of the foregoing.

3.14 Compliance with Laws; Permits. Except as set forth on Section 3.14 of the Seller Disclosure Schedule, Seller is in compliance with all Laws of any Governmental Entity which affect the Business or any Transferred Asset or to which the Business or any Transferred Asset is subject, and no claim has been filed against, nor any notice (formal or informal) given to, Seller alleging a violation of any such Law. All permits, licenses, certificates, accreditations and other authorizations and approvals from Governmental Entities required for the conduct of

the Business and ownership of the Transferred Assets (collectively, “*Permits*”) have been duly obtained and are in full force and effect. There are no proceedings before any Governmental Entity pending or, to the Knowledge of Seller, threatened in writing that may result in the revocation, cancellation, suspension or modification of any Permits. No notices have been received by the Seller alleging the failure to hold any required Permit. The Seller is in compliance with all terms and conditions of all Permits which it holds.

3.15 Employment Matters. Section 3.15 of the Seller Disclosure Schedule contains a true and complete listing of the names of all Business Employees, together with the following information as of the date hereof with respect to each such employee: (a) job title, (b) location, (c) date of hire, (d) base compensation rate, and (e) commission, bonus or other additional compensation (or the terms thereof, if determined pursuant to a scale or formula), if any. Since the Reference Balance Sheet Date, except in the Ordinary Course of Business, Seller has not: (i) increased the compensation payable or to become payable to or for the benefit of any of the Business Employees, or (ii) increased, augmented or improved benefits granted to or for the benefit of any of the Business Employees under any bonus, stock option, profit sharing, pension, retirement, deferred compensation, insurance or other direct or indirect benefit plan or arrangement.

3.16 Seller Benefit Plans. Except as set forth on Section 3.16 of the Seller Disclosure Schedule, Seller has no liabilities related to any employee benefit plans, programs, agreements, policies or arrangements to which any Business Employee is a party (“*Seller Benefit Plans*”).

3.17 Environmental Matters.

(a) Except as would not have, individually or in the aggregate, a Material Adverse Effect, Seller is not in violation of any applicable Environmental Law in connection with its conduct of the Business.

(b) To the Knowledge of Seller, none of the Leased Property is listed on, or has been proposed for listing on, the National Priorities List (or CERCLIS) under CERCLA, or any similar state list.

(c) Except as would not have, individually or in the aggregate, a Material Adverse Effect, there has been no Release of Hazardous Materials in contravention of any applicable Environmental Law in connection with Seller’s conduct of the Business, the Transferred Assets or any Leased Property, and Seller has not received any Environmental Notice that the Business or any of the Transferred Assets or Leased Property has been contaminated with any Hazardous Material which would reasonably be expected to result in an Environmental Claim against, or a violation of Environmental Law or term of any Environmental Permit by, Seller.

(d) The representations and warranties set forth in this Section 3.17 are the sole and exclusive representations and warranties being made by Seller in this Agreement concerning Environmental Laws or other environmental matters.

3.18 Current Business Parties. Section 3.18 of the Seller Disclosure Schedule contains a true and complete listing of the names and current address of all parties with whom

the Seller currently conducts business or was conducting business with as of the Petition Date (“*Business Parties*”).

3.19 Brokers’ and Finders’ Fees. Except for Teneo Securities LLC and any fees owing to it, Seller has not, nor has any of its directors, officers, agents or employees, employed any broker, finder or investment banker or incurred any Liability for any brokerage fees, commissions, finders’ fees or similar fees in connection with the transactions contemplated by this Agreement.

3.20 Service of Bankruptcy Documents. Seller has appropriately and timely served all parties in interest with copies of the Sale Motion and cure notices.

3.21 No Other Representations. Except as expressly set forth in this Article III, neither Seller nor any of its Affiliates is making or has made any representation or warranty, express or implied, to Parent or Buyer or any Affiliate thereof concerning the Business, whether in this Agreement or otherwise, including as to any financial projections, budgets or estimates of the Business or any achievement thereof, the future revenue, earnings, profitability or success of the Business, the financial condition of the Business, the condition of the Transferred Assets, or anything related thereto, and all such representations and warranties, express or implied, of any kind or nature whatsoever, including any implied warranties or merchantability or fitness for a particular purpose, are hereby disclaimed.

## ARTICLE IV

### REPRESENTATIONS AND WARRANTIES OF PARENT AND BUYER

Except as set forth in the disclosure schedules dated as of the date hereof and attached hereto as Annex 2 (the “*Buyer Disclosure Schedule*”), Parent and Buyer hereby represent and warrant to Seller as of the date of this Agreement (except with respect to any representation or warranty that is made as of a specific date) as follows:

4.1 Organization and Standing. Parent is a limited liability company duly organized, validly existing and in good standing under the Laws of the State of Delaware. Buyer is a corporation duly organized, validly existing and in good standing under the Laws of the State of Delaware.

4.2 Authorization; Non-contravention; Consents.

(a) Parent and Buyer each have the requisite corporate authority to execute and deliver this Agreement and each of the Ancillary Agreements to which they are a party, to perform their obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance of this Agreement has been, and the execution, delivery and performance of the Ancillary Agreements will be, duly authorized by all necessary corporate action on the part of Parent and Buyer. This Agreement has been, and each of the Ancillary Agreements to which Parent or Buyer is a party when executed and delivered by Parent or Buyer will be, duly executed and delivered by Parent or Buyer and constitutes, or when executed and delivered by Parent or Buyer will constitute, the legal, valid and binding obligations of Parent or Buyer enforceable against it in accordance with their

respective terms, except to the extent that the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or other similar Laws relating to creditors' rights generally and to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law).

(b) The execution and delivery of this Agreement does not, and the execution and delivery of each of the Ancillary Agreements to which Parent or Buyer is a party will not, and the performance and consummation by Parent or Buyer of any of the transactions contemplated herein or therein will not, (i) contravene, conflict with or constitute or result in a breach or violation of, or a default under: (A) the certificate of incorporation or by-laws (or similar formation and organizational documents) of Parent or Buyer; (B) any statute or regulation applicable to Parent or Buyer or any order of any court or other Governmental Entity or any judgment, award or decree to which it is subject; or (ii) result in the creation of a Lien on any of the assets or properties of Parent or Buyer or contravene, conflict with or constitute or result in a breach or violation of, or a default under, or create in any party a right to cancel, modify, terminate or accelerate, any indenture, contract, instrument or other agreement by which Parent or Buyer is bound, except, in the cases of clauses (i)(B) and (ii) above, where such contravention, conflict, Lien, breach, violation, default or right would not, individually or in the aggregate, impair, restrict or delay the ability of Parent or Buyer to consummate the transactions contemplated by this Agreement or the performance by Parent or Buyer of any of their material obligations under this Agreement or any Ancillary Agreement or subject Seller to any Liability.

(c) No Consent of any Governmental Entity is required to be made or obtained by Parent or Buyer in connection with the execution and delivery of this Agreement or any Ancillary Agreement and the performance of the transactions contemplated hereby and thereby, except where the failure to obtain such Consent would not impair, restrict or delay the ability of Parent or Buyer to consummate the transactions contemplated by, or the performance by Parent or Buyer of any of the material obligations under, this Agreement or any Ancillary Agreement.

4.3 Claims and Litigation; Orders. There are no Claims pending or, to the knowledge of Parent or Buyer, threatened in writing against Parent or Buyer seeking to prevent or to challenge the transactions contemplated by this Agreement or any Ancillary Agreement to which each is a party or that would, or would be reasonably likely to, individually or in the aggregate, impair, restrict or delay the ability of Parent or Buyer to consummate the transactions contemplated hereby or thereby. Neither Parent nor Buyer is subject to any award, judgment, decree or other order of any Governmental Entity that would, or would be reasonably likely to, individually or in the aggregate, impair, restrict or delay the ability of Parent or Buyer to consummate the transactions contemplated hereby or thereby.

4.4 Financial Capability. Parent and Buyer each have and will have at the Closing, (a) all immediately available funds necessary to pay the Purchase Price and to consummate the transactions contemplated by this Agreement and each of the Ancillary Agreements to which each is a party and (b) all the resources and capabilities (financial and otherwise) to perform its obligations hereunder and under each of the Ancillary Agreements to which each is a party. Parent and Buyer have not undertaken any act or omission of any kind, and are not contemplating or aware of any act or omission of any kind, in either case which would impair or delay the ability of Parent or Buyer to consummate the transactions contemplated by,



or to perform its obligations under, the Ancillary Agreements to which it is a party. Parent and Buyer acknowledge that each of their obligations under this Agreement and the Ancillary Agreements to which each is a party, including each of their obligations to pay the Purchase Price, are not conditioned upon or subject to the availability of funds to Buyer.

4.5 Brokers' and Finders' Fees. No agent, broker, investment banker, finder, financial advisor or other Person is or will be entitled to any brokerage commissions, finders' fees or similar compensation in connection with the transactions contemplated by this Agreement and the Ancillary Agreements based on any arrangement or agreement made by or on behalf of Parent or Buyer or their respective Affiliates or to which any of the foregoing entities is subject.

4.6 No Other Representations; Investigation by Buyer.

(a) Except as expressly set forth in this Article IV, neither Parent nor Buyer is making and each has not made any representation or warranty, express or implied, to Seller or any Affiliate thereof concerning Parent or Buyer, as applicable.

(b) Parent and Buyer each acknowledge that each is a sophisticated purchaser of businesses of the type of the Business, has conducted a substantial and fully adequate investigation of the Business, and has been given access to all information requested by Parent and Buyer with respect to the Business in connection with such investigation. In entering into this Agreement, Parent and Buyer have not relied upon any representations or warranties other than the representations and warranties of Seller expressly set forth in Article III. Parent and Buyer each acknowledge that no other representations and warranties of Seller or its Affiliates or representatives (other than those set forth in Article III) are required by or being relied upon by Parent or Buyer or being provided by Seller or its Affiliates for Parent or Buyer to enter into this Agreement. Without limiting the generality of the foregoing, neither Seller nor its Affiliates is making any representation or warranty with respect to (i) any information, documents or materials made available to Parent or Buyer or any management presentations or offering memoranda in connection with the transactions contemplated hereby, or (ii) any financial projections, estimates or forecasts related to the Business. With respect to any such projections, estimates or forecasts delivered or made available by or on behalf of Seller or its Affiliates, each of Parent and Buyer acknowledge that: (A) there are uncertainties inherent in attempting to make projections, estimates or forecasts, (B) it is familiar with such uncertainties, (C) it is taking full responsibility for making its evaluation of the adequacy and accuracy of all such projections, estimates and forecasts so furnished to it, including the reasonableness of the assumptions underlying such projections, estimates or forecasts, and (D) it shall make no claim against Seller (or any of its directors, officers, employees, advisors, managers, agents, partners, stockholders, members, consultants, investment bankers, brokers, representatives, Controlling Persons or Affiliates of Seller) or any other Person with respect thereto.

4.7 Adequate Assurances Regarding Contracts. As of the Closing Date, each of Parent and Buyer will be capable of satisfying the conditions contained in Sections 365(b)(1)(C) and 365(f) of the Bankruptcy Code with respect to the Contracts.

4.8 Issued and Outstanding Equity. Immediately following the Closing, Parent will have total issued and outstanding preferred and common equity as follows: up to

11,000,000 Series A Preferred Units, 4,500,000 Series B Preferred Units and 10,500,000 Class A Common Units.

## ARTICLE V

### COVENANTS

#### 5.1 Management of the Business until the Closing.

(a) Except (i) as contemplated by this Agreement or any Ancillary Agreement, (ii) for matters consented to by Buyer in writing in advance (which consent shall not be unreasonably withheld, delayed or conditioned), (iii) for any limitations on operations imposed by the Bankruptcy Court or the Bankruptcy Code, or (iv) as may otherwise be required by applicable Law, during the period from the date hereof to the Closing Date, Seller will use commercially reasonable efforts to operate the Business in the ordinary course consistent with past practices. Without limiting the generality of the foregoing, and except as otherwise contemplated by this Agreement, between the date hereof and the Closing Date, Seller will not, without the prior written consent of Buyer (which consent shall not be unreasonably withheld, delayed or conditioned) or pursuant to an order of the Bankruptcy Court, with respect to the Business and the Transferred Assets:

(i) (A) grant any increase, or announce any increase, in the wages, salaries, compensation, bonuses, incentives, pension or other benefits payable by Seller to any Business Employee, or (B) establish or increase or promise to increase any benefits under any Seller Benefit Plan, in each case except as required by Law or otherwise required by contract;

(ii) (A) enter into any contract or agreement that would have qualified as a Material Contract hereunder if it had been in effect as of the date hereof, (B) except as contemplated by Section 5.3, terminate, modify in any material respect or waive any material right under any Material Contract, or (C) enter into any customer contract other than a customer contract that is substantially consistent with Seller's standard terms and conditions for customer contracts;

(iii) enter into any agreement, arrangement, or transaction with any Business Employee (or with any relative, beneficiary, spouse or Affiliate of such Persons);

(iv) subject any Transferred Asset to any Liens (other than Permitted Liens);

(v) purchase, sell, transfer, lease, license, exchange, abandon or otherwise dispose of or acquire any Purchased Assets or enter into any lease of real property or amend in any material respect any of the Real Property Leases;

(vi) incur any indebtedness for borrowed money or any other liability, or assume, grant, guarantee or endorse, or otherwise as an accommodation become responsible for, the obligations of any Person;

(vii) make any material change in any method of accounting practice or policy with respect to the Business;

(viii) settle or compromise any claim or threatened claim relating exclusively to the Business or the Transferred Assets, other than any settlement or compromise of such Claim or threatened Claim that involves solely cash payments; or

(ix) agree, whether in writing or otherwise, to do any of the foregoing.

(b) Nothing contained in this Agreement shall give Buyer, directly or indirectly, rights to control or direct Seller's operation of the Business prior to the Closing, and, prior to the Closing, Seller shall, with respect to the Business, exercise complete control and supervision of the Business, in all cases, consistent with the terms and conditions of this Agreement.

## 5.2 Access to Information; Retention of Information; Confidentiality.

(a) From the date hereof until the Closing Date, upon reasonable prior written notice and except as determined in good faith to be appropriate to ensure compliance with any applicable Laws and subject to any applicable privileges (including the attorney-client privilege) and legal or contractual confidentiality or privacy obligations, Seller will afford Parent and Buyer and its counsel, accountants and other representatives reasonable access, during regular business hours, to the employees and books and records of the Business, including, without limitation, any and all documentation in connection with the Purchased A/R; provided, however, that such access will not unreasonably interfere with the normal operations of Seller or the Business. All requests for information made pursuant to this Section 5.2(a) shall be directed to Seller. If so requested by Seller, Parent, Buyer and their Affiliates shall enter into a customary joint defense agreement with Seller with respect to any information to be provided to Parent or Buyer pursuant to this Section 5.2(a). Notwithstanding anything in this Agreement to the contrary, Seller shall not be required, prior to the Closing, to disclose, or cause or seek to cause the disclosure of, to Parent or Buyer or their Affiliates or representatives (or provide access to any employees or books and records of the Business that would reasonably be expected to result in the disclosure to such persons or others of) any confidential information to the extent that such disclosure would violate applicable Law.

(b) During the six (6) month period following the Closing Date, upon reasonable prior written notice and except as determined in good faith to be appropriate to ensure compliance with any applicable Laws and subject to any applicable privileges (including the attorney-client privilege) and contractual confidentiality or privacy obligations, Buyer will provide, furnish, and make available to Seller, its successors, assigns, counsel, accountants and other representatives: (A) reasonable access, during regular business hours, to the employees and books and records of the Business and (B) those employees of Buyer and its Affiliates whose assistance, expertise, testimony, notes and recollections or presence may be necessary to assist Seller in connection with its inquiries for any of the purposes referred to above, including the presence of such persons as witnesses in hearings or trials for such purposes; provided, however, that such investigation shall not unreasonably interfere with the business or operations of Buyer or any of its Affiliates. If so requested by Buyer, Seller, its successors, assigns, counsel, accountants or other representatives shall enter into a customary joint defense agreement with

Buyer with respect to any information to be provided to Seller pursuant to this Section 5.2(b). All requests for information made pursuant to this Section 5.2(b) shall be directed to an executive officer of Buyer or such person as may be designated by Buyer.

### 5.3 Approvals and Consents.

(a) Prior to the Closing, upon the terms and subject to the conditions of this Agreement, Seller and Buyer shall use their respective commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done and cooperate with each other in order to do, all things reasonably necessary, proper or advisable (subject to any applicable Laws) to consummate the Closing as promptly as practicable, including the preparation and filing of all forms, registrations and notices required to be filed to consummate the Closing and the taking of such other actions as are necessary to obtain any requisite approvals, authorizations, consents, orders, licenses, permits, qualifications, exemptions or waivers by any Governmental Entity. No party hereto shall take any action after the date hereof that would reasonably be expected to materially delay the obtaining of, or result in not obtaining, any permission, approval or consent from any Governmental Entity required to be obtained prior to Closing. Nothing contained in this Agreement shall require Seller or Buyer, or any of their respective Affiliates, to pay any consideration, offer or grant any accommodation or other benefit, release any claim or right or subject itself to any Liability to obtain any such permission, approval or consent.

(b) Notwithstanding the foregoing or anything in this Agreement to the contrary, with respect to Consents required under any Contract in connection with the transactions contemplated hereby, Seller shall, prior to the Closing, use its best commercially reasonable efforts to obtain the requisite Consents from counterparties to those Contracts set forth in Section 5.3(b) of the Seller Disclosure Schedule, and Buyer shall reasonably cooperate therewith.

5.4 Corporate Names. From and after the Closing, Seller shall, and shall cause its Affiliates to, cease all use of the Marks included in the Purchased Assets, all derivations thereof, and all Marks similar thereto, and Seller shall make all filings and take all other actions necessary to change its corporate name to a mark that does not contain any reference to “AES” or any Mark that is a derivation thereof or similar thereto.

### 5.5 Employee Matters.

(a) No later than ten (10) Business Days prior to the Closing Date, Seller shall deliver a schedule of all Business Employees who are actively employed by the Business, and within five (5) Business Days prior to the Closing Date, and effective as of the Closing Date, Buyer shall offer employment on an “at will” basis to each of the Business Employees who is actively employed as of the Closing Date. Each Business Employee who accepts the offer of employment described in this Section 5.5(a) shall be referred to as a “**Transferred Employee.**” On the Closing Date, Seller shall terminate the employment of each Business Employee to whom Buyer and/or one of its Affiliates offers employment in accordance with this Section 5.5(a), with such termination effective as of the Closing Date for each Business Employee who is actively employed on the Closing Date and to be effective as of the effective date of such offer of employment to each Business Employee who is on a temporary leave of absence as of the Closing Date. Seller shall reasonably cooperate with Buyer with respect to Buyer’s offers of

employment. Nothing contained herein shall limit or otherwise restrict Buyer's ability to terminate any Transferred Employee at any time and for any reason, including without cause.

(b) In the event that Seller or one of its Affiliates is required under applicable Law to make a payment after the Closing in settlement of accrued vacation or personal days of the Transferred Employees, Seller shall make such payment and Buyer shall not have any liability for such payment.

(c) Nothing in this Agreement, express or implied, shall (i) be deemed to confer upon any individual (or any beneficiary thereof) any rights under or with respect to any plan, program or arrangement described in or contemplated by this Section 5.5, and each individual (or beneficiary thereof) shall be entitled to look only to the express terms of any such plan, program, or arrangement for his or her rights thereunder or (ii) prevent the amendment or termination of any employee benefit plan, program or arrangement. Nothing contained in this Section 5.5, express or implied, is intended to or shall confer upon any other Person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement or create any third-party rights or any rights of any Person other than the parties to this Agreement.

5.6 Ancillary Agreements. On the Closing Date, each of Seller, Parent and Buyer shall execute and deliver to the other each of the Ancillary Agreements to which it is a party.

5.7 Assignment of Contracts.

(a) Buyer acknowledges that, in connection with the consummation of the transactions contemplated hereby, certain Contracts between Seller and third parties require that third parties consent to the assignment of such Contracts. If, prior to Closing, any required Consent for any assignment of any Contract is not obtained and such failure cannot be effectively overridden or cancelled by the Sale Order or other related order of the Bankruptcy Court, such Contract shall not be assigned; provided, however, that, at the Closing, Buyer shall deliver to Seller a certificate listing all such Contracts (each, a "***Non-Assigned Contract***") for which during the term of such Contracts (not including any renewal term) Seller shall not seek to reject the Non-Assigned Contract pursuant to section 365(a) or 1123(b)(2) of the Bankruptcy Code and shall use its best commercially reasonable efforts to keep the Non-Assigned Contract in effect and, consistent with the foregoing, enter into arrangements to deliver to Buyer the benefit of the Contract to the same extent as if it had been assigned, including using commercially reasonable efforts to preserve any rights under such Contracts for the benefit of Buyer (it being understood that such efforts shall not include any requirement or obligation of Seller or any of its Affiliates to pay any consideration, offer or grant any financial accommodation or other benefit, release any claim or right or subject itself to any Liability). Nothing in this Agreement shall be construed as an attempt to assign any agreement or other instrument that is by its terms non-assignable without the consent of the other party.

(b) From and after the Closing, Buyer shall pay, perform and discharge, in a timely manner and in accordance with the terms thereof, any obligations of Seller or its Affiliates to the extent arising out of, in connection with or relating to any Non-Assigned Contract. From and after the Closing, Buyer shall indemnify, defend, and hold harmless Seller and its Affiliates from any claim of breach or non-fulfillment of Business services under any Non-Assigned Contract

that is an agreement signed by Seller or its Affiliates pursuant to which Business services are provided.

5.8 Further Assurances. Following the Closing, subject to the terms and conditions of this Agreement, if any further action is necessary in order to carry out the purposes of this Agreement, each of the parties will take such further action (including the execution and delivery of such further instruments and documents) as the other party may reasonably request (at the sole cost and expense of the requesting party). Without limiting the foregoing, (a) in the event that following the Closing Date Buyer receives any monies constituting Excluded Assets, Buyer shall promptly endorse or pay such amounts over to Seller, and (b) in the event that following the Closing Date Seller receives any monies constituting Transferred Assets, Seller shall promptly endorse or pay such amounts over to Buyer.

5.9 Confidentiality. From and after the Closing Date, Seller and its Affiliates shall maintain the confidentiality of, and shall not use for the benefit of themselves or others, any information concerning the Business or the Transferred Assets (the “**Confidential Information**”). Seller agrees not to divulge, communicate, use to the detriment of Buyer or any of its Affiliates, for Seller’s or any of its Affiliates’ benefit or the benefit of any other Person, or misuse in any way, in whole or in part, any Confidential Information, including trade secrets related to the Transferred Assets as they may exist from time to time. In the event that Seller is requested or required pursuant to written or oral question or request for information or documents in any legal proceeding, interrogatory, subpoena or similar process to disclose any Confidential Information, Seller will notify Buyer promptly of the request or requirement so that Buyer may seek an appropriate protective order or waive compliance with the provisions of this Section 5.10. If, in the absence of a protective order or the receipt of a waiver hereunder, Seller is, on the advice of counsel, compelled to disclose any Confidential Information to any tribunal or else stand liable for contempt, Seller may disclose the Confidential Information to the tribunal; provided, however, that Seller shall use its best efforts to obtain, at the request of Buyer, an order or other assurance that confidential treatment will be accorded to such portion of the Confidential Information required to be disclosed as Buyer shall designate. The foregoing provisions shall not apply to any Confidential Information that is generally available to the public immediately prior to the time of disclosure unless such Confidential Information is so available due to the actions of Seller in violation of this Section 5.10.

