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9 Silicon Valley Optics Technology, Inc.

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12 **SUPERIOR COURT OF CALIFORNIA**  
13 **ALAMEDA COUNTY**  
14 **UNLIMITED CIVIL JURISDICTION**

15 SILICON VALLEY OPTICS TECHNOLOGY,  
16 INC., a California Corporation,

17 *Plaintiff,*

18 v.

19 LUMICON INTERNATIONAL, LLC, a  
20 California business entity; OPTICAL  
21 STRUCTURES INCORPORATION, a California  
22 Corporation; DEBORAH NEVEUX, an  
23 individual; MARC NEVEUX, an individual; and  
24 DOES 1 through 10, inclusive,

25 *Defendants.*

26 Case No. HG16842987

27 **SECOND AMENDED COMPLAINT**

28 **PARTIES**

1. The plaintiff, SILICON VALLEY OPTICS TECHNOLOGY, INC. (hereinafter  
“SVOT”), is a corporation organized and existing under the laws of the State of California  
registered with the Secretary of State as entity number C2430821 with its principle place of business

1 in Alameda County with John Gao, Phd. being its President and Chief Technical Officer having  
2 over thirty years of experience in technological innovation and being identified as an inventor no  
3 less than 17 United States patents.

4 2. Defendant LUMICON INTERNATIONAL, LLC (LUMICON) is, and at all times  
5 relevant herein, a limited liability company organized and existing under the laws of the State of  
6 California, registered with the Secretary of State and entity number 201226810103 and conducted  
7 business with Plaintiff in Alameda County.

8 3. Defendant OPTICAL STRUCTURES INCORPORATED (OSI) is, and at all times  
9 relevant herein, a Corporation organized and existing under the laws of the State of California and  
10 registered with the Secretary of State as entity number C2877547 with its principle place of business  
11 in Placer County.

12 4. Defendant DEBORAH NEVEUX (DEBORAH) is an individual whom SVOT is  
13 informed and believes resides in Ventura County, California.

14 5. Defendant MARC NEVEUX (MARC) is an individual whom SVOT is informed and  
15 believes resides in Ventura County, California.

16 6. The true names and/or capacities, whether individual, corporate, associate or otherwise, of  
17 Defendants and Does 1 through 10, inclusive, are unknown to SVOT at this time, and who therefore  
18 sue Defendants by such fictitious names, SVOTs are informed and believe and thereupon alleges  
19 that each of the Defendants fictitiously named herein as a DOE is legally responsible, negligently or  
20 in some other actionable manner, for the events and happenings hereinafter referred to, and thereby  
21 proximately and legally caused the injuries and damages to SVOT as hereinafter alleged, the SVOT  
22 will ask leave of court to amend this Complaint to insert the true names and/or capacities of such  
23 fictitiously named Defendants when the same have been ascertained.

24 7. At all times mentioned herein, Defendants and DOES were the agent, employee and  
25 representative of each other, and in doing the things hereinafter alleged, was acting within the  
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1 course and scope of such agency, service and representation, and directed, aided and abetted,  
2 authorized or ratified each and every act and conduct hereinafter alleged.

3 8. At all limes mentioned herein, Defendants were the co-tortfeasor of each of the other  
4 Defendants in doing the things hereinafter alleged.

### 5 **VENUE**

6 9. As the transactions giving rise to the causes of actions in the complaint occurred in  
7 Alameda County and SVOT is physically present in Alameda County and the written contracts at  
8 issue herein were to be performed in the County of Alameda and more particularly at SVOT's  
9 principle place of business, which makes this court the proper venue.

### 10 **FACTUAL ALLEGATIONS**

11 10. Sometime before September 4, 2014, SVOT was introduced to LUMICON, through an  
12 independent sales person Florence Hu, resulting in a written non-disclosure agreement (NDA) being  
13 transmitted to SVOT having signature blocks for Dr. Maurice Sweiss (SWEISS) as President of  
14 LUMICON and John Gao as President/CTO of SVOT; execution of the NDA by SVOT was a  
15 condition precedent to LUMICON contracting for the services of SVOT to manufacture goods on  
16 behalf of LUMICON; SVOT was never provided a copy of the NDA executed by SWEISS and the  
17 first copy of the NDA executed by LUMICON was not received until after the filing of the  
18 Amended Complaint in the instant action and said copy was received from Robert Kitay, attorney  
19 for OSI, a copy of which is attached hereto as Exhibit 1.

20 11. The NDA was executed in Fremont, California by SVOT with the understanding that  
21 performance under the NDA was to occur in Fremont