5.10 Non-Solicitation and Non-Competition.

(a) Non-Competition. In consideration of the transactions contemplated hereby and the payment of the Purchase Price and the assumption of the Assumed Liabilities, Seller hereby covenants and agrees that during the three-year period following the Closing (the “**Restricted Period**”), Seller and its respective Affiliates (including any company or other entity controlled by Seller (whether currently existing or hereafter acquired or formed)) shall not, directly or indirectly, in any capacity, render services, engage or have a financial interest in, any business that shall be competitive with those business activities that have constituted part of the Business or any business related thereto (other than on behalf of Buyer and any Affiliate thereof) anywhere in the world, nor shall any of them assist any Person that shall be engaged in any such business activities. Notwithstanding the foregoing, nothing herein shall prohibit Seller from owning an interest in Parent or an Affiliate thereof or being a passive owner of not more than 2%

of the outstanding stock of any class of a corporation which is publicly traded, so long as Seller has no active participation in the business of such corporation.

(b) Non-Solicitation; Non-Disparagement. In consideration of the transactions contemplated hereby and the payment of the Purchase Price and the assumption of the Assumed Liabilities, Seller hereby covenants and agrees that during the Restricted Period following the Closing, neither Seller nor any of its respective Affiliates (including any company or other entity controlled by Seller (whether currently existing or hereafter acquired or formed)) shall directly or indirectly: (i) solicit or induce, or attempt to solicit or induce, any employee who accepts employment with Buyer to leave the employ of Buyer or any of its Affiliates for any reason whatsoever; (ii) hire or employ any employee who accepts employment with Buyer; (iii) solicit or induce, or attempt to solicit or induce, any Person to purchase any goods or products with respect to the Business or Transferred Assets; (iv) otherwise impede or interfere in any way with any customer relationship of any of the parties to the Contracts or any of their respective Affiliates with respect to the Business or Transferred Assets; or (v) disparage Buyer or its Affiliates in any way; provided, however, that Seller will not be deemed to have violated this clause merely as a result of publishing a solicitation of general circulation.

(c) Remedy for Breach. Seller acknowledges that its covenants contained in Sections 5.12(a) and (b) hereof are of a special, unique, unusual and extraordinary character, which give them peculiar value, the loss of which cannot be reasonably or adequately compensated in an action at law, and that, in the event there is a breach thereof by Seller or any of its respective Affiliates, Buyer will suffer irreparable harm, the amount of which will be impossible to ascertain. Accordingly, Buyer shall be entitled, if it so elects, to institute and prosecute proceedings in any court of competent jurisdiction, either at law or in equity, to obtain damages for any breach or to enforce specific performance of the provisions or to enjoin Seller or any of its respective Affiliates from committing any act in breach of any covenant contained in Sections 5.12(a) and (b) of this Agreement. If Buyer is obliged to resort to the courts for the enforcement of any of the covenants contained in Sections 5.12(a) and (b), each such covenant shall be extended for a period of time equal to the period of such breach, if any, which extension shall commence on the later of (i) the date on which the original (unextended) term of such covenant is scheduled to terminate or (ii) the date of the final court order (without further right of appeal) enforcing such covenant.

5.11 Exclusivity. From the date of this Agreement until July 15, 2015 (the "Exclusivity Expiration Date"), the Seller will not, directly or indirectly, through any officer, director, employee, agent or otherwise, (i) take any action to solicit, initiate, seek, encourage or support any inquiry, proposal or offer from, furnish any information to, or participate in negotiations with, any Person, corporation, partnership or other entity or group regarding any investment in or acquisition of the Business (in one transaction or a series of transactions) whether by acquisition or lease of any assets or equity, or by merger, other business combination or similar transaction (an "Alternative Transaction") or (ii) authorize, enter into any agreement, letter of intent, understanding or other contract with respect to, or engage in or consummate, any Alternative Transaction.

## ARTICLE VI

### CONDITIONS TO THE OBLIGATIONS OF PARENT AND BUYER

The obligation of Parent and Buyer to consummate the transactions contemplated hereby shall be subject to the satisfaction (or waiver in writing by Parent or Buyer) on or prior to the Closing of the conditions set forth below.

6.1 Sale Order. Seller shall have delivered to Parent and Buyer (a) a copy of the Sale Order (which shall contain the terms described in Section 9.1 and otherwise be in form and substance satisfactory to Parent and Buyer) and (b) copies of all affidavits of service of the Sale Motion or notice of such motion filed by or on behalf of Seller.

6.2 Bankruptcy Court Orders. The Bankruptcy Court shall have entered the Sale Order (as provided in Article IX) in form and substance satisfactory to Parent and Buyer.

6.3 Representations and Warranties. Each of the representations and warranties of Seller contained in this Agreement shall be true and correct in all material respects on and as of the Closing Date, with the same force and effect as if made on and as of the Closing Date (other than such representations and warranties as are made as of another date, which shall be true and correct as of such date) (without giving effect to any limitations or qualifications as to “materiality” (including the word “material”) or “Material Adverse Effect” set forth therein).

6.4 Covenants. Seller shall have complied in all material respects with the agreements, covenants, undertakings and obligations set forth herein to be complied with by Seller prior to the Closing Date.

6.5 Certificate. Seller shall have delivered to Parent and Buyer a certificate, dated as of the Closing Date, and signed by an executive officer of Seller, stating that the conditions set forth in Sections 6.3 and 6.4 have been satisfied.

6.6 No Order; No Litigation. No Governmental Entity of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any Law (whether temporary, preliminary or permanent) that is in effect and restrains, enjoins or otherwise prohibits consummation of purchase and sale of the Transferred Assets or the assumption of the Assumed Liabilities or the other transactions contemplated hereby (a “**Prohibition**”), and no Governmental Entity shall have instituted any proceeding seeking any such Prohibition.

6.7 Assumption and Assignment of Contracts. The court shall have approved the assumption by Seller and assignment to Buyer of the Contracts set forth on Schedule 6.7 (the “**Assumed Contracts**”) or the Buyer shall have entered into new contracts satisfactory to Buyer with the counterparties thereto.

6.8 Trust and Plan Documents. Seller shall have delivered to Parent and Buyer copies of (a) the Liquidating Trust Agreement and (b) the Plan of Liquidation, filed or to be filed in connection with Seller’s Chapter 11 Cases both in form and substance satisfactory to Parent and Buyer.



6.9 Ancillary Agreements. Seller shall have duly executed and delivered to Buyer or Parent, as applicable, each of the Ancillary Agreements, each in form and substance satisfactory to Buyer or Parent, as applicable, to which it is a party.

## ARTICLE VII

### CONDITIONS TO SELLER'S OBLIGATIONS

The obligation of Seller to consummate the transactions contemplated hereby shall be subject to the satisfaction (or waiver in writing by Seller) on or prior to the Closing Date of the conditions set forth below.

7.1 Bankruptcy Court Orders. The Bankruptcy Court shall have entered Sale Order (as provided in Article IX) in form and substance reasonably satisfactory to Seller.

7.2 Representations and Warranties. Each of the representations and warranties of Buyer contained in this Agreement shall be true and correct on and as of the Closing Date, with the same force and effect as if made on and as of the Closing Date (other than such representations and warranties as are made as of another date, which shall be true and correct as of such date), except where the failure to be so true and correct (without giving effect to any limitations or qualifications as to "materiality" (including the word "material") set forth therein) does not, and would not be reasonably likely to, individually or in the aggregate, impair, restrict or delay the ability of Buyer to consummate the transactions contemplated by this Agreement.

7.3 Covenants. Buyer shall have complied in all material respects with the agreements, covenants, undertakings and obligations set forth herein to be complied with by Buyer prior to the Closing Date.

7.4 Certificate. Buyer shall have delivered to Seller a certificate, dated as of the Closing Date, and signed by an executive officer of Buyer, stating that the conditions set forth in Sections 7.2 and 7.3 have been satisfied.

7.5 No Order; No Litigation. No Governmental Entity of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any Prohibition, and no Governmental Entity shall have instituted any proceeding seeking any Prohibition.

7.6 Ancillary Agreements. Buyer shall have duly executed and delivered to Seller each of the Ancillary Agreements to which it is a party.

## ARTICLE VIII

### TERMINATION, AMENDMENT AND WAIVER

8.1 Termination. This Agreement may be terminated and the transactions contemplated hereby may be abandoned at any time prior to the Closing Date:

- (a) by mutual written consent of Buyer and Seller;

(b) by either Buyer or Seller, if any Governmental Entity shall have issued, enacted, entered, promulgated or enforced any Prohibition and such Prohibition shall have become final and non-appealable; provided, however, that the right to terminate this Agreement pursuant to this Section 8.1(b) shall not be available to any party that has failed to comply with its obligations hereunder in any manner that shall have proximately contributed to the occurrence of such Prohibition;

(c) by either Buyer or Seller prior to the Closing, if, following its entry, the Sale Order shall fail to be in full force and effect or shall have been stayed, reversed, modified or amended in any material respect without the prior written consent of Buyer and Seller; provided, however, that the right to terminate this Agreement under this Section 8.1(c) shall not be available to any party whose failure to fulfill any material obligation under this Agreement has been the cause of, or resulted in, the failure of the Sale Order to be in full force or effect;

(d) by Buyer, if Seller enters into definitive documentation regarding an Acquisition Proposal with any Person other than Buyer;

(e) by Buyer, if there has been a breach of any representation, warranty, covenant or agreement made by Seller in this Agreement that would give rise to the failure of any of the conditions specified in Article VI and such breach has not been cured by Seller within ten (10) Business Days of Seller's receipt of written notice of such breach from Buyer which notice shall specify in reasonable detail the nature of such breach; provided, however, that there is not then a breach of, inaccuracy in or failure to perform any representation, warranty, covenant or agreement made by Buyer pursuant to this Agreement that would give rise to the failure of any of the conditions specified in Article VII;

(f) by Seller, if there has been a breach of any representation, warranty, covenant or agreement made by Buyer in this Agreement that would give rise to the failure of any of the conditions specified in Article VII and such breach has not been cured by Buyer within ten (10) Business Days of Buyer's receipt of written notice of such breach from Seller which notice shall specify in reasonable detail the nature of such breach; provided, however, that there is not then a breach of, inaccuracy in or failure to perform any representation, warranty, covenant or agreement made by Seller pursuant to this Agreement that would give rise to the failure of any of the conditions specified in Article VI;

(g) by Buyer, at any time after Seller files any standalone chapter 11 plan of reorganization with the Bankruptcy Court or at any time after Seller files any chapter 11 plan that involves approval of a sale of any Transferred Assets to a party other than Buyer;

(h) by Buyer, if the Sale Order shall not have been entered by the Bankruptcy Court by July 31, 2015;

(i) by Buyer, if the Sale Order is modified in any material respect, as determined in the sole discretion of Buyer, in each case without the prior written consent of Buyer;

(j) by either Buyer or Seller, if the Closing shall have not been consummated on or before August 7, 2015 (the "***Outside Date***"); provided, however, that if the Closing shall not have occurred on or before the Outside Date due to a material breach of any representations,

warranties, covenants or agreements contained in this Agreement by Buyer or Seller, then Buyer (if it is so in breach) or Seller (if it is so in breach) may not terminate this Agreement pursuant to this Section 8.1(j); or

(k) by Buyer for any reason at any time on or before the Exclusivity Expiration Date.

8.2 Procedure Upon Termination. In the event of a termination of this Agreement by Buyer or Seller, or both, pursuant to Section 8.1: (a) written notice thereof shall be given promptly by the terminating party to the other party, specifying the provision hereof pursuant to which such termination is made, (b) except as contemplated by Section 8.3, this Agreement shall thereupon terminate and become void and of no further force and effect, and (c) the consummation of the transactions contemplated by this Agreement shall be abandoned without further action of the parties.

8.3 Effect of Termination.

(a) In the event that this Agreement is validly terminated as provided in Section 8.1 and Section 8.2, this Agreement will be of no further force or effect and there will be no Liability on the part of any party with respect thereto; provided, however, that Section 5.2, this Section 8.3, Article I, Article XI shall survive any such termination and shall be enforceable hereunder.

(b) In the event that this Agreement is validly terminated by Buyer in accordance with Sections 8.1(d) or 8.1(g) (each, a “**BUF Termination Provision**”) and Section 8.2, Seller shall immediately pay (in cash) to Buyer a breakup fee in an amount equal to \$330,000 (the “**Breakup Fee**”). Seller’s obligation to pay the Breakup Fee pursuant to this Section 8.3(b) (which obligation shall arise solely in connection with Buyer’s election to terminate this Agreement pursuant to a BUF Termination Provision) shall survive the Buyer’s termination of this Agreement and shall constitute an administrative expense of Seller, which shall be an administrative expense claim *pari passu* to all other administrative expense claims (subject to the Carve-Out, as defined in the DIP Motion and DIP Order). Buyer acknowledges and agrees that in the event this Agreement is validly terminated by either party in accordance with any subsection of Section 8.1 other than the BUF Termination Provisions (each, a “**Non-BUF Termination Provision**”) and Section 8.2, Buyer shall have no right to the Breakup Fee (or any portion thereof) notwithstanding Seller taking any of the following actions after this Agreement is terminated in accordance with a Non-BUF Termination Provision: (i) entering into definitive documentation regarding an Acquisition Proposal with any Person, (ii) filing any standalone chapter 11 plan of reorganization with the Bankruptcy Court and/or (iii) filing any chapter 11 plan that involves approval of a sale of any Transferred Assets.

(c) In the event that this Agreement is validly terminated as provided in Sections 8.1(c)-(e) and (g)-(i), or by Buyer pursuant to Section 8.1(j), Buyer shall receive a return of the Deposit from the Escrow Agent promptly after such termination.

(d) In the event that this Agreement is validly terminated as provided in Sections 8.1(a)-(b) and (f), by Seller pursuant to Section 8.1(j) or by Buyer pursuant to Section 8.1(k), Seller shall receive the Deposit from the Escrow Agent promptly after such termination. The parties hereto further acknowledge and agree that the payment of the Deposit pursuant to this

Section 8.3(d) does not constitute a penalty but shall constitute liquidated damages to compensate the Seller for any termination of this Agreement pursuant to Sections 8.1(a)-(b) and (f), by Seller pursuant to Section 8.1(j) or by Buyer pursuant to Section 8.1(k). The payment of the Deposit pursuant to this Section 8.3(d) shall be the sole and exclusive remedy of AEST and AESP, any of their Affiliates or their respective former, current or future equityholders, controlling persons, partners, directors, officers, employees, service providers, financing sources, advisors or representatives against the Buyer, Parent or any of their Affiliates or their respective former, current or future equityholders, controlling persons, partners, directors, officers, employees, service providers, financing sources, advisors or representatives with respect to any breach of any representation, warranty, covenant or obligation in this Agreement or otherwise in connection with this Agreement or the Ancillary Agreements or the transactions contemplated hereby and thereby and for any termination of this Agreement pursuant to Sections 8.1(a)-(b) and (f), by Seller pursuant to Section 8.1(j) or by Buyer pursuant to Section 8.1(k).

(e) The parties acknowledge that the agreements contained in this Section 8.3 are an integral part of the transactions contemplated by this Agreement and constitute liquidated damages and not a penalty, and that, without these agreements, Buyer would not have entered into this Agreement.

## ARTICLE IX

### BANKRUPTCY COURT MATTERS

9.1 Sale Order. The Sale Order shall be entered by the Bankruptcy Court on or before July 31, 2015 in the form attached hereto as Exhibit F and otherwise in form and substance acceptable to Seller and Buyer. The Sale Order shall, among other things, (a) approve, pursuant to Sections 105, 363 and 365 of the Bankruptcy Code, (i) the execution, delivery and performance by Seller of this Agreement, (ii) the sale by Seller of the Purchased Assets to Buyer or the contribution of the Contributed Assets to Parent on the terms and subject to the conditions herein and free and clear of all Liens (other than Permitted Liens), and (iii) the performance by Seller of its obligations under this Agreement; (b) authorize and empower Seller to assign to Buyer the Contracts; and (c) find that Buyer is a “good faith” purchaser within the meaning of Section 363(m) of the Bankruptcy Code, not a successor to Seller and grant Buyer the protections of Section 363(m) of the Bankruptcy Code. Buyer agrees that it will timely take such actions as are reasonably requested by Seller to assist in obtaining Bankruptcy Court approval of the Sale Order, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court for purposes, among others, of (A) demonstrating that Buyer is a “good faith” buyer under Section 363(m) of the Bankruptcy Code and (B) establishing adequate assurance of future performance within the meaning of Section 365 of the Bankruptcy Code. In the event that the Bankruptcy Court’s approval of the Sale Order shall be appealed, Seller shall use best efforts to defend such appeal.

## ARTICLE X

### TAX MATTERS

10.1 Transfer Taxes. Notwithstanding anything herein to the contrary, Seller shall be liable for and shall pay all transfer, gains, sales, use, stock transfer and stamp taxes, recording, registration and other fees, and any similar Taxes which become payable in connection with the transactions contemplated by the Agreement (collectively, “*Transfer Taxes*”).

10.2 Bulk Sales Laws. The parties hereby waive compliance with the provisions of any tax clearance procedures, bulk sales, bulk transfer or similar Laws of any jurisdiction that may otherwise be applicable with respect to the sale or contribution of any or all of the Transferred Assets to Parent and Buyer.

10.3 Predecessor-Successor Reporting for Federal Tax Purposes. Seller and Buyer agree to report on a “predecessor-successor” basis pursuant to the “Alternate Procedure” provided in Section 5 of Revenue Procedure 2004-53, 2004-2 C.B. 320, with respect to filing and furnishing IRS Forms W-2 and 941, Seller shall be relieved from furnishing Forms W-2 to Transferred Employees for the current calendar year, and Buyer shall assume the obligation to furnish such forms to such employees for the full calendar year.

## ARTICLE XI

### MISCELLANEOUS

11.1 Specific Enforcement. The parties agree that irreparable damage would occur and that the parties would not have an adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions in this Agreement in any state court in the State of Florida (and any appellate court of the State of Florida) and the federal courts of the United States located in the Southern District of the State of Florida, this being in addition to any other remedy to which the parties are entitled at law or in equity.

11.2 Survival. The parties hereto agree that the representations and warranties contained in this Agreement shall expire upon the Closing Date, except for the representations and warranties set forth in Section 3.9 (Intellectual Property), which shall survive the Closing. Notwithstanding the foregoing, to the extent that any specific claims for indemnification in respect of a breach of any such representation or warranty is made in writing on or before such date of termination of such representation or warranty, such representation or warranty shall survive until the resolution of such claim. The parties hereto agree that the covenants contained in this Agreement to be performed at or after the Closing shall survive in accordance with the terms of the particular covenant or until fully performed.

11.3 Indemnification. Subject to the limitations set forth in Section 11.2, Section 11.3, and Section 11.4, after the Closing, Seller shall indemnify Parent, Buyer and/or their

officers, directors, employees, Affiliates and/or agents (each a “*Buyer Indemnitee*” and, collectively, the “*Buyer Indemnites*”), and hold each Buyer Indemnitee harmless from and against any loss, Liability, deficiency, damage, fine, penalty, Tax or expense (including reasonable legal expenses and costs and any cost or expense arising from or incurred in connection with any action, suit, proceeding, claim or judgment relating to any matter described in this clause, or in enforcing the indemnity provided by this Section 11.3 (any such amount, a “*Loss*”)), which such Buyer Indemnitee may suffer, sustain or become subject to, as a result of any breach by Seller of the representations and warranties set forth in Section 3.9 (Intellectual Property).

11.4 Indemnification Limitation. Buyer and/or Parent shall set-off amounts subject to indemnification by Seller payable to any Buyer Indemnitee, and any defense costs (including reasonable legal fees and court costs) to which any Buyer Indemnitee is entitled, pursuant to this Article XI (such amount, in each case, the “*Set-Off Amount*”) by recovering from Seller (or its assignee) that portion of the Equity Consideration held by Seller (or any Affiliate of Seller) as has such value as (with such value being reasonably determined by the Board of Directors of the Buyer) is equal to the Set-Off Amount, and all indemnification obligations by Seller shall be limited to the Equity Consideration held by Seller (or any Affiliate of Seller). At such time after the date hereof at which Seller or its Affiliates no longer own any Equity Consideration, Seller shall have no further liability to any Buyer Indemnitee pursuant to this Article XI. Notwithstanding anything to the contrary herein, this Section 11.4 sets forth the maximum liability of Seller pursuant to this Article XI.

11.5 Notices. All notices, requests, demands and other communications pursuant to this Agreement shall be in writing, addressed to the address of the parties stated below or to such changed address as such party may have fixed by notice, and shall be deemed to have been given and received: (a) the same day, if by hand delivery, (b) the next Business Day, if by a nationally-recognized overnight courier, (c) five (5) days after mailed, in any general or branch United States Post Office, enclosed in a registered or certified post-paid envelope, return receipt requested or (d) upon confirmation of receipt during normal business hours, if by fax, e-mail or other form of electronic transmission:

If to Buyer or Parent to:

c/o Kinderhook Industries, LLC  
521 Fifth Avenue, 34th Floor  
New York, NY 10106  
Attention: Paul Cifelli, Michael Zoch  
Fax No.: (212) 201-6790

and

Kirkland & Ellis LLP  
601 Lexington Avenue  
New York, NY 10022  
Attention: Elazar Guttman  
Fax No.: (212) 446-6460

If to Seller, to:

AES Technologies, LLC  
4887 Belfort Road  
Suite 400  
Jacksonville, FL 32256  
Attention: Brent Williams  
Fax No.: (904) 680-5119  
E-Mail: brent.williams@teneocap.com

and

Akerman LLP  
50 N. Laura Street, Suite 3100  
Jacksonville, Florida 32202  
Attention: Jacob Brown  
Fax No.: (904) 798-3730  
E-Mail: jacob.brown@akerman.com

Any notice of change of address shall be effective only upon receipt.

11.6 Governing Law. This Agreement is to be governed by and construed in accordance with federal bankruptcy law, to the extent applicable, and where state law is implicated, the laws of the State of Florida shall govern, without giving effect to the choice of law principles thereof, including all matters of construction, validity and performance.

11.7 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any Law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible.

11.8 Counterparts. This Agreement may be executed in one or more counterparts, each of which when executed shall be deemed an original, but all of which together shall constitute one and the same instrument. The exchange by facsimile or other means of electronic transmission of executed counterparts of this Agreement shall be deemed execution and delivery thereof.

11.9 Public Announcement. Neither Buyer nor Seller will issue or permit any of its respective Affiliates, agents, stockholders, directors, officers or employees to issue, any press release or public filing or other public announcement concerning the transactions contemplated hereby without the prior written consent of the other; provided, however, that nothing contained herein shall prevent Buyer or Seller or their respective Affiliates from furnishing, before or after

the Closing, any required information to, or filing any required information with, the Bankruptcy Court or any other Governmental Entity or national securities exchange in order to comply with its legal obligations or from disclosing any information deemed necessary by Seller in its financial statements.

11.10 Expenses. Whether or not the transactions contemplated by this Agreement are consummated, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby (including the fees and disbursements of the counsel, accountants or auditors retained by each party in connection with the negotiation, preparation, execution and performance of this Agreement, or any other document, agreement or requirement contemplated by or resulting from the transactions described in this Agreement) shall be paid by the party incurring such costs and expenses.

11.11 Binding Effect; Assignment. This Agreement shall be binding upon Parent and Buyer and, subject to entry of the Sale Order, Seller, and inure to the benefit of the parties and their respective successors and permitted assigns, including any trustee or estate representative appointed in the Chapter 11 Cases or any successor Chapter 7 case. Nothing in this Agreement shall create or be deemed to create any third party beneficiary rights in any Person not a party to this Agreement. Neither this Agreement, nor any of the rights or obligations hereunder, may be assigned by any party hereto without the prior written consent of the other parties hereto.

11.12 Consent to Jurisdiction; Waiver of Jury Trial.

(a) **THE BANKRUPTCY COURT WILL HAVE JURISDICTION OVER ANY AND ALL DISPUTES BETWEEN OR AMONG THE PARTIES, WHETHER IN LAW OR EQUITY, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY AGREEMENT CONTEMPLATED HEREBY; PROVIDED, HOWEVER, THAT IF THE BANKRUPTCY COURT IS UNWILLING OR UNABLE TO HEAR ANY SUCH DISPUTE, THE COURTS OF THE STATE OF FLORIDA AND THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA LOCATED IN THE MIDDLE DISTRICT OF THE STATE OF FLORIDA WILL HAVE SOLE JURISDICTION OVER ANY AND ALL DISPUTES BETWEEN OR AMONG THE PARTIES, WHETHER IN LAW OR EQUITY, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY AGREEMENT CONTEMPLATED HEREBY.**

(b) **EACH PARTY HERETO HEREBY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR ANY ANCILLARY AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY ANCILLARY AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREIN OR THEREIN.**



11.13 Seller Disclosure Schedule. The disclosure of any matter in any Section of this Agreement, including any section or subsection of the Seller Disclosure Schedule or the Buyer Disclosure Schedule, shall be deemed to be a disclosure for all purposes of this Agreement to which the relevance of the disclosure is reasonably apparent. No reference to or disclosure of any item or other matter in any section of this Agreement, including any section or subsection of the Seller Disclosure Schedule or the Buyer Disclosure Schedule, shall be construed as an admission or indication that such item or other matter is material or that such item or other matter is required to be referred to or disclosed in this Agreement, the Seller Disclosure Schedule or the Buyer Disclosure Schedule. Without limiting the foregoing, no such reference to or disclosure of a possible breach or violation of any contract, Law or order of a Governmental Entity shall be construed as an admission or indication that any such breach or violation exists or has actually occurred.


11.14 Amendment; Waiver. No provision of this Agreement may be amended, supplemented or modified except by a written instrument signed by all of the parties hereto. Either Buyer or Seller may (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 of the other party contained herein or in any document delivered by the other party pursuant hereto or (c) waive compliance with any of the agreements or conditions of the other party contained herein. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the party or parties to be bound thereby. Any waiver of any term or condition shall not be construed as a waiver of any subsequent breach or a subsequent waiver of the same term or condition, or a waiver of any other term or condition, of this Agreement. The failure of any party to assert any of its rights hereunder shall not constitute a waiver of any of such rights.

11.15 Entire Agreement. This Agreement, including the Annexes and Exhibits hereto, and the Ancillary Agreements set forth the entire agreement and understanding among the parties as to the subject matter hereof and merge and supersede all prior discussions, agreements and understandings of every kind and nature among them with respect to the subject matter hereof, and no party hereto shall be bound by any representation, warranty, covenant, term or condition, whether written or oral, other than as expressly provided for in this Agreement or any Ancillary Agreement as to the subject matter hereof or thereof.

[Signature Page Follows]

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

**AES TECHNOLOGIES, LLC**, a Florida limited liability company

By:   
Name: Brent Williams  
Title: Chief Restructuring Officer

**AUTOMOTIVE ELECTRONIC SOLUTION PROVIDERS, LLC**, a Florida limited liability company

By:   
Name: Brent Williams  
Title: Chief Restructuring Officer

**REPAIRIFY HOLDINGS, LLC**, a Delaware limited liability company

By:   
Name: Michael Zoch  
Title: Vice President

**REPAIRIFY, INC.**, a Delaware corporation

By:   
Name: Michael Zoch  
Title: Vice President

## BILL OF SALE

THIS BILL OF SALE (this "Bill of Sale") is entered into as of July 28, 2015, by and between AES Technologies, LLC, a Florida limited liability company (the "Seller") and Repairify, Inc., a Delaware corporation (the "Buyer").

WHEREAS, pursuant to that certain Asset Purchase and Contribution Agreement, dated as of June 3, 2015 (the "Purchase Agreement"), by and among Repairify Holdings, LLC, a Delaware limited liability company, the Buyer and Seller, Seller has agreed to sell to Buyer and Buyer has agreed to purchase from Seller, for the consideration and upon the terms and conditions set forth in the Purchase Agreement, all right, title and interest to the Purchased Assets; and

WHEREAS, Seller desires to deliver to Buyer such instruments of sale, transfer, conveyance, assignment and delivery as are required to vest in Buyer, as applicable, all of Seller's right, title and interest in and to the Purchased Assets.

NOW, THEREFORE, pursuant to the Purchase Agreement and in consideration of the mutual promises contained therein, and for other good and valuable consideration, the receipt and sufficiency of which Seller and Buyer each acknowledge, the parties agree as follows:

1. Each capitalized term used but not defined in this Bill of Sale shall have the meaning ascribed to it in the Purchase Agreement.

2. Effective as of the Closing Date, Seller hereby sells, transfers, assigns, conveys and delivers to Buyer all of Seller's right, title and interest in and to all of the Purchased Assets (other than those Purchased Assets that are effectively sold, transferred, assigned, conveyed and delivered by Seller to Buyer as of the Closing Date pursuant to other bills of sale or other instruments of sale, transfer, assignment and conveyance executed by Seller and Buyer), free and clear of all Liens.

3. Nothing in this Bill of Sale shall be deemed to supersede, enlarge or modify any of the provisions of the Purchase Agreement, all of which survive the execution and delivery of this Bill of Sale as provided and subject to the limitations set forth in the Purchase Agreement. If any conflict exists between the terms of this Bill of Sale and the terms of the Purchase Agreement, the terms of the Purchase Agreement shall govern and control.

4. Seller does hereby constitute and appoint Buyer, its successors and assigns, as the attorney-in-fact of Seller, with full power of substitution, in Seller's name and stead, as the case may be, on behalf and for the benefit of Buyer, its successors and assigns, solely for the purpose to demand and receive any and all of the Purchased Assets and to give receipts and releases for and in respect of the Purchased Assets, or any part thereof, and from time to time to institute and prosecute in Seller's name for the benefit of Buyer, its successors and assigns, any and all reasonable proceedings at law, in equity or otherwise, which Buyer, its successors and assigns, may deem proper for the collection or reduction to possession of any of the Purchased Assets and to do all things reasonably necessary to recover and collect the Purchased Assets.

5. This Bill of Sale is made for the sole benefit of the parties hereto and their respective successors, executors and permitted assigns, and nothing contained herein, express or implied, is intended to or shall confer upon any other Person any third-party beneficiary right or any other legal or equitable rights, benefits or remedies of any nature whatsoever under or by reason of this Bill of Sale.

6. This Bill of Sale shall be governed by and construed in accordance with the Laws of the State of Florida, without giving effect to any choice of law or conflict of law provision that would cause the application of the Laws of any jurisdiction other than the State of Florida.

7. This Bill of Sale shall be effective as of the Closing Date.

8. This Bill of Sale may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

[Remainder of page intentionally blank]

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

**AES TECHNOLOGIES, LLC**

By: \_\_\_\_\_



Name: Brent Williams

Title: Chief Restructuring Officer

**REPAIRIFY, INC.**

By: \_\_\_\_\_

Name: Michael Zoch

Title: Vice President

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

**AES TECHNOLOGIES, LLC**


By: \_\_\_\_\_  
Name:  
Title:

**REPAIRIFY, INC.**

By:  \_\_\_\_\_  
Name: Michael Loch  
Title: Vice President



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# asTech Remote Diagnostics for Automotive Shops

The patented asTech remote diagnostic device is the leading tool for automotive repair shops that want to perform more efficient work and guarantee better results for customers. With the help of our staff of certified master technicians (</about/>), identifying all of the issues that need repair on any vehicle is easier than ever.



EXHIBIT 3



The price is good for dealership-level scans. I have blown a whole lot more money on other scanners that I've never really even used. This tool is a whole lot cheaper and very practical financially.

– Kyle Wiersma

Supported by Master  
Technicians



## The asTech offers OEM scans that identify any and all existing issues within the vehicle.

The asTech offers OEM scans that identify any and all existing issues with the vehicle. This allows shops to create a full repair plan and order all needed parts before the repair starts.

With certified master technicians performing asTech scans and making repair recommendations, your technicians can be confident that they are receiving expert advice.

## Cloud Based App for Added Convenience

The new Cloud-based app makes the asTech even easier and more convenient to use.

## Verify All Repairs Have Been Completed

An asTech completion scan can minimize return visits from customers by confirming all work has been completed and trouble codes have been reset.

## Jim Porcari Joins the Board of CDS, makers of the asTech™ device (/news/jim-porcari-joins-the-board-of-cds/)

Posted on 07/28/16

Plano, TX Jul 29, 2016 – Jim Porcari, former President of AIG Personal Lines Claims (US), has joined CDS's board of directors. As part of the CDS Board, Porcari will help guide the company as it rolls out its patented next generation asTech™ remote diagnostic solution to the auto physical damage industry.

[READ MORE \(/news/jim-porcari-joins-the-board-of-cds/\)](/news/jim-porcari-joins-the-board-of-cds/)



## asTech Training (/media/1076/training.pdf)

Posted on 11/09/15

asTech training PDF covering descriptions and features of the asTech device.

[READ MORE \(/media/1076/training.pdf\)](/media/1076/training.pdf)



## See What Can't Be Seen with the asTech (/news/see-what-cant-be-seen-with-the-astech/)

Posted on 02/02/16

Check out this asTech video and discover what truly sets the asTech apart.

[READ MORE \(/news/see-what-cant-be-seen-with-the-astech/\)](/news/see-what-cant-be-seen-with-the-astech/)

[GO TO BLOG SECTION \(/news/\)](/news/)

## Shops Using an asTech™ device in Your Area

Enter Your Zip or Postal Code

SUBMIT

## Want more information?

Sign-up for the newsletter

First Name\*

Last Name\*

Email\*

SUBMIT

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600 Development Dr.  
Suite 100  
Plano, TX 75074

**East Coast Office**  
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Jacksonville, FL 32256

**1-888-486-1166**

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## What Is asTech™ ?

asTech™ is poised to change the collision repair industry by making accurate remote diagnostics accessible to shops of every size. Here is a look at how asTech™ device works and what information you can expect to get from an asTech™ device.



## What Is an asTech™ device?

The asTech™ device is a remote diagnostic tool that allows collision shops and repair technicians to have a vehicle scanned before or after repair work is done. Scanning ensures that all of the vehicle's issues have been fully addressed and that all systems are working properly.

## How Does It Work?

- 1 The technician connects the asTech™ device to the vehicle, puts the key in the car, turns the ignition to ON, and connects a battery support- this will keep the car battery from dying during a scan
- 2 The technician goes to [www.asTech.com](http://www.asTech.com) (<http://www.astech.com/>) to submit a service request
- 3 An OEM master technician will send a message to the asTech™ device informing the shop that the scan is about to begin
- 4 Once the scan is completed, the asTech™ master technician transmits a full report to the shop

## What Information Do You Get?

- Find out what issue is causing the dashboard warning lights to stay lit
- Ensure all sensor systems are functioning properly
- Identify any hidden damage due to collision
- Information about hidden problems that do not cause a warning light

## Where Can You Get One?

Go to the "Get an asTech™" page (/get-an-astech/) to order your asTech™ device today.

[WHAT IS ASTECH \(/what-is-astech/\)](/what-is-astech/)

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# Get An asTech Remote Diagnostic Device

## Order your asTech™ device

The asTech™ device has been redesigned and we are now shipping the newest model which includes the features that made the asTech so popular and useful, along with increased coverage and many upgrades to increase the functionality of the unit. Order your asTech™ device today by filling out the form to the right.

## What is an asTech™ device?

Find out more about what the asTech™ device does, how it works and how it can benefit your repair shop.

## Shops Using an asTech™ device in Your Area

## Order Your asTech™ device!

Please provide your information below, and a fulfillment specialist will contact you to complete your order for an asTech™ device.

First Name\*

Last Name\*

Phone Number\*



Enter Your Zip or Postal Code

Email\*

SUBMIT

Shop Name\*

Shop Address

City

State

Zip Code

SUBMIT

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## Resources

### asTech Resources

Get the latest information about the collision repair industry and the asTech remote diagnostic device (</what-is-astech/>) on the asTech blog (</news/>). Follow us on social media to ensure you never miss a post!



### asTech Training (</media/1076/training.pdf>)

Posted on 11/09/15

asTech training PDF covering descriptions and features of the asTech device.

[READ MORE \(/media/1076/training.pdf\)](/media/1076/training.pdf)



(<http://info.astech.com/reg-for-ask-astech-webinar>)

### asTech Coverage Chart



## Parts information update from Honda (/media/1024/parts- information-update-from- honda.pdf)

Posted on 06/13/14

At various times during production of certain vehicle models, American Honda used both Continental and TRW-supplied SRS parts. Although the wiring harnesses and connectors are exactly the same, each supplier has a different way of sending signals between the impact sensors and the SRS unit. This information doesn't apply to Japan-built models or Civic Coupes. All Civic Coupes come with Continental-supplied parts.

**READ MORE** (/media/1024/parts-information-  
update-from-honda.pdf)

We service the most popular makes and models. Download our coverage chart here (/media/1185/cds-coverage-chart.pdf) and see if your vehicle is covered.

## Shop Internet Access Requirements

Download our internet access requirements here (/media/1134/shop-internet-access-requirements.pptx).

## Work Authorization Form

Download our diagnostic scan work authorization form to get permission to perform a scan.

[Download Authorization Form \(/media/1213/\)](/media/1213/)

If you have trouble downloading this document, please email us directly (<mailto:info@astech.com>).

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# News and Blog

## The asTech News and Blog

Get the latest information about the collision repair industry and the asTech remote diagnostic device (</what-is-astech/>) on the asTech blog. Follow us on social media to ensure you never miss a post!

## Jim Porcari Joins the Board of CDS, makers of the asTech™ device (</news/jim-porcari-joins-the-board-of-cds/>)

Posted on 07/28/16

Plano, TX: Jul 29, 2016 – Jim Porcari, former President of AIG Personal Lines Claims (US), has joined CDS's board of directors. As part of the CDS Board, Porcari will help guide the company as it rolls out its patented next generation asTech™ remote diagnostic solution to the auto physical damage industry.

[READ MORE \(/news/jim-porcari-joins-the-board-of-cds/\)](/news/jim-porcari-joins-the-board-of-cds/)



## Top Places for Hidden Vehicle Damage After a Collision (</news/top-places-for-hidden-vehicle-damage-after-a-collision/>)

Posted on 07/18/16

After a collision, hidden damage can occur in many sections of the vehicle and be difficult to detect. This infographic gives a breakdown of the parts of the vehicle that are most likely to contain damage after an accident.

[READ MORE \(/news/top-places-for-hidden-vehicle-damage-after-a-collision/\)](/news/top-places-for-hidden-vehicle-damage-after-a-collision/)

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## Dan Young joins Collision Diagnostic Services as VP Sales and Marketing (</news/dan-young-joins-collision-diagnostic-services-as-vp-sales-and-marketing/>)

Posted on 07/05/16

July 07, 2016—Collision Diagnostic Services (CDS) today announced the appointment of Dan Young as Vice President Sales and Marketing. Young will assume responsibility for sales, marketing and business development.

[READ MORE \(/news/dan-young-joins-collision-diagnostic-services-as-vp-sales-and-marketing/\)](/news/dan-young-joins-collision-diagnostic-services-as-vp-sales-and-marketing/)

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## Top 10 Shops for June 2016 (/news/top-10-shops-for-june-2016/)

Posted on 07/03/16

Each month, we recognize the ten auto repair shops that use the asTech™ device the most. For the month of June 2016, our congratulations go out to the shops on this list for making the top ten list more than once.

[READ MORE \(/news/top-10-shops-for-june-2016/\)](/news/top-10-shops-for-june-2016/)

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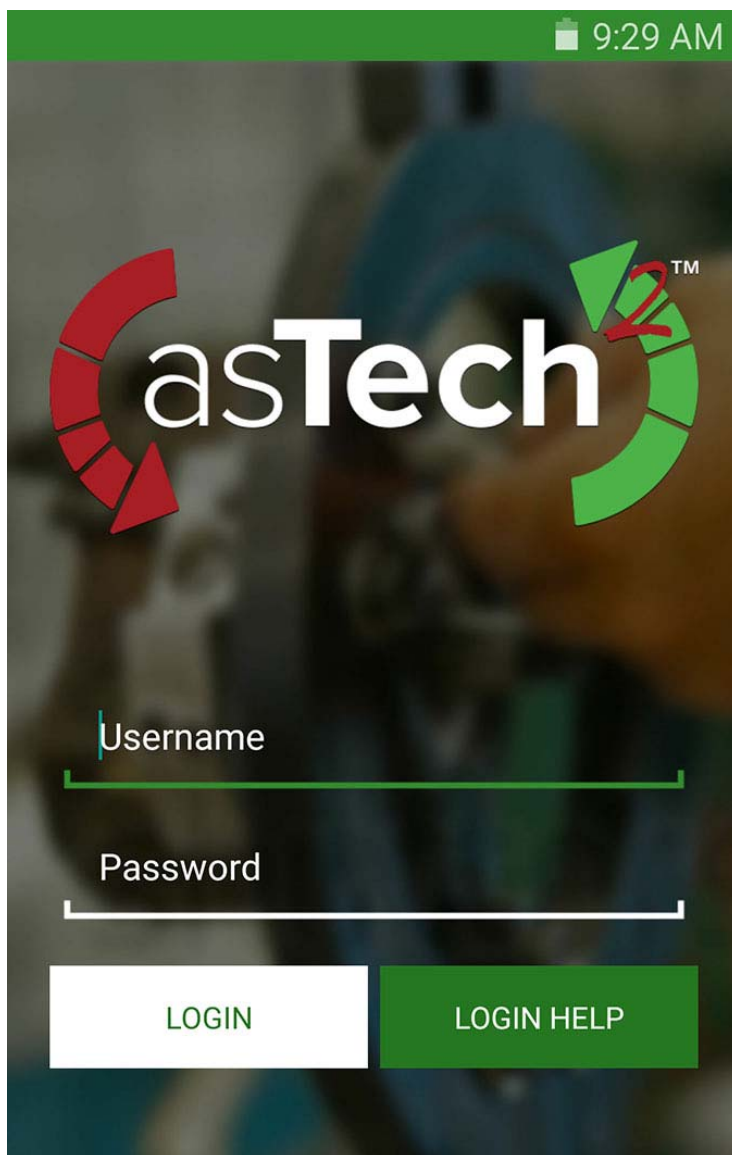


## Scan Tool Position Statement from FCA (/news/scan-tool-position- statement-from-fca/)

Posted on 06/14/16

This statement from FCA US, LLC. discusses the need for a vehicle diagnostic tester as a part of vehicle service and maintenance.

**READ MORE** (/news/scan-tool-position-  
statement-from-fca/)



## Fiat Chrysler Automobiles Recommends Use of the asTech™ Device on All Collision Repairs (/news/fiat-chrysler- automobiles-recommends- use-of-the-astech-device-on- all-collision-repairs/)

Posted on 06/10/16

June 9<sup>th</sup> 2016 Fiat Chrysler Automobiles (FCA US LLC) announced new repair guidelines that emphasize the importance of scanning vehicles before and after collision repairs to ensure the functionality of built in safety features. In the position statement, FCA clarifies that even vehicles involved in minor collisions, where the airbag is not deployed, must be scanned.

**READ MORE** (/news/fiat-chrysler-automobiles-recommends-use-of-the-astech-device-on-all-collision-repairs/)



## Diagnostic scans eliminate unnecessary delays (/news/diagnostic-scans- eliminate-unnecessary- delays/)

Posted on 05/24/16

Since time is money it's important to be efficient during the repair process. Eliminating unnecessary delays is a key part of the benefits of doing diagnostic scans.

[READ MORE \(/news/diagnostic-scans-eliminate-unnecessary-delays/\)](#)

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## Why are pre and post scans important to the claim approval process? (/news/why-are-pre-and-post-scans-important-to-the-claim-approval-process/)

Posted on 05/08/16

When it comes to vehicle repair, accuracy is important. Not all damage can be seen, so having a pre scan before repairs and a post scan after repairs ensures all needed repairs have been addressed.

[READ MORE \(/news/why-are-pre-and-post-scans-important-to-the-claim-approval-process/\)](#)

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## See the asTech™ Device Featured in Claims Magazine (/news/see-the- astech-device-featured-in- claims-magazine/)

Posted on 05/03/16

This cover story from Claims Magazine offers a deeper look into how technology is changing the claims and repair processes, including the presence of multiple sensors on one vehicle.

**READ MORE** (/news/see-the-astech-device-  
featured-in-claims-magazine/)



## Top 10 Shops for April 2016 (/news/top-10-shops-for- april-2016/)

Posted on 04/29/16

Each month, we will be recognizing the ten auto repair shops around the nation that use the asTech™ device the most. For the month of April 2016, our congratulations go out to Autobody Hawaii and Lee's Garage for making the top ten list for the first time.

**READ MORE** (/news/top-10-shops-for-april-  
2016/)

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◀ 1 (?p=1) 2 (?p=2) 3 (?p=3) 4 (?p=4)  
5 (?p=5) 6 (?p=6) 7 (?p=7) ▶ (?p=2)

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# About The asTech Remote Diagnostic Device

## Who We Are

Headquartered in Plano, TX, asTech focuses on providing OEM diagnostics to collision repair shops nationwide. Our service enables shops who may not have expert level electronics technicians to work on any vehicle, no matter how complex, and receive advice from a master technician.

## Our Team

Our staff draws on real world experience along with asTech training to pinpoint the exact cause of issues within a vehicle to recommend solutions and repairs that work.

## Testimonials

The price is good for dealership-level scans. I have blown a whole lot more money on other scanners that I've never really even used. This tool is a whole lot cheaper and very practical financially.

– Kyle Wiersma

The asTech is the tool of tomorrow. It allows us to complete our repairs in-house and more importantly, give us the peace of mind in knowing we have done the job right. Although we are in an area that does not service high-end vehicles locally, we have had success in educating our adjusters with this tool. Regardless of the price of the scan, we are able to order ALL the parts needed in the teardown. Which, in turn, will eliminate the need to send it to the dealership at the end of the repair with the dash light on, only to find out we need a sensor.”

– Matt McDonnell

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## OEM Information

This page is here to help you with (OEM) Original Equipment Manufactured information straight from the manufacturers we cover. Below you will find documents containing manufacturer specific actions to be taken on their vehicles in the event of a collision.

### Acura

- Collision Mitigated Braking System (CMBS) Indicator On with Collision Mitigated Braking System Diagnostic Trouble Code P2583-97 (CMBS DTC P2583-97) ([/oem-info/acura-cmbs-indicator-on-with-cmbs-dtc-p2583-97/](#))
- Occupant Detection System (ODS) Troubleshooting and Repair ([/oem-info/acura-occupant-detection-system-troubleshooting-and-repair/](#))

### Audi

- Front side air bag crash sensors safety precautions (General Information) ([/oem-info/audi-front-side-air-bag-crash-sensors-safety-precautions/](#))

### BMW

- [2010 BWM 328i Air Bag module information \(/oem-info/2010-bmw-328i-coup-e92-l6-30l-n52k/\)](/oem-info/2010-bmw-328i-coup-e92-l6-30l-n52k/)

## Chrysler / Dodge

- [Chrysler / Dodge positioning statement \(/oem-info/chrysler-scan-tool-position-statement/\)](/oem-info/chrysler-scan-tool-position-statement/)

## Honda

- [Diagnostic Scans Position \(/oem-info/honda-diagnostic-scans-position/\)](/oem-info/honda-diagnostic-scans-position/)
- [Occupant Detection System \(ODS\) Troubleshooting and Repair \(/oem-info/honda-ods-troubleshooting-and-repair/\)](/oem-info/honda-ods-troubleshooting-and-repair/)

## Mercedes-Benz

- [Mercedes position statements \(/oem-info/mercedes-position-statements/\)](/oem-info/mercedes-position-statements/)  
(<http://www.myastech.com/oem/MercedesOEM.pdf>)

## Nissan

- [Nissan position statement \(/oem-info/nissan-position-statement/\)](/oem-info/nissan-position-statement/)

## Toyota | Lexus | Scion

- [Module information \(/oem-info/module-information/\)](/oem-info/module-information/)
- [Body electrical diagnosis & repair \(/oem-info/toyota-body-electrical-diagnosis-repair/\)](/oem-info/toyota-body-electrical-diagnosis-repair/)
- [Supplemental Restraint System \(SRS\) Occupant Classification System \(OCS\) initialization \(/oem-info/supplemental-restraint-system-occupant-classification-system/\)](/oem-info/supplemental-restraint-system-occupant-classification-system/)
- [Supplemental Restraint System \(SRS\) approved wiring repairs \(/oem-info/supplemental-restraint-system-approved-wiring-repairs/\)](/oem-info/supplemental-restraint-system-approved-wiring-repairs/)
- [Toyota Positioning Statment \(/oem-info/toyota-positioning-statement/\)](/oem-info/toyota-positioning-statement/)

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## Contact the asTech™ team

Our staff is here to help and support with any issues or questions you may have. Contact us by phone or submit our contact form and someone will get in touch with you shortly. Are you looking for help with a repair or issue within a vehicle you are working on? Our resources section has a wealth of information you may be able to use.

## Find Out More About The asTech™ device

Curious about how the asTech™ device works and what information it provides? Visit our "What is an asTech™ device" page to get an overview of the device and how it can help you provide better service and more accurate repairs.

## Ready To Order An asTech™ Remote Diagnostic Device?

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(12) **United States Patent**  
**Margol et al.**

(10) **Patent No.:** **US 8,688,313 B2**  
 (45) **Date of Patent:** **Apr. 1, 2014**

(54) **REMOTE VEHICLE PROGRAMMING SYSTEM AND METHOD**

(75) Inventors: **Lonnie E Margol**, Jacksonville, FL (US); **Walter W McIntyre**, Middleburg, FL (US); **Richard C Delashmutt**, Jacksonville, FL (US); **Daniel J Stiltner**, Jacksonville, FL (US); **Charles P Olsen**, St. Johns, FL (US)

(73) Assignee: **AES Technologies, LLC.**, Jacksonville, FL (US)

(\* ) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 56 days.

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(21) Appl. No.: **12/977,830**

(22) Filed: **Dec. 23, 2010**

(65) **Prior Publication Data**

US 2011/0106374 A1 May 5, 2011

(51) **Int. Cl.**  
**G01M 17/00** (2006.01)

(52) **U.S. Cl.**  
 USPC ..... **701/31.4**; 710/310

(58) **Field of Classification Search**  
 USPC ..... 701/33, 29.1, 31.4, 33.2; 710/305  
 See application file for complete search history.

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*Primary Examiner* — Helal A Algahaim

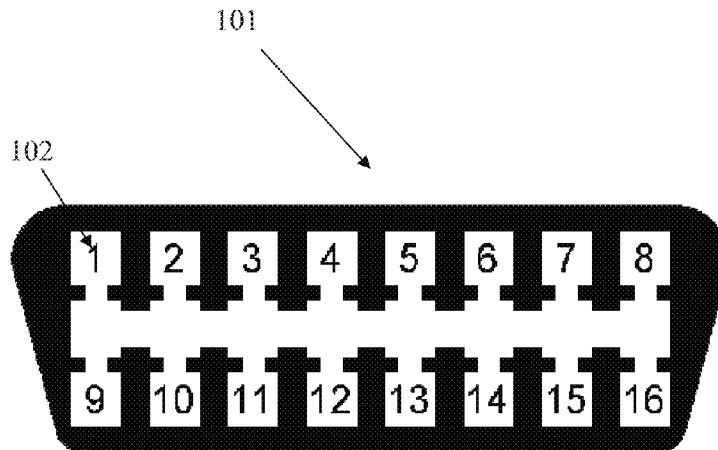
*Assistant Examiner* — Shardul Patel

(74) *Attorney, Agent, or Firm* — Lott & Fischer, PL

(57) **ABSTRACT**

A system and method for remotely programming a vehicle including a vehicle connector with a plurality of pins in communication with one or more vehicle sub-systems or modules, a vehicle communication device connected to the vehicle connector; a bi-directional communication link between the vehicle communication device and a remote communication device, and a computer system connected to the remote communication device. The vehicle communication device is configured to receive signals from the pins, convert the signals to a network compatible data packet which can then be transmitted to the remote communication device, which re-converts the signals to the pin signals, which can be read by a computing system, such as a vehicle scan tool. Programming instructions can be sent from the scan tool to the vehicle, over the bi-directional communication link between the remote communication device and the vehicle communication device.

**17 Claims, 8 Drawing Sheets**



**EXHIBIT 4**

**US 8,688,313 B2**

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(56)

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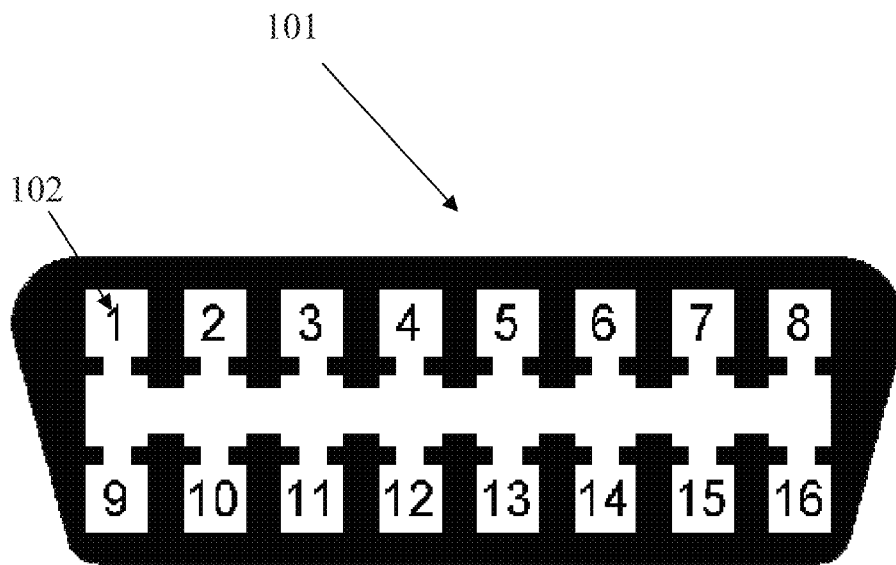


Figure 1

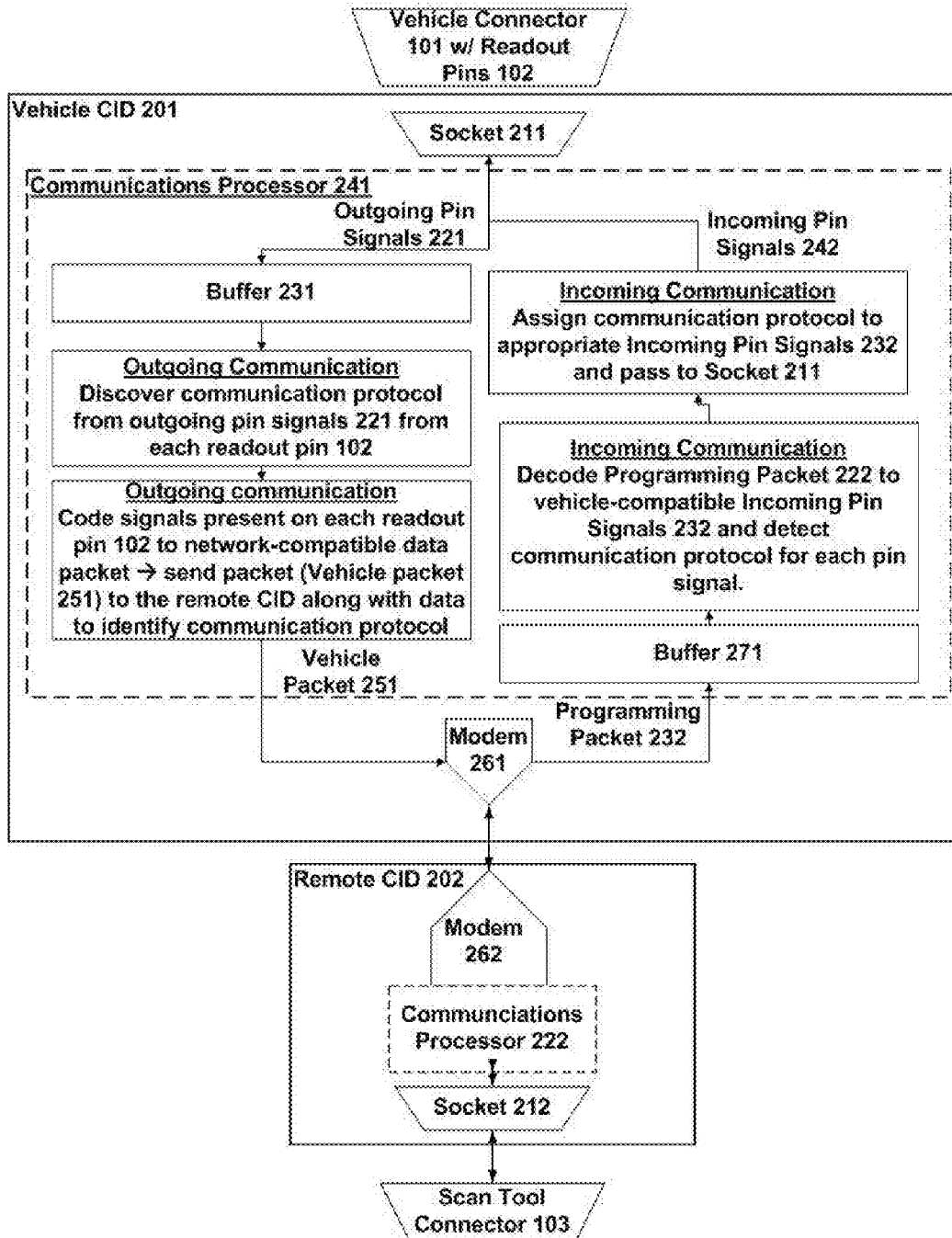


Figure 2

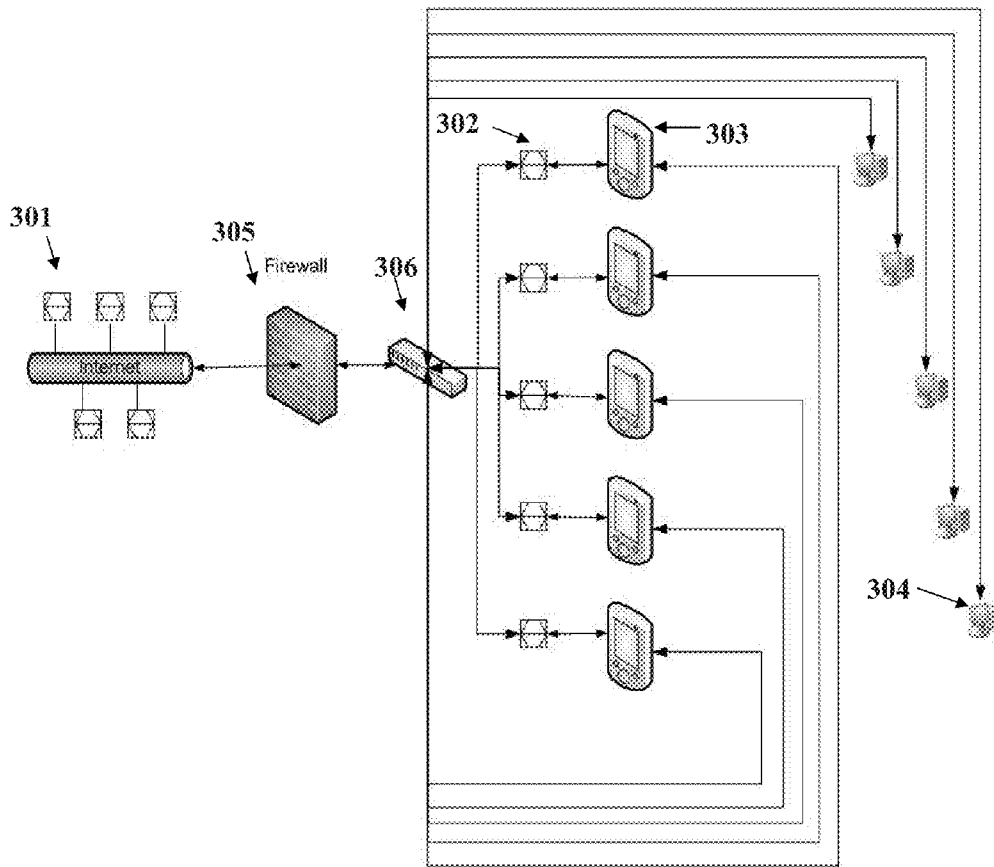


Figure 3

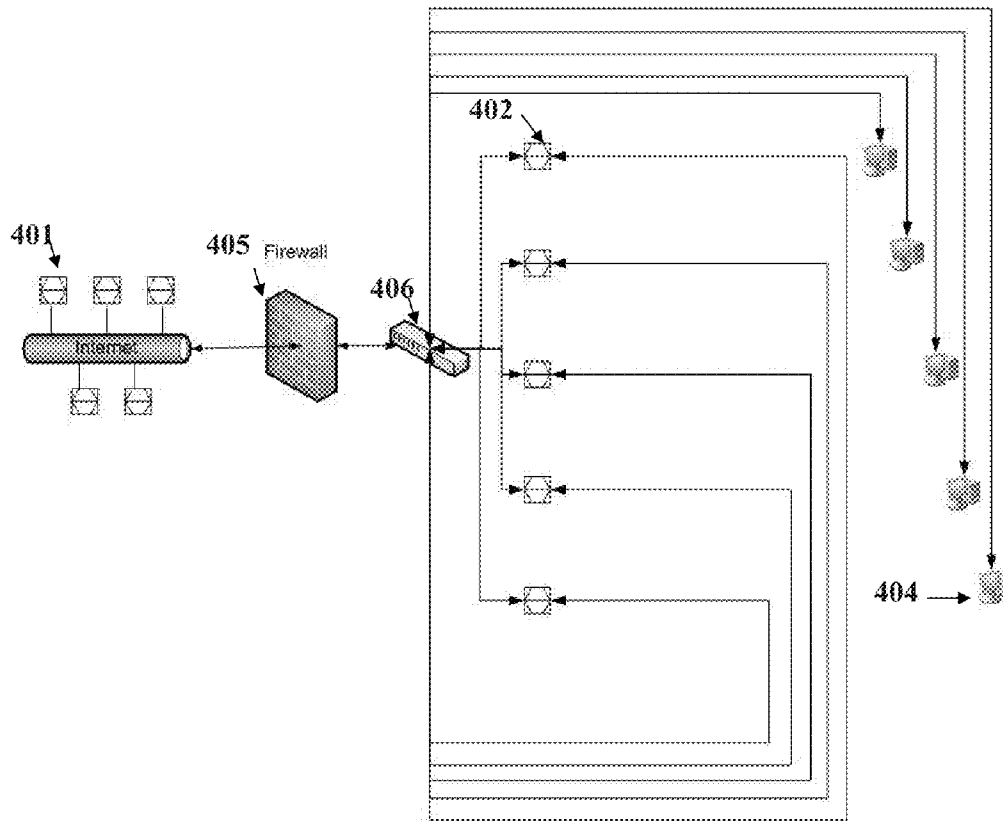


Figure 4

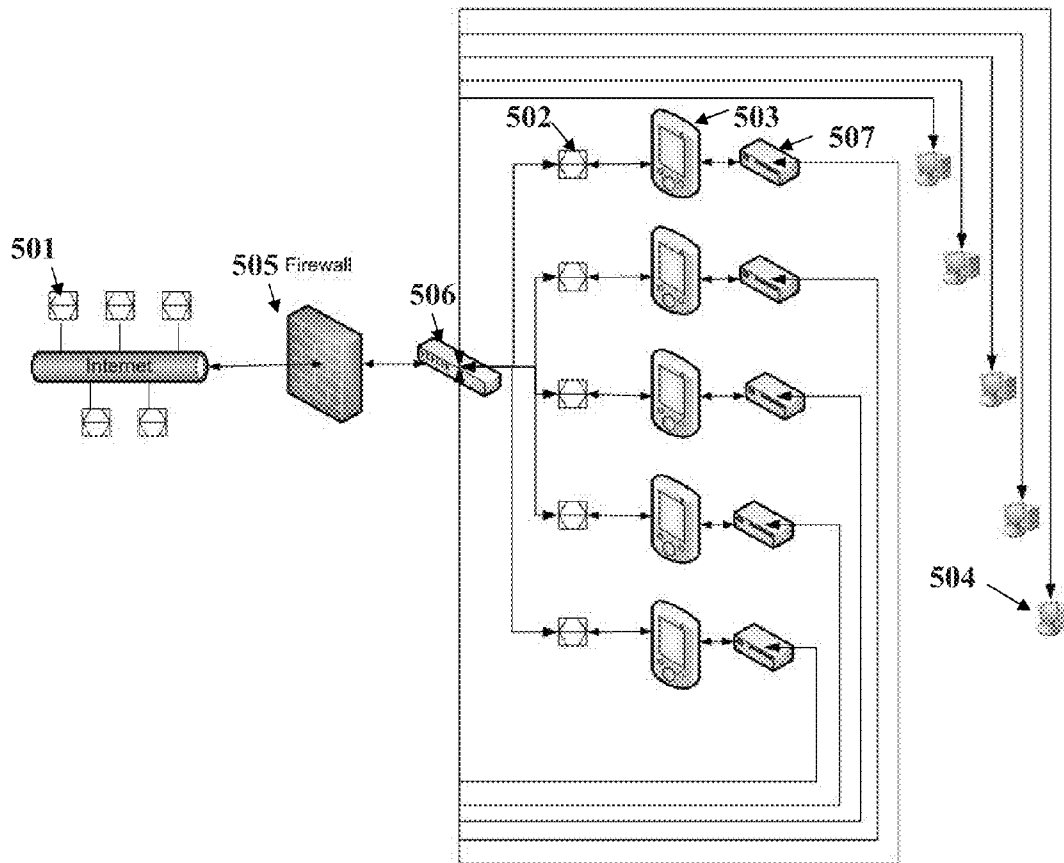


Figure 5

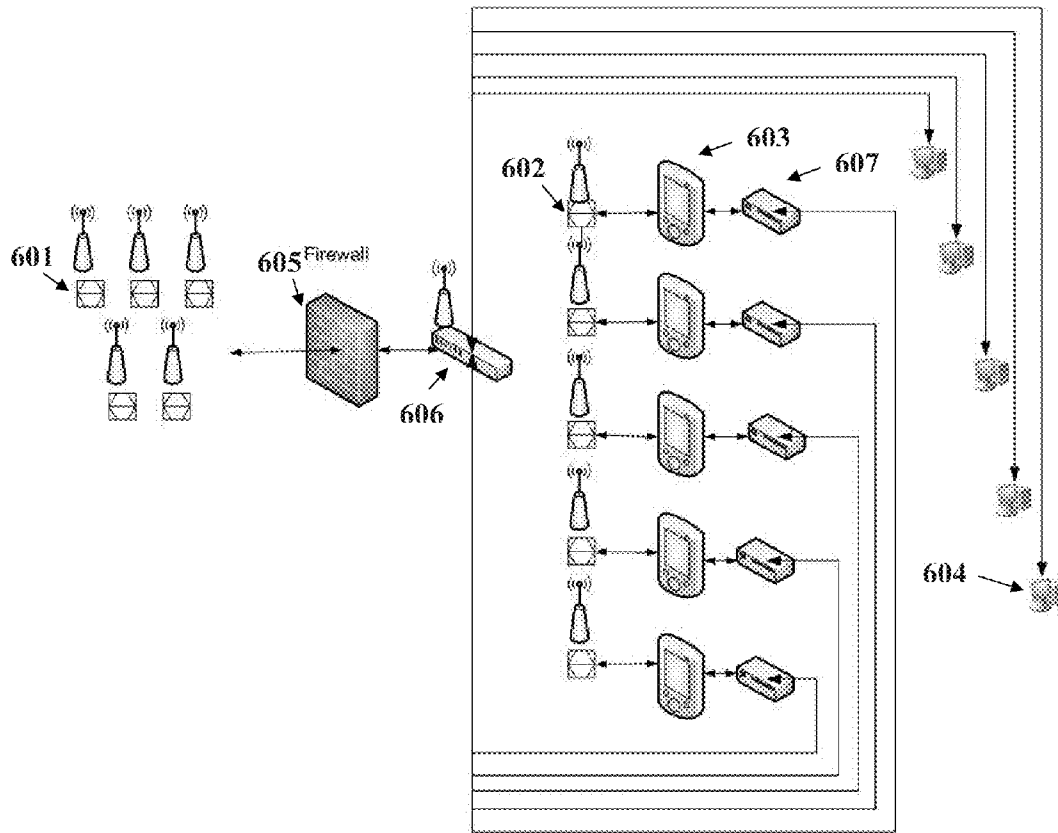


Figure 6

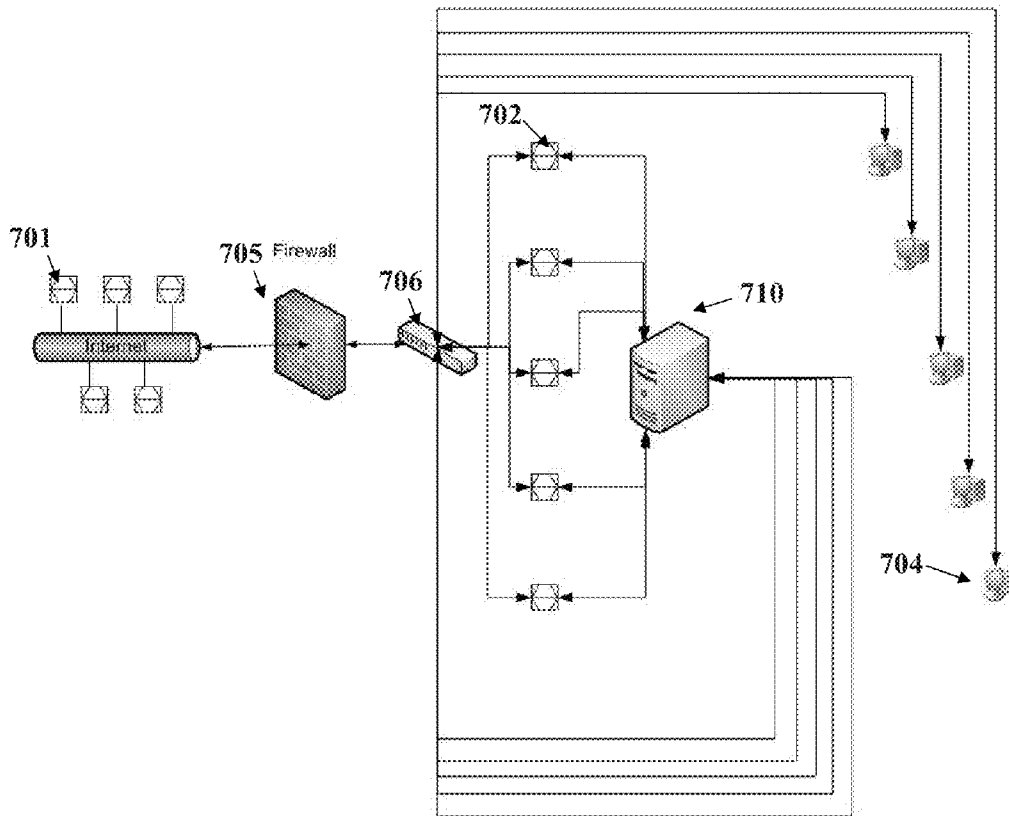


Figure 7

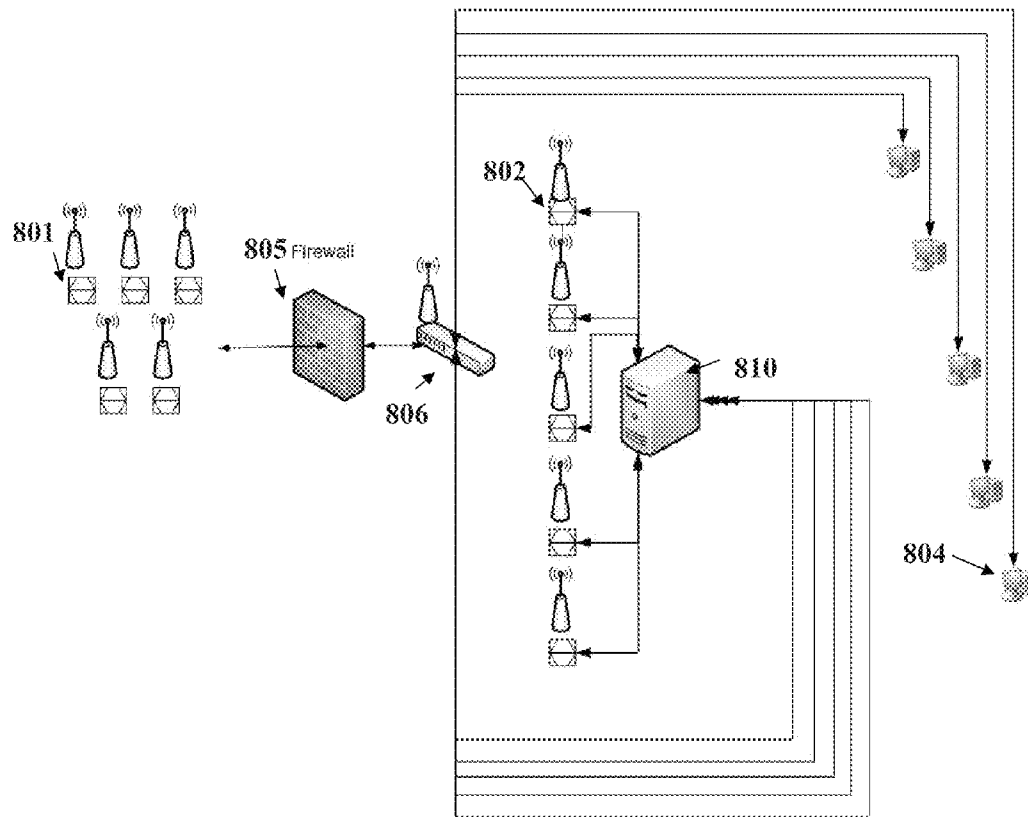


Figure 8



US 8,688,313 B2

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## REMOTE VEHICLE PROGRAMMING SYSTEM AND METHOD

### TECHNICAL FIELD

The present invention relates to vehicle programming systems and more particularly to a system and method for remotely programming a vehicle.

### BACKGROUND OF THE INVENTION

On-board diagnostics (“OBD”) systems allow a vehicle owner or technician to access vital information about the various modules and sub-systems within the vehicle. For many years, manufacturers have included complex OBD systems in their vehicles. Such OBD systems are typically accessible through a data link connector (“DLC”) located under the dash of the vehicle. In a traditional repair setting, a technician utilizes a specialized scan tool that is adapted to interface with a given vehicle’s OBD system over the vehicle’s DLC. The scan tool is capable of reading data from the vehicle’s sub-system for diagnostic purposes while also permitting the reprogramming of the sub-systems as desired. Typically these scan tools are stand-alone handheld computing devices, but there are some personal computer-based scan tools known in the art.

The first OBD systems, now known as OBD-I, were initially implemented to monitor a vehicle’s emission control system for regulatory purposes. However, OBD-I was largely unsuccessful due to the lack of standardization of the OBD’s placement within the vehicle, DLC configuration, and data format.

In response to the problems associated with OBD-I, OBD-II was developed. OBD-II presented a substantial improvement over OBD-I in both capability and standardization. The OBD-II standard specifies the type of diagnostic connector and its pinout, the electrical signaling protocols available, and messaging format. OBD-II also provides a candidate list of vehicle parameters to program, along with how to encode the data for each. OBD-II also introduced a standardized DLC—the female 16-pin (2×8) J1962 connector, as show in FIG. 1. Unlike the OBD-I connector, which was sometimes found under the hood of the vehicle, the OBD-II connector is required to be within 2 feet (0.61 m) of the steering wheel, and therefore is usually located under the dashboard. OBD-II also provided for a pin in the connector that provides power to the scan tool from the vehicle’s battery, eliminating the need to connect a scan tool to a separate power source. Finally, the OBD-II standard provided an extensive list of standardized diagnostic trouble codes.

SAE J1962 defines the location of the OBD connector (i.e. within 2 feet of the steering wheel) and the pinout configuration thereof, as follows:

1. Manufacturer discretion.
2. Bus positive Line (for SAE-J1850 PWM and SAE-1850 VPW protocols)
3. Ford DCL(+) Argentina, Brazil (pre OBD-II) 1997-2000, USA, Europe, etc. Chrysler CCD Bus(+)
4. Chassis ground
5. Signal ground
6. CAN high (for ISO 15765-4 and SAE-J2284 protocols)
7. K line (for ISO 9141-2 and ISO 14230-4)
8. -
9. -
10. Bus negative Line (for SAE-J1850 PWM protocol)
11. Ford DCL(-) Argentina, Brazil (pre OBD-II) 1997-2000, USA, Europe, etc. Chrysler CCD Bus(-)

2

12. -
13. -
14. CAN low (for ISO 15765-4 and SAE-J2284 protocols)
15. L line (for ISO 9141-2 and ISO 14230-4 protocols)
16. Battery voltage

Although OBD-II provided some advantageous standardization across man vehicle manufacturers, the manufacturers still chose to employ different communication protocols, i.e. signal formats, for their particular OBD systems. Such protocols include, for example SAE J1850 PWM, SAE VPM, ISO 9141-2, ISO 14230, and ISO 15765. Each of these protocols varies in pinout configuration and signal characteristics.

For example, SAE J1850 PWM (pulse-width modulation—41.6 kB/sec, standard of the Ford Motor Company) has the following characteristics

- pin 2: Bus+
- pin 10: Bus-
- High voltage is +5 V
- Message length is restricted to 12 bytes, including CRC
- Employs a multi-master arbitration scheme called ‘Carrier Sense Multiple Access with Non-Destructive Arbitration’ (CSMA/NDA)

SAE J1850 VPW (variable pulse width—10.4/41.6 kB/sec, standard of General Motors) has the following characteristics:

- pin 2: Bus+
- Bus idles low
- High voltage is +7 V
- Decision point is +3.5 V
- Message length is restricted to 12 bytes, including CRC
- Employs CSMA/NDA

The ISO 9141-2 protocol has an asynchronous serial data rate of 10.4 kBaud and is primarily used in Chrysler, European, and Asian vehicles. It has the following characteristics:

- pin 7: K-line
- pin 15: L-line (optional)
- UART signaling (though not RS-232 voltage levels)
- K-line idles high
- High voltage is Vbatt
- Message length is restricted to 12 bytes, including CRC

ISO 14230 KWP2000 (Keyword Protocol 2000) has the following characteristics:

- pin 7: K-line
- pin 15: L-line (optional)
- Physical layer identical to ISO 9141-2
- Data rate 1.2 to 10.4 kBaud
- Message may contain up to 255 bytes in the data field

The ISO 15765 CAN (controller area network vehicle bus) (250 kBit/s or 500 kBit/s) protocol is a popular standard outside of the US automotive industry and is making significant gains into the OBD-II market share. As of 2008, all vehicles sold in the US are required to implement CAN, thus eliminating the ambiguity of the existing five signaling protocols.

- pin 6: CAN High
- pin 14: CAN Low

Accordingly, because of the varying communication protocols, it is often necessary for a technician to purchase several different scan tools, each compatible with a particular OBD-II signal protocol. For example, a technician may need one scan tool for cars manufactured by the Ford Motor Company, and another scan tool for cars manufactured by General Motors. Thus, if a technician wishes to service a wide variety of vehicle makes and models, he often will have to make a substantial investment in scan tools. Moreover, because most scan tools are handheld devices that connect directly to a

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vehicle's DLC, the technician must carry out service directly next to, or inside of, the vehicle itself, which may be cumbersome or unsafe in a typical "garage" environment.

Moreover, there are typically two types of scan tools known in the art. A typical "aftermarket" scan tool has limited capability, only being capable of interfacing with certain modules and sub-systems, such as the engine control module and transmission control module, for purposes of maintaining proper fuel efficiency and emissions. Often, these aftermarket scan tools are limited to interfacing with those systems as dictated by SAE J2534. These aftermarket scan tools generally do not have the ability to read, analyze, manipulate, and reprogram the numerous other vehicle modules and sub-systems discussed below. A manufacturer-specific scan tool, on the other hand, is a scan tool designed to interface with all of the modules and sub-systems found within a vehicle and provides the ability to read, analyze, manipulate, program and reprogram such modules and sub-systems. Of course, the manufacturer-specific scan tools are much more expensive to own and maintain than the limited aftermarket scan tools. For one, the scan tool hardware itself is more expensive, but more importantly, the manufacturer-specific scan tools require daily, weekly, or monthly software updates in order to take advantage of the latest programming software. Accordingly, if a technician wishes to offer a full range of services for a particular vehicle manufacturer, he will have to purchase the expensive manufacturer-specific scan tool and a subscription so that he can obtain the latest software updates.

Various systems and methods for interfacing with a vehicle's OBD system are known in the art:

For example, U.S. Pat. No. 6,956,501 to Kitson describes an improved vehicle monitoring system for measuring the performance of the vehicle, including a wireless communication link for transmitting vehicle information to a terminal proximate to the vehicle, i.e. at a fuel station. The local terminal processes the information and communicates it to the operator of the vehicle through a display or other means. The system described in Kitson, however, is undesirable for at least two reasons. First, the system is only adapted for diagnostics and monitoring, i.e. "reading" data, and is not sufficient for vehicle programming, i.e. altering vehicle sub-systems. Second, Kitson only allows the transmission of vehicle data to a location proximate, i.e. next to, the vehicle. Kitson fails to provide for a system or method that enables a technician to program a vehicle's systems from a location substantially remote from the location of the vehicle.

U.S. Pat. No. 7,519,458 to Buckley describes a system, apparatus and method for obtaining and analyzing select vehicle data obtained from a vehicle. The system includes an interface communicatively coupled to the vehicle that obtains vehicle data associated with the operation of the vehicle. The system then communicates with a remote node via a network in order to obtain the necessary information to properly analyze the vehicle data. Once it has obtained the necessary information, the vehicle data is analyzed for diagnostic and monitoring purposes. Buckley, however, fails to provide for a system that is capable of carrying out bidirectional vehicle programming tasks from a remote location.

U.S. Patent Application Pub. No. 2005/0251304 to Cancellara, et. al. describes a system for performing both local and remote vehicle diagnostics, comprising a vehicle communications unit that acts as an intelligent interface to a vehicle to which it is connected and that is capable of performing autonomous vehicle diagnostics and communication functions. The system in Cancellara is designed only to provide for remote diagnostics, and does not describe a system and method for programming a vehicle. Moreover, Cancellara

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contemplates real-time diagnostics, i.e. "reading," of a vehicle in operation, and not programming or manipulation of vehicle sub-systems.

U.S. Pat. No. 7,532,962 to Lowrey et. al. describes a system for monitoring a vehicle's operational characteristics having a wireless appliance in contact with an in-vehicle computer having a data-collection component that supports communications software that collects diagnostic data from the computer, and a data-transmission component in communication with the data-collection component, configured to transmit an outgoing data packet comprising the diagnostic data over a network and receive over the same network an incoming data packet that modifies the communication software. Lowrey, like much of the prior art, provides for a system for carrying out diagnostics of a vehicle's operational characteristics, but does not provide a system or method for remote programming of a vehicle.

U.S. Patent Application Pub. No. 2009/0265055 to Gillies describes a hand-held interface device configured to wirelessly communicate with a wireless OBD device in a vehicle to be repaired. A network access point and other wireless devices may be used to access vehicle information, repair instruction, diagnostic information research information, remote expert guidance, remote databases and applications, and other repair and diagnosis information from the interface device. The system in Gillies essentially captures vehicle information, relays the information to a server, wherein the server provides assistance information to a technician based on the vehicle information. The system, however, is not capable of providing remote programming to the vehicle from the server.

U.S. Pat. No. 7,584,030 to Graham describes releasable connectors with a wireless connection between automotive test equipment and a vehicle's OBD computer wherein the data link cable is replaced, using two connectors which have been pre-programmed to communicate with each other. The device in Graham concerns local wireless communication between the vehicle's OBD and a scan tool through a wireless link established by the device. Graham does not contemplate remote transmission of programming data over a data network, nor does it contemplate remote programming of the vehicle over that network.

Accordingly, there is a need in the art for a system and method that allows a technician to service and program a vehicle, through its OBD interface, from a remote location. There is a further need in the art for a system and method for programming a vehicle that does not require a shop or garage to purchase numerous expensive scan tools for each specific vehicle make and/or model. There is a further need in the art for a system and method of programming a vehicle from a remote call center that has the capabilities to program a wide variety of vehicles implementing a wide variety of OBD communication protocols. There is a further need in the art for a system and method of programming a vehicle from a remote call center that has the capabilities of always having the most recent scan tool software for a wide variety of vehicle manufacturers and model years. These and other objectives of the various embodiments of the present invention will become readily apparent in the following specification and appended claims.

## SUMMARY OF THE INVENTION

Disclosed herein are various embodiments of a system and method for remotely programming a vehicle. In some embodiments, the system comprises a vehicle connector with a plurality of pins in communication with one or more vehicle

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sub-systems or modules, a vehicle communication device connected to the vehicle connector, a bi-directional communication link between the vehicle communication device and a remote communication device, and a computer system connected to the remote communication device. The vehicle communication device is configured to receive signals from the pins, convert the signals to a network compatible data packet which can then be transmitted to the remote communication device, which re-converts the signals to the pin signals, which can be read by a computing system, such as a vehicle scan tool. Programming instructions can be sent from the scan tool to the vehicle, over the bi-directional communication link between the remote communication device and the vehicle communication device. In some embodiments, programming instructions are selected from the group of instructions consisting of reprogramming, program updating, calibration, linking, marriage, serial coding, security coding, and combinations thereof.

In some embodiments, the scan tool comprises a handheld computer scan tool known in the art. In other embodiments, the scan tool comprises a computer workstation executing scan tool emulation software.

In some embodiments, the bi-directional communication link is carried over an electronic communications network, such as the Internet, and allows web-based communication between the vehicle communication device and the remote communication device.

In some embodiments, the vehicle communication device and the remote communication device each have a socket, a communications processor; and a modem coupled to said communications processor. The socket of the vehicle communication device is adapted to engage a vehicle connector having a plurality of pins in communication with a one or more vehicle sub-systems, and the socket of said remote communication device adapted to engage a vehicle scan tool or like computer workstation. Again, the vehicle communication device and the remote communication device enabled to communicate over the bi-directional communication link, established between the modems of the respective devices. In some embodiments, the modems utilize a wired connection to the bi-directional communication link, such as Ethernet, universal serial bus, or the like. In other embodiments, the modems utilize a wireless connection to the bi-directional communication link, such as Wifi, Bluetooth, or a cellular data communications network.

In some embodiments, the present invention concerns a method of remotely programming one or more sub-systems of a vehicle, including the steps of: establishing a bi-directional communication link between a vehicle communication device and a remote communication device, where the vehicle communication device is in communication with one or more of the vehicle sub-systems and the remote communication device is in communication with a computer system or scan tool; requesting, from the vehicle communication device over the bi-directional communication link, one or more outgoing pin signals from one or more of the vehicle sub-systems; receiving, on the remote communication device over the bi-directional communication link, a network-compatible vehicle packet corresponding to the outgoing pin signals; converting, on the remote communication device, the vehicle packet to one or more of the outgoing pin signals; and transmitting the one or more outgoing pin signals to the computer system.

In some embodiments, the remote vehicle programming method also includes the steps of: generating programming instructions on the computer system; transmitting those programming instructions from the computer system to the

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remote communication device; converting, on the remote communication device, the programming instructions to a network-compatible programming packet; and transmitting the programming packet to the vehicle communication device over the bi-directional communication link.

## BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a diagram of one embodiment of a vehicle OBD connector.

FIG. 2 is a schematic of one embodiment of the communication interface devices of the present invention.

FIGS. 3-8 are several embodiments of the system of the present invention, depicting the various component parts thereof.

## DETAILED DESCRIPTION OF THE INVENTION

The present invention concerns several non-limiting embodiments of a system and method for remotely programming a vehicle by way of the vehicle's OBD connector. A 16-pin OBD vehicle connector such as that shown in FIG. 1 is typically located under the dashboard in most modern vehicles, and accessible by a vehicle operator or technician, in some embodiments of the present invention, vehicle connector 1 is interfaced with the various electronic control units or "modules" located in the vehicle. Such units and modules may include, but are not limited to: Air bag control module; Alarm Control Module; Antenna Control Module; Automatic Control Module; Body Control Module; Cabin Heater Control Module; Central Control Module; Charging Control Module; Communication Control Module; Door Control Module; Electronic Brake Control Module; HVAC Control Module; Electronic Throttle Control Module; Engine Control Module; Headlamp Control Module; Instrument Control Module; Navigation Control Module; Park Assist Control Module; Power Mirror Control Module; Power seat control Module; Radiator Fan Control Module; Seat Heater Control Module; Steering Column Control Module; Steering Control Module; Steering Mounted Control Module; Sunroof Control Module; Transmission Control Module; Transfer Case Control Module; General Electronic Control Module; Moonroof Control Module; Suspension Control Module; Tire Pressure Control Module; Traction Control Module; Trailer Light Control Module. For purposes of this disclosure, these units and modules will be referred to collectively as vehicle "sub-systems."

In some embodiments, vehicle connector 101, as shown in FIG. 1, has two rows each of eight pins 102. Pins 102 are in communication with the various vehicle sub-systems such as those listed above. Accordingly, in any given vehicle, each of the sixteen pins 102 are enabled to output a vehicle signal corresponding to a particular sub-system or other function. It is understood that it is not necessary that a signal is present on all sixteen pins 102 simultaneously; rather, the signal configuration of pins 102 can vary on a pin-by-pin basis according to a desired communication protocol, i.e. signal format. For exemplary purposes only, such communication protocols may include the above described SAE J1850 PWM, SAE VPM, ISO 9141-2, ISO 14230, and ISO 15765 protocols.

It is understood that the vehicle signals present on each of the pins 102 may be analog or digital, and such format need not be the same across all pins 102, it is further understood that in some embodiments, vehicle connector 101 may be configured as a "female" connector and in others it may be configured as a "male" connector.

As noted above, it is usual for a scan tool or other computing device to be connected to vehicle connector **101** by a data cable, for the scan tool to receive vehicle data corresponding to the various vehicle sub-systems. To that end, the scan tool or computing device usually must be located proximate to the vehicle for data analysis and programming to be carried out. However, the present invention contemplates a bi-directional communication system that is adapted to transmit the vehicle signals present on pins **102** across a computer network for remote data analysis and manipulation and to permit remote programming of the subject vehicle's sub-systems. The bi-directional communication link between the vehicle and the remote location allows a technician at the remote location to program a vehicle via a scan tool or computing system, as if he were standing proximate to the vehicle.

As shown in FIG. 2, one aspect of the present invention contemplates a communication system and associated methods comprising two communications devices, hereafter referred to as "CIDs." As noted above, the purpose of the CIDs is to create a bi-directional communication link between a subject vehicle's vehicle connector **101** at one location and a scan tool or computer at a second, remote location such that a technician can remotely program the subject vehicle. Accordingly, shown schematically are embodiments of vehicle CID **201** and remote CID **202**. In some embodiments, Vehicle CID **201** has a socket **211**, communications processor **241**, and modem **261**. Similarly, remote CID **202** has a socket **212**, communications processor **222**, and modem **262**.

Vehicle CID **201** is engaged with vehicle connector **101** via socket **211**. In some embodiments, socket **211** is configured to engage pins **102** of vehicle connector **101**, such that the vehicle signals present on pins **102** can be received by CID **201** and processed by communications processor **241**. To that end, communications processor **241** contains operational logic that enables outgoing pin signals **221** to be converted to a network-compatible packet, vehicle packet **251**, which can be transmitted over a computer network to remote CID **202**, by modem **261**.

Remote CID **202** is in communication with a scan tool or computing system whereby socket **212** is engaged with scan tool connector **103**, which has the same pin configuration as the vehicle connector **101** described above. Accordingly, remote CID **202** is enabled to request and receive vehicle packet **251** (from modem **261** of vehicle CID **201**) via modem **262**, to which communications processor **222** processes the packet, re-converts it to pin signals, which can then be communicated to a scan tool or computer system (over scan tool connector **103**) for analysis and programming. In that sense, the vehicle packet **251** provides "read" data for remote CID **202**, which can be used to determine the present state of a given vehicle sub-system, as well as determine whether there are errors, anomalies, or other problems with that sub-system.

Accordingly, a technician can utilize the scan tool or computer system to send programming instructions to the vehicle over the bi-directional communications link. For example, programming instructions are sent from the scan tool or computer system over scan tool connector **103** to remote CID **202** via socket **212**. As the programming instructions are initially signals that are pin-compatible, the communications processor **222** of remote CID **202** converts the signals much in the same manner as described above with respect to vehicle CID **201**, and then relays a network-compatible programming packet **232** over the bi-directional communications link (i.e. modem **262** to modem **261**) to vehicle CID **201**. Vehicle CU **201** receives the programming packet **232** and re-converts it

to vehicle-compatible incoming pin signals **232** which are passed to the vehicle through the socket **211**-vehicle connector **101** engagement.

As shown and described in FIG. 2, communication processors **241** and **222** contain software logic to request and read vehicle-compatible pin signals, determine the communication protocol, i.e. signal format, of those pin signals and convert the pin signals to a network-compatible data packet. Accordingly, in some embodiments, the vehicle packet **251** and programming packet **232** may contain data to identify the communication protocol of the incoming and outgoing data. In some embodiments, this identifying information is necessary in order for the scan tool or computing system to determine the proper programming software, dependent on, for example, vehicle make and model. In other words, to the extent that each vehicle manufacturer has a unique communication protocol, i.e. signal format, the scan tool or computing system is capable of recognizing that protocol in order to properly program the vehicle. The various communications protocols may include, but are not limited to, those discussed in the Background section of this disclosure above.

Based on the foregoing, it is understood that vehicle CID **201** and remote CID **202** enable a bi-directional exchange of information. Vehicle data, i.e. vehicle packet **251**, is sent to the remote location which can then be read, analyzed, and processed by a technician who can send new vehicle data, i.e. programming packet **232**, back to the subject vehicle. It is understood that, once the bi-directional communication link is established, data transfer can be initiated from either the vehicle, or the remote location, depending on the situation and desired programming tasks. In some embodiments, the remote CID **202** requests output pin signal information from vehicle CID **201**, which is then transmitted to remote CID **202** as vehicle packet **251**.

In some embodiments, modems **261** and **262** communicate with a computer network over a wired connection such as a standard telephone connection (RJ-11), category-5 Ethernet connection (RJ-45), universal serial bus (USB) connection, firewire (IEEE1394), or other serial or parallel data transmission connections known in the art. In some embodiments modems **261** and **262** communicate with an electronic communications network over a wireless connection such as WiFi, Bluetooth, Near-Field Communication (NFC), or a cellular data communications network protocol such as GSM, UMTS, or CDMA, EDGE, 3G, 4G, LTE, HSDPA, EV-DO, or the like. The modems do not have to be utilizing the same connection standard, as long as each can access the electronic communications network (for example, the Internet) to establish the bi-directional communication link.

It is understood that each particular vehicle CID **201** and remote CID **202** may optionally have a unique identifier, such as a unique static internet protocol ("IP") address or other identification code, embedded within its logic. The unique identifier can be included in, or in addition to, the vehicle packet sent from vehicle CID **201** to remote CID **202**. In some embodiments, the unique identifier assists the remote location in identifying the source and ownership information for a given vehicle CID and can also be used to verify that the vehicle CID is being operated by the correct entity, i.e. the individual technician or shop that the vehicle CID has been assigned to.

In some embodiments, the vehicle CID **201** is enabled such that its internal software and logic can be configured before use to initiate and maintain a proper bi-direction communication link with the remote CID **202**. For example, upon receiving a vehicle CID **201**, the technician or shop may temporarily connect it to a local computer or workstation (by

USB, Bluetooth, or other wired or wireless connection protocols discussed herein) and execute appropriate software to configure the vehicle CID 201 to connect to the shop's Internet connection and to communicate with the remote CID 202 at the remote location. Accordingly, the vehicle CID 201 (as well as the remote CID 202) may have internal memory that is capable of storing configuration data such that it is capable of re-connected to the Internet during subsequent use, without the need for further configuration. It is understood, however, that configuring the vehicle CID 201 does not have to be carried out by a local computer or workstation, rather configuration can be done through an interface on the device itself or it may be pre-configured when the shop obtains it.

FIGS. 3-8 depict various embodiments of the remote vehicle programming system and method of the present invention. Beginning with FIG. 3, shown is vehicle CID 301, remote CID 302, scan tool 303, and workstation 304, it being understood that vehicle CID 301 is proximal to the subject vehicle and the remaining components, namely remote CID 302, scan tool 303, and workstation 304, are at a location remote from the location of the vehicle.

In accordance with the above, vehicle CID 301 is engaged with the pins 102 of the vehicle connector 101 (not shown) of a subject vehicle (not shown). A bi-directional communication link is established between vehicle CID 301 and remote CID 302 over an electronic communications network, such as the Internet. It is understood that the communication between the two CIDs 301 and 302 occurs via the modems (not shown) of each; and in this case, over a wired connection.

Vehicle CID 301 is enabled to receive the vehicle signals present on pins 102, convert the vehicle signals to a network-compatible data packet and relay the data packet, i.e. the vehicle packet, to remote CID 302 over the bi-directional communication link. Remote CID 302 is configured to request and receive the vehicle packet and convert it back to vehicle-compatible signals. The vehicle signals can then be processed and analyzed by scan tool 303, which is in communication with remote CID 302 through an OBD connection (like, for example, scan tool connection 103 described above), as if the scan tool 303 were directly connected to vehicle CID 301.

Accordingly, scan tool 303 is a computing system including specialized software that is adapted to process the particular communication protocols of the vehicle signals outputted from a given vehicle. The scan tool can also generate new programming information, independent or dependent of the vehicle signals, and output the information back to the CID system as vehicle-compatible programming signals.

Because the communication link is bi-directional, vehicle-compatible programming signals can be sent from scan tool 303 and/or workstation 304 to remote CID 302. Remote CID 302 then converts the programming signals to a network-compatible data packet, i.e. programming packet, which can be relayed back to vehicle CID 301. Vehicle CID 301 then re-converts the programming packet to vehicle compatible programming signals (pin compatible) which are then transmitted to the particular vehicle sub-systems over pins 102 of vehicle connector 101. Accordingly, vehicle packets and programming packets can be exchanged between the vehicle and the remote location, in either direction, to enable remote analysis and programming of the vehicle.

It is understood that because each vehicle make and model may have different OBD communication protocols, i.e. signal formats, it may be desirable to have available a number of different scan tools 303 to assure compatibility. Accordingly, as discussed above, the CIDs 301 and 302 may be configured to include communication protocol, i.e. signal format, data

across the bi-direction communications link in order for the scan tool 303 to properly identify, read, analyze, and manipulate vehicle packets. Optionally, scan tool 303 can be in communication with workstation 304 (via network switch 306) allowing remote manipulation of scan tool 303. In this arrangement, a plurality of scan tools 303 and their corresponding remote CIDs 302 can be located in a discrete area of the remote location wherein the workstations 304 are elsewhere at the remote location, such as a call-center or cluster of desks or cubicles.

FIG. 3 depicts a plurality of vehicle CIDs 301, remote CIDs 302, scan tools 303, and workstations 304. Accordingly, the present invention contemplates that more than one vehicle may be serviced and programmed at a given time, and thus it is desirable to have multiple systems operating simultaneously. Accordingly, network switch 306 may be introduced at the remote location to permit a plurality of remote CIDs 302 to receive data over a single network connection (i.e. Internet connection). In some embodiments, each CID is configured to identify and transmit information concerning the communication protocol, i.e. signal format, in order for the scan tool to properly identify the vehicle data. Further, the plurality of workstations 304 are connected to the system and placed in communication with scan tools 303 via network switch 306. Optionally shown is firewall 305 which may be placed before network switch 306 to secure the system in accordance with known network security and encryption protocols.

Turning to FIG. 4, shown is vehicle CID 401, remote CID 402, workstation 404, firewall 405, and network switch 406. In this embodiment, the scan tool is omitted in favor of emulation software running on workstation 404, which is interfaced to the system via network switch 406. The emulation software is designed to read and process vehicle signals received from remote CID 402, and, based on the communication protocol, call up the appropriate make and model scan tool software to permit data analysis and vehicle programming. In accordance with this embodiment, workstation 404 may have an appropriate OBD connector in order to interface with remote CID 402.

FIG. 5 depicts vehicle CID 501, remote CID 502, scan tool 503, workstation 504, firewall 505, network switch 506, and thin client 507. In this embodiment, scan tool 503 is coupled to thin client 507 which is in turn coupled to workstation 504, all via network switch 506. Accordingly, data analysis and programming can be conducted from workstation 504, with instructions relayed to thin client 507 and then to scan tool 503. In this configuration, thin client 507 has the effect of reducing computing resource requirements on workstation 504, as well as provides an additional means of data security and encryption. FIG. 6 depicts a similar system configuration as that shown in FIG. 5, however utilizing wireless communication for vehicle CID 601, remote CID 602, and network switch 606.

Turning to FIG. 7, shown is vehicle CID 701, remote CID 702, workstation 704, firewall 705, network switch 706, and server 710. In this embodiment, the scan tool is omitted in favor of emulation software running on server 710, with server 710 configured as a "cloud" for workstations 704, which components are interconnected via network switch 706. The emulation software is designed to read and process vehicle signals received from remote CID 702, and, based on the communication protocol, call up the appropriate make and model scan tool software to permit data analysis and vehicle programming. In accordance with this embodiment, server 710 may have an appropriate OBD connector in order to interface with remote CID 702. Workstation 704 interfaces

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with server 710 to retrieve vehicle packets, conduct programming and analysis, and relay programming packets to vehicle CID 701. FIG. 8 depicts a similar configuration, utilizing wireless communication.

As noted throughout this disclosure, the system and method of the present invention allows for remote programming a plurality of vehicle sub-systems from a remote location. The term “programming” therefore contemplates a variety of actions that can be carried out on the vehicle sub-systems, by way of specifically designed programming packets relayed from the scan tool or computing system to the vehicle over the vehicle CID-remote CID bi-directional communication link. Such actions may include, but are not limited to, reading, reprogramming, program updating, calibration, linking, marriage, serial coding, and security coding.

“Reprogramming” may comprise relaying programming packets enabled to replace, alter, reset, or otherwise change defective or absent programming in a vehicle sub-system with complete and up to date programming information.

“Program update” may comprise relaying programming packets enabled to replace existing, but out-dated programming in a sub-system with the latest original equipment manufacturers’ (OEM) programming and configuration. Alternatively, these packets may include custom programming updates. Such programming updates may contemplate, for example, performance upgrades to the engine control module, transmission control module, and related modules in order to increase engine horsepower output or shifting intervals. These program updates are particularly useful for “tuning” high performance vehicles such as racing cars and “hot rods.”

“Calibration” may comprise relaying programming packets enabled to tune the output signals from various sensors with the vehicle sub-systems to correctly read input signals coming from other vehicle sub-system. Additionally, “calibration” contemplates the resetting of “set-points” or parameters within the vehicle sub-systems.

“Linking” or “pairing” may comprise relaying programming packets enabled to establish bi-directional communication between two or more vehicle sub-systems. This is a required step when replacing a module or sub-system in a vehicle, so that the other modules or sub-systems will accept and communicate with it.

“Marriage” is similar to linking except that it involves integration at the vehicle level and not just sub-system to sub-system communication. For example, the programming packet may instruct a sub-system to communicate with the vehicle to identify its vehicle identification number YIN to verify that the sub-system belongs in that vehicle. “Serial coding” is another term for linking or marriage.

Finally, “security coding” may comprise relaying programming packets enabled to link or marry a particular security-related sub-system with the vehicle, for example the door control module, or security module.

It is understood that, for purposes of carrying out these programming activities or actions, it will often be desired for the remote CID to conduct a “read” of the vehicle to determine the present state of the various vehicle sub-systems, by way of the vehicle CID. Accordingly, in some embodiments, vehicle CID sends vehicle packets to remote CID which are read and analyzed by the scan tool, workstation or other computing system in order to determine if there are errors or missing elements within the particular sub-system. At that point, a technician can generate, on the scan tool or computing system, specifically designed programming packets designed to carry out the various actions disclosed herein, in

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order to correct, replace, reset or manipulate the state of the sub-system(s), depending on a desired result.

Moreover, the programming actions disclosed herein are adapted to be performed in either “key-on” or “key-off” operating mode. In a “key-on” mode, the system and method herein can be utilized to read, analyze, manipulate, and program certain sub-systems that are active when the vehicle’s engine is operating. It may be desirable to carry out data analysis and programming when the engine is operating because certain of the sub-systems output different data as compared to a “key-off” operating mode. On the other hand, “key-on” operating mode may cause certain sub-systems to “lock out” and prevent data analysis, and programming, for safety purposes; therefore, “key-off” operating mode may be necessary to program certain of those sub-systems.

As noted throughout this disclosure, the present invention contemplates a variety of useful methods incorporating the various components of the remote vehicle programming system disclosed herein. In a practical setting, remote vehicle programming in accordance with the present invention may occur in several ways. One example concerns an “appointment” model. In this example, the shop or garage at one location schedules an appointment for vehicle programming with a “call center” at the remote location. At the appropriate time, the shop connects its vehicle CID to the subject vehicle’s OBD connector and then initiates a connection between the vehicle CID and the Internet, et. At substantially the same time, the call center initiates a connection between its remote CID and the Internet. The call center then places a telephone call or initiates some other form of direct communication with a technician or other individual at the shop in order to confirm that the vehicle CID has a proper connection to the Internet. Once the connection has been confirmed, the call center establishes the bi-directional communication link between the remote CID and the vehicle CID, identifying the vehicle CID using the previously mentioned unique identifier information.

At that point, data can be exchanged between the vehicle CID and remote CID. In some embodiments, once the bi-directional communication link has been established, the call center, using a workstation, scan device, server, or combinations thereof, begins relaying programming packets from the remote location to the vehicle. In other embodiments, the call center begins first by receiving vehicle data from the vehicle, and then analyzes the data to carrying out appropriate programming. However, these examples are to be construed as non-limiting as the bi-directional communication link is dynamic and, therefore, any desired sequence of data communication and programming is possible.

In other embodiments, programming may be accomplished on an “on-demand” basis rather than “appointment” basis. Accordingly, the shop at one location connects its vehicle CID to a subject vehicle’s OBD connector and then initiates a connection between the vehicle CID and the Internet. Then, the shop sends a “job request” to the call center at the remote location by telephone, by computer, or even by the vehicle CID itself. The call center receives the job request after which it initiates the bi-directional communication link between the appropriate remote CID and the vehicle CID. At that point, data analysis, manipulation, and sub-system programming can begin.

As mentioned previously, in some embodiments, the call center may employ numerous remote CID-scan tool/workstation combinations in order to provide programming capabilities for a wide variety of OBD communication protocols, i.e. signal formats. Accordingly, the call center may have an array of remote CIDs and scan tools in place, to provide optimal

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compatibility and flexibility. When the bi-directional communication link is first established, the remote CID will request and receive communication protocol information from the vehicle packet sent from the vehicle CID. The call center, therefore, is configured to read the communication protocol information in order to configure the appropriate scan tool/workstation/emulation sever to begin programming.

While many of the embodiments of the present invention disclosed herein concern passenger automobiles, the term “vehicle” should not be construed as limiting. Accordingly, the system and method herein has many applications, including but not limited to, marine, aircraft, heavy equipment, commercial vehicles, stationary equipment, and industrial equipment, provided such machines are controlled by various electronic control modules and subsystems and are adapted to be programmed by a scan tool or computing system.

It is further understood that the scan tools, servers, and workstations implemented in the present invention as discussed above may comprise a variety of computing systems including, but not limited to, a computer server, a personal computer, a laptop computer, a netbook computer, a tablet computer, a mobile telephone such as a smartphone, and the like. The following description of the typical computing system is included only for illustrative purposes and should not be considered a limitation of the invention. Although this description may refer to terms commonly used in describing particular types computing system, the described concepts apply equally to other computing system, including systems having architectures that are dissimilar to that described.

The computing systems such as scan tools (being a “hand-held” computing system), servers, and workstations described above may include a central processing unit (CPU) having a conventional microprocessor, random access memory (RAM) for temporary storage of information, and read only memory (ROM) for permanent storage of “read only” information. A memory controller is provided for controlling system RAM. A bus controller is provided for controlling a data bus, and an interrupt controller is provided for receiving and processing various interrupt signals from the other system components. Data storage may be provided by known non-volatile, removable media storage drives, such as a diskette drives, DVD drives, CD-ROM drives, ZIP® drives, flash drives, magneto-optical (“MO”) drives, and the like, or by non-removable storage systems like hard drives. Data and software may be exchanged with the computing systems via removable media, such as floppy diskettes, CD-ROMs, DVDs, ZIP® disks, MO disks, flash drives and the like. The removable media is insertable into a compatible removable media storage drive, which, in turn, utilizes a controller to interface with the data bus. The non-removable storage system is part of a fixed disk drive, which utilizes a hard drive controller to interface with the data bus. User input to the computer may be provided by a number of devices. Examples include a keypad, a keyboard, a mouse, and a trackball, which may be connected to the data bus by an input controller. A direct memory access (DMA) controller is provided for performing direct memory access to system RAM. A visual display may be generated by the graphics subsystem of the computing system that controls the display device attached to the computing system. The display device can be a conventional cathode ray tube (“CRT”), liquid crystal display (“LCD”), light-emitting diode (“LED”), or plasma monitor having individually addressable picture elements (“pixels.”) The pixels are arranged in a two-dimensional X-Y grid and are selectively illuminated, as directed by the graphics sub-

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system, for assembling an image, or a series of images (or frames) to create moving pictures.

A network interface adapter also may be included that enables the various computing systems to connect to the described network via a network bus. The network, which may be a local area network (LAN), a wide area network (WAN), an electronics communication network, i.e. the Internet, or the like, may utilize general purpose communication protocols that interconnect a plurality of network devices. The computing system is controlled and coordinated by operating system (“OS”) software, such as, for exemplary purposes only, Windows®, Mac OSX, Apple iOS, Linux, Unix, Android OS, PalmOS, Windows Mobile OS, and the like. Among other functions, the OS controls allocation of system resources and performs tasks such as process scheduling, memory management, networking, and I/O services.

In the foregoing description, the present invention has been described with reference to specific exemplary embodiments thereof. It will be apparent to those skilled in the art that a person understanding this invention may conceive of changes or other embodiments or variations, which utilize the principles of this invention without departing from the broader spirit and scope of the invention. The specification and drawings are, therefore, to be regarded in an illustrative rather than a restrictive sense. Accordingly, it is not intended that the invention be limited except as may be necessary in view of the appended claims.

We claim:

1. A system for remotely programming one or more sub-systems of a vehicle, comprising:
  - a vehicle connector having a plurality of pins, said pins in communication with a said one or more sub-systems;
  - a vehicle communication device connected to said vehicle connector;
  - a bi-directional communication link between said vehicle communication device and a remote communication device;
  - a computer system connected to said remote communication device;
  - wherein said vehicle communication device is configured to:
    - receive one or more outgoing pin signals present on said pins, said pin signals containing data corresponding to one or more said sub-systems;
    - convert said one or more outgoing pin signals to a network-compatible vehicle packet;
    - transmit said vehicle packet to said remote communication device over said bi-directional communication link;
  - wherein said remote communication device is configured to:
    - re-convert said vehicle packet to said one or more outgoing pin signals; and
    - transmit said one or more outgoing pin signals to said computer system; and
  - wherein said computer system and said vehicle connector are engaged in continuous bi-directional communication using a standard OBD communications protocol; and
  - wherein said computer system is enabled by said continuous bi-directional communication using a standard OBD communications protocol to actively and continuously communicate with, scan and program said sub-systems as if it were located proximate to said vehicle.



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2. The system of claim 1:  
 wherein one or more programming instructions are sent  
 from said computer system to said remote communication  
 device;  
 wherein said remote communication device is configured 5  
 to:  
 convert said programming instructions to a network-  
 compatible programming packet;  
 transmit said programming packet to said vehicle communication  
 device over said bi-directional communication link; 10  
 wherein said vehicle communication device is configured  
 to:  
 convert said programming packet to one or more incoming  
 pin signals;  
 transmit said one or more incoming pin signals to said 15  
 one or more sub-systems of said vehicle over said pins  
 and  
 wherein said standard ORD communications protocol is  
 selected from the group comprised of SAE J2284, SAE 20  
 J1850 PWM, SAE VPM ISO 9141, ISO 14230, and ISO  
 15765.

3. The system of claim 2 wherein said one or more sub-  
 systems are selected from the group consisting of: Air bag  
 control module, Alarm Control Module, Antenna Control 25  
 Module, Automatic Control Module, Body Control Module,  
 Cabin Heater Control Module, Central Control Module,  
 Charging Control Module, Communication Control Module,  
 Door Control Module, Electronic Brake Control Module,  
 HVAC Control Module, Electronic Throttle Control Module, 30  
 Engine Control Module, Headlamp Control Module, Instrument  
 Control Module, Navigation Control Module, Park  
 Assist Control Module, Power Mirror Control Module,  
 Power seat control Module, Radiator Fan Control Module,  
 Seat Heater Control Module, Steering Column Control Mod- 35  
 ule, Steering Control Module, Steering Mounted Control  
 Module, Sunroof Control Module, Transfer Case Control  
 Module, General Electronic Control Module, Moonroof  
 Control Module, Suspension Control Module, Tire Pressure  
 Control Module, Traction Control Module, Trailer Light, 40  
 Control Module, and combinations thereof.

4. The system of claim 3, wherein said programming  
 instructions are selected from the group of instructions consisting  
 of reprogramming, program updating, calibration, linking,  
 marriage, serial coding, security coding, and combinations 45  
 thereof.

5. The system of claim 1, wherein said computer system is  
 a vehicle scan tool.

6. The system of claim 1, wherein said bi-directional communication  
 link is carried over the Internet.

7. The system of claim 6, wherein said vehicle communication  
 device or said remote communication device connects  
 to said bi-directional communication link through a wired  
 connection selected from the group consisting of a telephone  
 connection, Ethernet connection, universal serial bus connection, 55  
 firewire connection, and combinations thereof.

8. The system of claim 6, wherein said vehicle communication  
 device or said remote communication device connects  
 to said bi-directional communication link through a wireless  
 connection selected from the group consisting of WiFi, Blue- 60  
 tooth, a cellular data communications network, and combinations  
 thereof.

9. A method of remotely programming one or more sub-  
 systems of a vehicle, comprising:  
 connecting a vehicle communication device and a remote 65  
 communication device; said vehicle communication  
 device in communication with said one or more sub-

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systems and said remote communication device in communication  
 with a computer system;  
 establishing continuous bi-directional communication  
 using a standard OBD communications protocol  
 between said vehicle communications device and said  
 computer system  
 said computer system requesting, from said vehicle communication  
 device over said continuous bi-directional  
 communication link, a network-compatible vehicle  
 packet corresponding to one or more outgoing pin signals  
 from said one or more vehicle sub-systems;  
 receiving, on said remote communication device over said  
 continuous bi-directional communication link, said network-  
 compatible vehicle packet;  
 converting, on said remote communication device, said  
 vehicle packet to said one or more outgoing pin signals;  
 and  
 transmitting said one or more outgoing pin signals to said  
 computer system;  
 wherein said computer system is enabled by said continuous  
 bi-directional communication using a standard  
 OBD communications protocol to actively and continuously  
 communicate with, scan and program said sub-  
 systems as if it were located proximate to said vehicle.

10. The method of claim 9, further comprising the steps of:  
 generating programming instructions on said computer  
 system;  
 transmitting said programming instructions from said  
 computer system to said remote communication device;  
 converting, on said remote communication device, said  
 programming instructions to a network-compatible programming  
 packet; and  
 transmitting said programming packet to said vehicle communication  
 device over said bi-directional communication link.

11. The method of claim 10, wherein said one or more  
 sub-systems are selected from the group consisting of Air bag  
 control module, Alarm Control Module, Antenna Control  
 Module, Automatic Control Module, Body Control Module,  
 Cabin Heater Control Module, Central Control Module,  
 Charging Control Module, Communication Control Module,  
 Door Control Module, Electronic Brake Control Module,  
 HVAC Control Module, Electronic Throttle Control Module,  
 Engine Control Module, Headlamp Control Module, Instrument  
 Control Module, Navigation Control Module, Park  
 Assist Control Module, Power Mirror Control Module,  
 Power seat control Module, Radiator Fan Control Module,  
 Seat Heater Control Module, Steering Column Control Module,  
 Steering Control Module, Steering Mounted Control  
 Module, Sunroof Control Module, Transfer Case Control  
 Module, General Electronic Control Module, Moonroof  
 Control Module, Suspension Control Module, Tire Pressure  
 Control Module, Traction Control Module, Trailer Light  
 Control Module, and combinations thereof.

12. The method of claim 11, wherein said programming  
 instructions are selected from the group of instructions consisting  
 of reprogramming, program updating, calibration,  
 linking, marriage, serial coding, security coding, and combinations  
 thereof.

13. The method of claim 9, wherein said computer system  
 is a vehicle scan tool.

14. The method of claim 9, wherein said bi-directional  
 communication link comprises the Internet.

15. The method of claim 9, wherein said vehicle communication  
 device or said remote communication device connects  
 to said bi-directional communication link through a  
 wired connection selected from the group consisting of a



telephone connection, Ethernet connection, universal serial bus connection, firewire connection, and combinations thereof.

16. The method of claim 9, wherein said vehicle communication device or said remote communication device connects to said bi-directional communication link through a wireless connection selected from the group consisting of WiFi, Bluetooth, a cellular data communications network, and combinations thereof.

17. The method of claim 9 wherein said standard OBD communications protocol is selected from the group comprised of SAE J2284, SAE J1850 PWM, SAE VPM, ISO 9141, ISO 14230, and ISO 15765.

\* \* \* \* \*

REPAIRIFY, INC  
EMPLOYMENT AGREEMENT

In consideration of Repairify, Inc.. ("Company") agreeing to employ the undersigned ("Employee"), the undersigned Employee covenants and agrees as follows:

1. Confidential Information. The Employee covenants and agrees with the Company that he shall not, either while he is a Company employee or at any time two (2) years thereafter, use for his own benefit, or for the benefit of any other person, or to the detriment of the Company, or disclose to any person, firm or corporation, any secret, private or confidential information or other proprietary knowledge of and concerning the business or affairs of the Company which he may have acquired in the course of, or as incident to, his employment or other association with the Company (whether relating to past, present or prospective clients, customers, associates and employees or otherwise).
2. Company Employees. The Employee covenants and agrees with the Company that, while he is a Company employee or at any time two (2) years thereafter, he will not directly or indirectly, as an individual or on behalf of a firm, corporation, partnership or other entity, engage, solicit, entice, urge or otherwise encourage any employees of the Company to terminate his employment relationship with the Company.
3. Covenant not to Compete. The Employee covenants and agrees with the Company that while he is a Company employee or at any time two (2) years thereafter, he shall not compete with the Company in the "Restricted Territory." Competition means competition with any business being carried on by the Company at the time the Employee ceases to be an employee or the Company. "Restricted Territory" means anywhere in North Florida or where Discover Technologies conducting business.
4. Headings. The headings and captions used in this Agreement are for convenience only and shall not be deemed to limit, amplify or modify the terms hereof.
5. Invalid Provisions. If any provision of this Agreement is held to be illegal, invalid or unenforceable, such provision shall be severed and in lieu of thereof there shall be added automatically as part of this Agreement, a provision as similar to the severed provision as is legal, valid and enforceable.
6. Entire Agreement. This Agreement embodies the entire agreement among the parties and supersedes all prior agreements and understandings relating to the subject matter hereof.
7. Further Amendments. This Agreement may be amended only in writing executed by all parties hereto.
8. Successors and Assigns. The Agreement is binding upon and insures to the benefit of the respective successors and permitted assigns of the parties hereto.
9. Number and Gender. Whenever in this Agreement the singular is used, the same shall include the plural where appropriate, and vice versa; and words of gender shall include the masculine, feminine and/or neuter, as appropriate.
10. Construction and Provisions. No inference in favor of, or against, either party shall be drawn from the fact that one party, or its counsel, has drafted any portion of this Agreement.
11. Further Assurances. At any time reasonably requested by another party, each party hereto shall execute, deliver and acknowledge or cause to be executed, delivered and acknowledged, such further Agreements and do such other acts and things as may be reasonably requested in order to fully implement the purposes of this Agreement and any other agreements delivered pursuant thereto.
12. Prevailing Party. In connection with any litigation arising out of this Agreement, the prevailing party therein shall be entitled to recover from the non-prevailing party all costs incurred in connection therewith including, without limitation, all attorneys' fees, paralegals' fees and court costs, whether incurred at bankruptcy, administrative, trial and/or appellate levels or proceedings.
13. Governing Law. This instrument shall be construed and governed under the laws of the state of Florida.

"EMPLOYEE"

Charles P. Olson

Name: Charles P. Olson

Date: 8/6/15

904-717-1711

info@AirProDiagnostics.com

Monday – Friday 8:00 AM – 8:00 PM EST

We're Hiring Quality Technicians! Click Employment Application Below.



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Remote Tech Support      Self Charging Through DLC Port

**Scanning**      Remote Support      **Seat Calibrations**

Cloud DataBase      Efficient      Proven      EverGreen Technology

Remote Audio      **Tested**      Rugged Design      **WiFi & HotSpot - ONLY**

Quick Reports      Reports      Built in VIN Decoder

98%+ Coverage      The Future

QuickScans - NO Charge      Latest IT Infrastructure

**Programming**      Certified MasterTechs      **It Works**

DataBase Intergration      Built in Voltage Meter

iPhone & Android Service Requests



# Welcome to AirPro Diagnostics!

AirPro Diagnostics provides a Solid, Comprehensive, Repeatable, Scanning Solution to benefit all stake holders in the collision repair industry.



Submit a Service Request



Connect to WiFi



Remote Scanning



Print Report



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## EXHIBIT 6



## Remote Scanning & Diagnostics in a Flash

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### Pre & Post Repair Scanning Position Statement

ONE PURPOSE OF THIS STATEMENT IS TO DEBUNK THE MYTH THAT "OEM" SCAN TOOLS ARE REQUIRED TO PERFORM PRE AND POST REPAIR SCANS, CALBRATIONS OR PROGRAMMING. THIS IS NOT, NOR HAS BEEN, THE CASE FOR QUITE SOMETIME. AFTERMARKET TOOLS HAVE BEEN CONSISTENTLY USED AND CONTINUE TO BE USED BY DEALERSHIPS, MOBILE PROGRAMMERS AND REMOTE SCANNING SERVICES FOR THE LAST 5 YEARS.

It's not a surprise that many in the collision repair industry are either misinformed or unaware as to the functionality and capabilities of both OEM and aftermarket scan tools and believe OEM scan tools are the only comprehensive solution. Due to recent advancements in technology and the availability of OEM software, other methods of delivering these services have become possible as proven by the recent launch of the patent-pending **AirPro** diagnostic and programming tool.

**AirPro** is capable of delivering OEM dealership-level services using a plurality of OEM and high-level, enhanced, independent, proprietary software. These services include scanning, diagnostics, calibrating and programming.

ANOTHER MYTH IS THAT **AirPro** IS INFRINGING ON OTHER EXISTING METHODS, PROCESSES OR PATENTS. TO CLARIFY: **AirPro DOES NOT** USE ANY OEM OR AFTERMARKET SCAN TOOLS TO TRANSMIT SIGNALS OVER THE INTERNET THROUGH ANY TYPE OF COMMUNICATION INTERFACE DEVICE. THEREFORE, **AirPro DOES NOT** INFRINGE ON ANY EXISTING METHODS, PROCESSES AND OR PATENTS.

Thru the **AirPro**, APD is immediately able to deliver state-of-the-art, dealership-level, remote scanning, programming, and calibration services covering over 98% of all vehicles back to 1996.

APD currently offers the collision repair industry the following:

- **98+% coverage on ALL vehicles back to 1996**
- **Instant wireless connectivity to shop's existing Wi-Fi or cellular service**
- **No internet cables, wires or special configurations needed**
- **Ready to use anywhere; in shop, parking lot, or on road test**
- **OEM diagnostics and programming capabilities**
- **Cloud based Client Diagnostic Management System included**
- **Simple, quick, on-line request**
- **Limited skills needed at shop level**
- **Comprehensive, detailed, data reports w/recommendations from highly skilled & experienced Certified Master Techs**

For more information, please contact us at (904) 717-0577



AirPro Diagnostics 6873 Phillips Industrial Blvd Suite C Jacksonville, FL 32256

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# WHY CHOOSE AIRPRO



1. The AirPro is a true OEM complaint scan-tool vs. an non-OEM (aftermarket) communication interface device or translator which translates the vehicle module's electronic signals to the language of the internet "TCIP" and then translates it back to communicate with a scan-tool.
2. AirPro is a true OEM complaint scan-tool that connects directly to the vehicle as all scan-tools are designed & engineered to do. Therefore, the AirPro is NOT subject to the constant fluctuations of the internet which can cause critical data to be altered or skewed, and can cause missed data, missed codes or unreliable results.
3. AirPro is capable of programming multiple system control modules including powertrain modules without the fear of "Killing", aka "Beer Canning" or "Bricking" a module due to lost internet connection's
4. Since the AirPro is a true scan-tool and resides at the vehicle, the AirPro can be connected for data analysis during driving procedures (road tests) including Honda's 22 MPH ODS (Occupant Detection System) calibrations and other safety related calibrations. It can accurately preform this critical safety calibration according to Honda's required procedures which specifically states the vehicle is not to be placed on a lift or jack stands and must be driven while the scan-tool is connected.
5. The AirPro is a true OEM complaint scan-tool and covers 98+% of all vehicles from 1996 to 2017. Therefore, there is no need for a "coverage" or "excuse" chart.
6. AirPro typically delivers its service within 15 minutes of the time the initial request is made by the shop. There is no need to wait hours for a scan to be completed and a report delivered.

7. When OEMs introduce new procedures or diagnostic routines, AirPro has coverage right away and does not require months or years of further development or engineering.
8. AirPro's Evergreen policy means no need to pay for an upgrade to a new device every couple of years to add the latest vehicle coverage.
9. The AirPro immediately connects to the shop's existing Wi-Fi system or thru a "hot spot" and therefore does not require any special configurations or cabling.
10. AirPro Diagnostics offers the most comprehensive diagnostic management system, "ORION" to simply and conveniently manage all scan requests, reports and invoices.

The AirPro is a true scan-tool with both OEM J-2534 and OEM compatible 3rd party software directly connected to a vehicle. The AirPro is remotely accessed by Wi-Fi, Ethernet cable or cellular internet access. This method allows our ASE certified diagnostic specialists to remotely log into the tool and take control to select the appropriate software and functionality needed for the vehicle connected. The remote technician performs the procedures needed for pre- or post-repair scan analysis, diagnostic functions, system calibrations or module programming in conjunction with available OEM and aftermarket service information sources. Thru the AirPro all vehicle communications stay resident at the vehicle the way scan-tools are designed and intended to be used by the scan-tool manufacturers.

**Strengths and Benefits:**

- Both OEM and aftermarket scan-tools are connected directly to a vehicle via OEM validated interfaces as designed by manufacturers
- Diagnostic specialists perform functions and interpret results
- Diagnostic specialists provide guided fault finding to a shop as needed
- Full documentation and service information recommendations with scan-tool results are provided
- No waiting for transport to dealer/equipped shop or scheduling of a mobile tech's availability
- No scan-tools for shop to purchase or maintain
- Sublet invoice is provided
- No need to recruit hire and train diagnostic specialist to perform services independently
- Scan-tool continues to operate as designed if internet signal is temporarily lost



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### About Us

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## Thank You for Choosing AirPro!

The AirPro is a remote scanning, diagnostic and programming tool. With instant wireless or cellular connectivity, the AirPro is ready to use anywhere in the shop, the back lot or on a road test. It currently includes OEM capabilities and 98%+ coverage on all vehicles. We offer the absolute best solution to deliver remote scanning, diagnostics and programming more efficiently than any other method currently available in the market!



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## Frequently Asked Questions

How much does the AirPro cost?

Please call (904) 717-1711

What is required for the AirPro to work at our location?

1. Internet access through WiFi or cellular hotspot
2. Battery support for the vehicle.

How does the AirPro receive power?

The AirPro has its own battery power. The AirPro receives power through the DLC port when hooked to a vehicle with proper battery support. When not in use it will need to be connected to its power source which is a standard micro USB charger like any Android phone charger.

How long will the AirPro hold a charge?

It generally lasts about 4 hours. However, if connected to the DLC port it will continue to charge from the vehicle's power.

What type of scans can the AirPro do?

1. Quick Scan
2. Inspection Scan
3. Diagnostics Scan
4. Completion Scan
5. Follow-Up Scan

How long does a scan take?

Typically a scan takes anywhere from 3 to 30 minutes depending on the type of scan, manufacturer & the # of modules.

Can the AirPro do programming?

Yes, on most vehicles.

Does the AirPro support doing seat calibrations?

Yes

[Shop Profile](#)

## Other Questions?

Name

E-mail

Telephone

City

Company

Website

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AirPro Diagnostics 6873 Phillips Industrial Blvd Suite C Jacksonville, FL 32256

[Contact Us](#)



Mr. Charles Olsen,  
985 West Tennessee Trace  
Jacksonville, Florida 32259

March 21, 2016

Dear Mr. Olsen:

As you are aware, you signed an Employment Agreement (“Agreement”) with Repairify, Inc. on August 6<sup>th</sup>, 2015. Your specific mention of your signed Agreement, in written correspondence to CEO Mr. Doug Kelly, on November 8<sup>th</sup>, 2015, serves as proof that you are aware of both the scope, and the binding nature of the Agreement.

Pursuant to Florida Statute §542.335, Repairify, Inc. seeks to protect its legitimate business interests, and is sending this reminder of your contractual obligations as a courtesy. The intent of this correspondence is to put you on notice that Repairify, Inc. intends to enforce the restrictive covenant that you signed on August 6<sup>th</sup>.

Be advised that under the Florida Statutes §542.335 (1)(b) Legitimate business interests include, but are not limited to:

- a. Trade secrets, as defined in §688.002(4).
- b. Valuable confidential business or professional information that otherwise does not qualify as trade secrets.
- c. Substantial relationships with specific prospective or existing customers, patients, or clients.
- d. Customer, patient, or client goodwill associated with:
- e. An ongoing business or professional practice, by way of trade name, trademark, service mark, or “trade dress”;
- f. A specific geographic location; or
- g. A specific marketing or trade area.
- h. Extraordinary or specialized training.

It has come to Repairify, Inc.’s attention through several sources that you have, or may have:

- A. Divulged Private and/or Confidential Information breaching Section 1 of your Agreement, which states:

Section 1 Confidential Information. The Employee covenants and agrees with the Company that he shall not, either while he is a Company employee or at any time two (2) years thereafter, use for his own benefit, or for the benefit of any other person, or to the detriment of the Company, or disclose to any person, firm or corporation, any secret, private or confidential information or other proprietary knowledge of and concerning the business or affairs of the Company which he may have acquired in the course of, or as incident to, his employment or other association with the Company (whether relating to past, present or prospective clients, customers, associates and employees or otherwise).

1. Using and/or disclosing any secret, private or confidential information or other proprietary knowledge of, and concerning the business or affairs of, the Company is a breach of your contract.
  2. You are urged to cease and desist in any activity that would breach §1 of your Agreement.
  3. Failure to honor your Agreement will result in further action and potential litigation for breach of contract.
- B. Contacted Company Employees breaching Section 2 of your Agreement, which states:
- Section 2 Company Employees. The Employee covenants and agrees with the Company that, while he is a Company employee or at any time two (2) years thereafter, he will not directly or indirectly, as an individual or on behalf of a firm, corporation, partnership or other entity, engage, solicit, entice, urge or otherwise encourage any employees of the Company to terminate his employment relationship with the Company.
1. Engaging in conversations with current employees of the Company that are intended to entice, urge or otherwise encourage them to terminate employment with the Company is a breach of your contract.
  2. You are urged to cease and desist in any activity that would breach §2 of your Agreement.
  3. Failure to honor your Agreement will result in further action and potential litigation for breach of contract.
- C. Breached your Covenant not to Compete, Section 3 of your Agreement, which states:
- Section 3 Covenant not to Compete. The Employee covenants and agrees with the Company that while he is a Company employee or at any time two (2) years thereafter, he shall not compete with the Company in the "Restricted Territory." Competition means competition with any business being carried on by the Company at the time the Employee ceases to be an employee or the Company. "Restricted Territory" means anywhere in North Florida or where Repairify, Inc. conducting business.
1. Working for a competitor, divulging confidential information to current employees of Repairify, Inc. and to other individuals at your new employer, or soliciting customers of Repairify, Inc. is a complete breach and violation of your Agreement. The Agreement that you signed was carefully drafted to provide that you not compete for a period of two years, by being employed for any business in the United States where Repairify, Inc. has made sales during the term of the Agreement.
  2. You are urged to cease and desist in any activity that would breach §3 your Agreement.
  3. Failure to honor your Agreement will result in further action and potential litigation for breach of contract.

A copy of your signed Agreement is attached for your convenience, and as a reminder of the covenants that you agreed to. It is Repairify, Inc.'s sincerest hope that after reviewing the material above, and the attached Agreement that you are bound by, that you will

conduct yourself accordingly and avoid breaching your contract, thereby avoiding litigation.

Sincerely,

---

Lisa M. DeLong, Esq.

In-House Counsel  
Director of Corporate Compliance  
Repairify, Inc.

Copy of Certified Mail REC. 03/25/2016 2:18pm



# AirPro Diagnostics, LLC



## Press Release

AirPro Diagnostics • 6873 Phillips Industrial Blvd Jacksonville, FL 32256

### FOR IMMEDIATE RELEASE

For More Information contact:

Cathy Mills (904) 717-0577

[airprodiagnostics.com](http://airprodiagnostics.com)

## AirPro Diagnostics Introduces its Remote Comprehensive Solution for Pre and Post Repair Scanning

**Jacksonville, FL 9/19/2016-** This proven, remote scanning method delivers unprecedented levels of service and vehicle coverage allowing vehicles to be; scanned, codes cleared, calibrations performed and modules programmed by ASE Certified Technicians and Diagnostic Specialists. The “AirPro” is a state-of-the-art, high-level scan tool equipped with OEM validated, vehicle communication interfaces that connect directly to the vehicle for real-time functionality (as designed by ALL scan tool developers and manufacturers). This method allows the use and functionality of OEM diagnostic software in conjunction with the highest levels of aftermarket scan tool functionality available. APD’s diagnostic specialists wirelessly remote into the “AirPro” and perform the required procedures as dictated by OEM and industry standards. When trouble is found, APD’s diagnostic technicians provide guided technical assistance and support to correct the condition toward the desired outcome and then deliver a full detailed report including OEM requirements and recommendations.

**Functionality:** The best scan tools give a diagnostic technician the ability to read and clear codes, including pending or permanent codes. They will also include; current data streams, the ability to perform calibrations, system re-learns and reset functions for all systems beyond emission controls. The recent availability and functionality of OEM software, plus the advancement in aftermarket software packages, has made this possible via the “AirPro”. OEM validated systems and software are best for the latest model vehicles and necessary for module programming.

Another remote scanning service, “CDS” through its “AsTech”, utilizes a connection method which relies on interfaces placed in two locations; one connected to the vehicle and one connected to a scan tool at a *different* location. These communication interface devices are used to transmit the vehicle and scan tool data and functions from a vehicle to a scan tool and back again over the

- Continues -

internet. This method requires the conversion of multiple "vehicle scan tool protocols" to "internet protocol" and back again. These interfaces are not scan tools but are best defined as "*electronic communication language interpreters*". This method differs widely from the design and intended function of ALL vehicle scan tools. The use of additional interfaces, for vehicle-to-tool communications across the internet reduces the intended capabilities of a scan tool to less than a direct connection as designed by the manufacturers. Although this method is feasible with some degree of success, full functionality has yet to be achieved or validated. Anyone looking to invest in any scanning device or remote service needs to do their homework and know what they're getting before making a decision. You need to thoroughly understand their current capabilities related to vehicle and procedural coverage as well as potential future capabilities and costs.

Keep in mind what a scan tool does or doesn't do along with their varying levels of functionality. Scan tools do not technically fix or directly diagnose anything. However, without high-level scan tools, requirements for a complete repair such as calibrations, programming and re-learn functions are impossible. Access to these functions and vehicle data, directs technicians to the area(s) of concern. This helps determine where or what a malfunction could be. Service information (service manuals and schematics) with conventional physical testing must also be used in this process.

***It's more than just a scan!*** The surge of technology introduced into vehicles has brought awareness of advanced level diagnostics, calibrations and programming to the forefront of the collision industry. This has reached a critical level for vehicle manufacturers, shops, technicians, insurers, tool manufactures and anyone else involved in collision repairs. Recently, several **OEMs** have issued position statements that pre and post collision repair scans are required or strongly recommended. We understand the reasoning is to provide a more accurate, quicker, complete repair. This process will undoubtedly reduce overall costs and increase customer satisfaction to the benefit of ALL stakeholders. It is a value-added process that leads to; safer vehicles after repairs, improved insurance policy retention and **OEM** brand loyalty from customers. The question is; "how are we going to get this done efficiently and at a cost that is feasible for all industry stakeholders?" ***AirPro Diagnostics is the Solution!***

**Special Trade-In Offer**

**AirPro** *Diagnostics*



***The Most Comprehensive Remote Scanning Solution***

**Risk FREE 60 Day Trial**

- ? True OEM Compliant
- ? 98+% Vehicle Coverage 1996 - 2017 - No Coverage Chart Needed
- ? "Quick Scan" NO CODES – NO CHARGE!
- ? Instant wireless connectivity to shop's existing Wi-Fi or cellular service
- ? No internet cables, wires or special configurations needed
- ? Ready to use anywhere; in shop, parking lot, or on a road test
- ? True OEM diagnostics and programming capabilities
- ? Cloud based client Diagnostic Management System "ORION" included
- ? Simple, quick, on-line request and service
- ? Limited skills needed by shop technician
- ? Comprehensive, detailed, data reports with recommendations from highly skilled, experienced, ASE Certified Techs

**\*\*\*Special Trade-in Offer\*\*\***

**\$500 Trade in discount for  
your current scan tool or aftermarket device including  
asTech, Autel, Launch, Snap-On & others**

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Remote Tech Support      Self Charging Through DLC Port

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# PRESS RELEASE



## AIRPRO DIAGNOSTICS SELECTED AS PREFERRED PROVIDER FOR REMOTE SCANNING IN CANADIAN ARA SHOPS

January 10, 2017 - AirPro Diagnostics is pleased to announce having been selected by the Automotive Retailers Association of British Columbia as the Preferred Remote Scanning Provider for delivering OEM dealership-level scanning and programming functionality to its more than 300 collision repair shop members.

Through its OEM compliant scan tool directly connected to the vehicle, the AirPro system along with its ASE certified technicians, delivers pre- & post-repair scan analysis, diagnostic functions, system calibrations and module programming covering 98+% of vehicles 1996 - 2017. AirPro's Diagnostic Management System, "ORION", delivers full detailed reports showing all DTC codes as well a full analysis including OEM recommendations.

For More Information visit [www.AirProDiagnostics.com](http://www.AirProDiagnostics.com) or contact Cathy Mills (904) 717- 1711

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# AirPro *Diagnostics*



"REMOTE SCANNING ANY VEHICLE, ANY TIME - ON TIME!"



## PRESS RELEASE



### Tools – what solutions are available today

- Chair – Chuck Olsen, AirPro Diagnostics, Executive Director of Operations, [Chuck.o@airprodiag.com](mailto:Chuck.o@airprodiag.com)
- Bob Pattengale Bosch, Trainer and Diagnostic Specialist [bob.pattengale@us.bosch.com](mailto:bob.pattengale@us.bosch.com)
- Jay Horak, AutoEnginuity, CEO, [jayh@autoenginuity.com](mailto:jayh@autoenginuity.com)
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(Donny Seyfer will forward and delegate participation to another ASA Member as needed)
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- Aaron Clark, Assured Performance, VP Certification and Network Development, [aaron.clark@assuredperformance.net](mailto:aaron.clark@assuredperformance.net)
- Darrell Amberson, LaMettry's Collision, [damberson@lamettrys.com](mailto:damberson@lamettrys.com)
- Jason Zeise, LaMettry's Collision, [jzeise@lamettrys.com](mailto:jzeise@lamettrys.com)
- Next steps – prepare summary overview of existing solutions available to collision repairers (OEM Tools, A/M Tools, Mobile Service Providers, Remote Service Providers [using OEM tools via IP connection]) along with strengths/limitations of each.

2nd draft

**Overview:** Pre-and Post-scanning solutions available today for collision diagnostics vary widely for applications and capabilities. Some tools or services are applicable for a “Triage” function before repairs or code clearing at the end of repairs and more depending on how far you want to go. Shop owners, managers, technicians, estimators etc. must understand the capabilities of each option and/or the capabilities of tool or service selections they make. Basic code readers and tools described as OBD2 “AKA Generic” will not be effective for functions beyond powertrain emission based functionality. Tools must have “enhanced” functionality for all electronically controlled systems including, braking, lighting, park assist, airbag, stability control and more. Scan tools also vary by other types, such as hand held, PC based software with vehicle interfaces, (The DLC cable connection to the vehicle). OEM scan tools, Aftermarket multiline scan tools, specialty scan tools, and remote scan tools or services all vary by these types.

Keep in mind what a scan tool does and doesn’t do, and their levels of functionality. Scan-tools do not technically fix or directly diagnose anything. However, without functions being available from high level scan tools, diagnostics, calibrations, programming and re-learn function are mostly impossible. ***A qualified technician who is proficient with diagnostic process and software management with access to service information is required to perform operations beyond basic code retrieval and clearing.***

#### **Additional basic support equipment needed to be effective.**

- Service Information
- Battery support
- Battery tester
- TPMS tool
- Seat Weights
- Object detection targets
- Test lamps
- Multi-Meter
- Wire slicing tools

There is more detail in Support Equipment for Diagnostic Scanning and Calibration document.

### **Special security functions (OEM anti-theft devices)**

- *Security functions may be needed for powertrain control module replacement, Key cylinders or keys, immobilizers and some instrument clusters*
- *Licensed Security Identification Number (LSID) registration with the Secure Data Release Model (SDRM) is required for whatever method you use.*
- *See [www.NASTF.org](http://www.NASTF.org) for more information on obtaining LSID*

### **Options for collision shops to perform scan services independently**

**OEM Scan Tools;** These tools use their manufacturer proprietary diagnostic protocols and are designed and supported for use in the specified OEM line of vehicles. Some of these tools can be very expensive to acquire and maintain. They are designed to be directly connected to a vehicle for **ALL** the functions required for a manufacture's capabilities in all areas of the vehicle. In the last few years OEM scan-tool software access has become more accessible and is available for many manufacturers on short term subscriptions as needed. These software packages are PC based programs and use OEM validated J2534 interfaces that are compatible with the vehicles and software packages.

- **J2534-1**  
J2534 is an interface standard designed by SAE (Society of Automotive Engineers) and mandated by the US EPA (Environmental Protection Agency) for vehicle ECU reprogramming. Its purpose is to create an API (Application Programming Interface) which would be adopted by all vehicle manufacturers, allowing the Independent Aftermarket (IAM) the ability to reprogram ECU's without the need for a special dealer-only tool.
- **J2534-2**  
This is an extension of j2534-1, using the same vehicle communication standards as module programming and adds full functionality of OEM scan tool application software. Using this standard with OEM supported software is the same used by OEM franchised dealers. See [NASTF.org](http://NASTF.org) for more information on OEMs who are using this functionality for OEM scan tool software.

### **Strengths:**

- OEM scan tool updates are normally released shortly after or at the time new vehicle platforms or new model year is made available for sale or when updated programs to improve existing functions are released. This increases the likely hood of coverage and capabilities.
- Full coverage and functions available from OEM
- For a shop that specializes in 1 or 2 OEM manufacturers and employs a diagnostic specialist, an OEM scan tool approach may be the best solution.
- Includes module programming and set up capabilities (additional subscriptions required)

### **Weaknesses:**

- These tools are limited to coverage of their respective OEM.
- Separate scan tools and subscriptions are needed for each manufacture and/or year range of vehicles serviced
- Requires maintaining the software updates for tool and OEM subscriptions to obtain programming file downloads and service information needed to apply the functionality
- Some manufacturers have multiple versions of their OEM scan tools that cover certain model years and may be available in either the original handheld design or as a PC application.
- Some original version OEM tools have been discontinued and replaced with emulated software programs.

- For some OEMs, the user must have multiple diagnostic platforms or scan tools for different models of vehicles as the newer platforms are not reverse compatible with older MY vehicles.
- Shop must employ and train diagnostic specialists proficient in diagnostics and scan tool use/maintenance
- Shop must document and bill procedures appropriately from each different tool
- Security function require shop to obtain an LSID or sublet.

**Aftermarket scan tools:** A scan tool's ability to retrieve and clear trouble codes, acquire lines of data for multiple manufacturers, (read sensor output and observe data or activate actuators like idle air control, body functions, transmission controls etc.) or perform special re-learn or calibration functions depends on the tool. Some capabilities are common to almost all scan tools beyond OBD-II generic scanners to varying degrees. Higher-level, enhanced scan tools provide a decent number of lines of information and do a good job of giving information on numerous applications. The highest-level aftermarket scan-tools contain most or all "re-learn" and calibration procedures. This will also vary by vehicle and the level of software in the tool. Today's aftermarket scan tools can be 6 months to 2 years behind for full procedures for the current model year release. This depends on the tool makers' ability to acquire and develop software. Some aftermarket tools have specialized coverages for "Asian" "Domestic" or "European" applications, depending on the tool and tool manufacturer.

**Strengths:**

- Covers multiple manufacturers and functions across a wide range of model years
- Common user interface platform across multiple manufactures
- Highest level of enhanced tools contain OEM level functions and capabilities
- Fewer tools and subscriptions to maintain

**Weaknesses:**

- May not have functions or coverage needed for latest release vehicles (newer than 6 months or 2 years depending on tool provider)
- Capabilities of each aftermarket tool option must be researched to insure expected performance for applications
- Requires software subscriptions for updates and coverage levels
- Requires additional equipment and/or OEM sourced subscriptions for programming of replacement modules or sublet of these functions, Security function require shop to obtain an LSID or sublet.
- Shop must employ and train diagnostic specialists proficient in diagnostics and scan tool use/maintenance
- Shop must document and bill procedures appropriately

***Options for shops to sublet scan services.***

**Mobile Service Providers:**

Mobile service providers can take the pressure off a shop to acquire and maintain scan tools as well as performing hands on procedures beyond what a scan tool is capable of by itself. Mobile service providers usually have an assortment of aftermarket and OEM tool sources on hand appropriate for the procedures needed. Mobile technicians should have the equipment and ability to perform replacement module programming

**Strengths:**

- Eliminates shops need to employ and train diagnostic specialists
- Eliminates shops need to purchase and maintain equipment

- Mobile service provider provides scan tools and equipment appropriate for services needed
- Security functions possible if mobile service provider has LSID registration
- Mobile service provider can perform hands on functions independently without shop personnel involvement
- Sublet invoice is provided

**Weaknesses:**

- Some markets may not have available service providers
- Scheduling and availability of mobile services can delay work flow
- Work needed can be limited to a mobile tech's equipment and skill area (some mobile tech services are specialized)
- Scheduling conflicts can prohibit scanning or calibration functions resulting in shops going forward with repairs or delivery without a full assessment of a vehicle.

**Sublet programming, calibrations, and advanced diagnostic functions to a dealer or diagnostic specialty shop**

This is a time-consuming process and is usually done after repairs have started and additional problems are present. Increases cost due to towing and rental expense. It is not feasible for a pre-repair or estimate process during blueprinting stage of repair estimate.

**Strengths:**

- Dealers can obtain security ID to perform security related component initializations
- Same as mobile service provider

**Weaknesses:**

- Increased cost transporting vehicle
- Increased cost per service
- Scheduling and wait time for diagnostic procedures
- Dealer services are limited to their OEM franchise
- Increases cycle time and rental expenses
- Non-dealer sources may be limited in capability

**Remote Service Providers:**

Currently there are 2 different approaches to providing remote services for applying pre-and post-scanning with calibration and programming capabilities. These methods offer on-demand services that reduce or eliminate the need to transport vehicles. Both methods use aftermarket and OEM scan-tool sources and employ diagnostic specialists to operate the scan tool. There are distinct differences with each approach.

**Remote connected scan tool via aftermarket IP connected interfaces:**

This method is a patented process exclusive to the specific service provider and aftermarket hardware supplier. The hardware is an aftermarket communication interface that connects a vehicle's DLC port for conversion to TCIP (internet language) to be transmitted to another aftermarket interface for conversion and connected to a scan-tool in a location other than the vehicle. OEM and aftermarket scan-tools are operated by diagnostic specialists who interpret vehicle data and codes with recommendations. The remote diagnostic technician performs the procedures needed for pre-or

post-repair scan analysis, diagnostic functions, system calibrations or module programming in conjunction with available OEM and aftermarket service information sources. Scan-tool commands or procedures are then transmitted from the remote location back to the vehicle.

**Strengths:**

- Diagnostic specialists perform functions and interpret results
- Diagnostic specialists provide guided fault finding to a shop as needed
- Full documentation and service information recommendations with scan tool results
- No waiting for transport to dealer/equipped shop or scheduling of a mobile tech availability
- No scan tools for shop to purchase or maintain
- No need to recruit hire and train diagnostic specialist to perform services independently
- Sublet invoice is provided

**Weaknesses:**

- The Scan tool's connectivity to vehicle is dependent on internet conditions and the aftermarket interfaces' functionality
- The Scan tool's functionality can be reduced to less than designed by the manufacturer due to internet connection quality or the aftermarket interface limitations
- Device may not, in every circumstance, return the same information that would result from a scan performed with an OE scan tool proximate to the vehicle
- Variations between cars according to the make, model and trim level, may limit the information provided by the aftermarket internet communication device.
- Module programming can fail and potentially damage a module if internet connectivity is lost
- Requires shop personnel participation
- Some procedures may require additional on car testing a shop is not equipped for
- Shop will need additional support equipment for some calibrations
- Some issues can be missed if shop personnel do not inform remote diagnostic technicians of vehicle conditions or symptoms
- Security function requirements cannot be applied (subject to change)
- Procedures must start over if internet connection is lost or weak

**Direct connected scan tool with remote access:**

This patent pending method involves placing a scan tool system with both OEM J-2534 and OEM compatible 3<sup>rd</sup> party software directly connected to a vehicle. This scan-tool system is remotely accessed by WI-FI, cabled, or cellular internet access. This method allows a diagnostic specialist to remotely log into the tool and take control to select the appropriate software and functionality needed for the vehicle connected. The remote diagnostic technician performs the procedures needed for pre-or post-repair scan analysis, diagnostic functions, system calibrations or module programming in conjunction with available OEM and aftermarket service information sources. Vehicle communications stay resident at the vehicle the way scan tools are designed and intended to be used by the scan tool manufacturers.

**Strengths:**

- Both OEM and aftermarket scan-tools are connected directly to a vehicle via OEM validated interfaces as designed by manufacturers
- Diagnostic specialists perform functions and interpret results
- Diagnostic specialists provide guided fault finding to a shop as needed

- Full documentation and service information recommendations with scan tool results are provided
- No waiting for transport to dealer/equipped shop or scheduling of a mobile tech's availability
- No scan tools for shop to purchase or maintain
- Sublet invoice is provided
- No need to recruit hire and train diagnostic specialist to perform services independently
- Scan tool continues to operate as designed if internet signal temporarily lost

**Weaknesses:**

- Requires some shop personnel participation
- Requires Solid Wi-Fi Internet signal for operation
- Some procedures may require additional on car testing shop may not equipped for
- Shop needs additional support equipment for some calibrations
- Security function requirements cannot be applied (subject to change)
- Some issues can be missed if shop personnel do not inform remote diagnostic specialists of vehicle conditions or symptoms

Chuck Olsen  
Executive Director of Operations  
AirPro Diagnostics LLC.

DRAFT



I am contacting you to introduce you to AirPro Diagnostics, LLC, a newly formed company structured to deliver state-of-the-art remote scanning and programming services to the collision repair industry. APD utilizes the patent-pending AirPro device to wirelessly connect to vehicles and provide remote pre and post repair scans in less than half the time of other methods currently available in the market.

A Few Key Features of AirPro Diagnostics' services:

- AirPro has 98%+ vehicle coverage immediately! This includes Kia, Hyundai, Subaru as well as mainstream European, Asian and domestic manufactures back to the year 1996
- Instant wireless connectivity to the shop's existing Wi-Fi or cellular service (no cables, wires or special configurations needed)
- Ready to use anywhere; in shop, parking lot, or on road test
- Simple, quick, on-line request with built-in reporting and diagnostic data history
- Single invoicing system per vehicle/RO for all scans, calibrations and services performed
- Comprehensive, detailed data reports with recommendations provided by highly skilled, experienced, Certified Master Techs
- "Quick scans" on **every vehicle**. If no codes present, then "no charge". If codes are found, a full inspection scan is delivered at prevailing rates.
- OEM diagnostics and programming

APD offers the most comprehensive and advanced solution for remote scanning, diagnostics and programming, more than any other device currently available.

AirPro Diagnostics is currently offering a special promotional opportunity to a limited number of select collision repair shops. These early adopters will be the first to realize all the benefits of APD's remote services.

This **Special Limited Trial Offer** includes no purchase necessary and a waiver of the one-time set-up fee and all monthly fees for one year. It also includes a special 5% discount on each invoice.

***If interested, please reply to this e-mail or contact either of us directly.***

*Cathy Mills*

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REPAIRIFY, INC  
EMPLOYMENT AGREEMENT

In consideration of Repairify, Inc. ("Company") agreeing to employ the undersigned ("Employee"), the undersigned Employee covenants and agrees as follows:

1. Confidential Information. The Employee covenants and agrees with the Company that he shall not, either while he is a Company employee or at any time two (2) years thereafter, use for his own benefit, or for the benefit of any other person, or to the detriment of the Company, or disclose to any person, firm or corporation, any secret, private or confidential information or other proprietary knowledge of and concerning the business or affairs of the Company which he may have acquired in the course of, or as incident to, his employment or other association with the Company (whether relating to past, present or prospective clients, customers, associates and employees or otherwise).
2. Company Employees. The Employee covenants and agrees with the Company that, while he is a Company employee or at any time two (2) years thereafter, he will not directly or indirectly, as an individual or on behalf of a firm, corporation, partnership or other entity, engage, solicit, entice, urge or otherwise encourage any employees of the Company to terminate his employment relationship with the Company.
3. Covenant not to Compete. The Employee covenants and agrees with the Company that while he is a Company employee or at any time two (2) years thereafter, he shall not compete with the Company in the "Restricted Territory." Competition means competition with any business being carried on by the Company at the time the Employee ceases to be an employee of the Company. "Restricted Territory" means anywhere in North Florida or where Discover Technologies conducting business.
4. Headings. The headings and captions used in this Agreement are for convenience only and shall not be deemed to limit, amplify or modify the terms hereof.
5. Invalid Provisions. If any provision of this Agreement is held to be illegal, invalid or unenforceable, such provision shall be severed and in lieu of thereof there shall be added automatically as part of this Agreement, a provision as similar to the severed provision as is legal, valid and enforceable.
6. Entire Agreement. This Agreement embodies the entire agreement among the parties and supersedes all prior agreements and understandings relating to the subject matter hereof.
7. Further Amendments. This Agreement may be amended only in writing executed by all parties hereto.
8. Successors and Assigns. The Agreement is binding upon and insures to the benefit of the respective successors and permitted assigns of the parties hereto.
9. Number and Gender. Whenever in this Agreement the singular is used, the same shall include the plural where appropriate, and vice versa; and words of gender shall include the masculine, feminine and/or neuter, as appropriate.
10. Construction and Provisions. No inference in favor of, or against, either party shall be drawn from the fact that one party, or its counsel, has drafted any portion of this Agreement.
11. Further Assurances. At any time reasonably requested by another party, each party hereto shall execute, deliver and acknowledge or cause to be executed, delivered and acknowledged, such further Agreements and do such other acts and things as may be reasonably requested in order to fully implement the purposes of this Agreement and any other agreements delivered pursuant thereto.
12. Prevailing Party. In connection with any litigation arising out of this Agreement, the prevailing party therein shall be entitled to recover from the non-prevailing party all costs incurred in connection therewith including, without limitation, all attorneys' fees, paralegals' fees and court costs, whether incurred at bankruptcy, administrative, trial and/or appellate levels or proceedings.
13. Governing Law. This instrument shall be construed and governed under the laws of the state of Florida.

"EMPLOYEE"



Name: Wilfredo Rodriguez

Date: 08-06-2015



## SCAN TOOL POSITION STATEMENT

FCA US LLC vehicles, systems and components are engineered, tested and manufactured to help protect vehicle occupants. They are engineered to meet or exceed both government mandated and internal corporate requirements relative to durability, NVH (noise vibration and harshness) and vehicle safety. Use of the Mopar<sup>®</sup> wiTECH vehicle diagnostic tester (Mopar Scan Tool) is an important part of FCA US vehicle service and maintenance. This tool contains software that aftermarket tools may not contain and can assess whether any FCA US vehicle's safety and security systems contain active or stored Diagnostic Trouble Codes (DTCs).

Safety and security related systems, such as antilock brakes, supplemental restraint systems (SRS - air bags), occupant restraint controller (ORC), seat belts, active head restraints, forward facing camera and radar, blind spot monitoring, and other automated electronic driver assistance systems, MUST be tested for fault codes (DTCs) that could be active (current) or stored following a collision. Use of the Mopar wiTECH vehicle diagnostic tester is necessary before and after collision repair.

ANY of the following conditions could trigger DTCs prior to or during collision repairs, which could result in improper vehicle performance:

- ▶ Vehicle is involved in an accident or collision, even though the damage may appear minor
- ▶ Vehicle has been in an accident with or without air bag deployment
- ▶ Voltage loss, including battery disconnects and hybrid battery disabling
- ▶ Significant vehicle disassembly including, but not limited to, bumpers, door handles, headlamps and mirrors
- ▶ Interior trim repair or removal
- ▶ Glass removal and replacement operations

Any repairs performed without using Mopar parts and not following published repair guidelines and procedures, may expose current or future vehicle owners and occupants to unnecessary risk.

If faults were stored in the DTC memory for any safety or security system, then these systems MUST be serviced according to the repair procedures in Service Information. After performing repairs, recheck the system to determine if any active or stored DTCs remain; if so, take appropriate service action to ensure proper function.

### SRS AIR BAG SQUIB STATUS

Multistage air bags with multiple initiators (squibs) MUST be checked to determine that all squibs were used during the deployment event. The Driver Air Bag (DAB) and Passenger Air Bag (PAB) are deployed by electrical signals generated by the Occupant Restraint Controller (ORC) through the driver or passenger squib circuits (up to 3) to the initiators in the air bag inflators. Typically, all initiators are exhausted and all potentially hazardous chemicals are burned during an air bag deployment event.

However, it is possible for only one initiator to be exhausted; therefore, you MUST always confirm that all initiators have been cycled to minimize the risk of improper handling or disposal of potentially live pyrotechnic or hazardous materials. **This procedure must be performed using the Mopar wiTECH diagnostic scan tool or at a company such as Collision Diagnostic Services that diagnostically remotely scans the vehicle using FCA US scan tools in conjunction with their patented asTech device, to verify the status of all air bag squibs, prior to removing deployed air bags from the vehicle for disposal.**

- ▶ Service Information can be obtained at [www.oem1stop.com](http://www.oem1stop.com)
- ▶ Mopar wiTECH scan tools can be purchased from <https://mopar.snapon.com>

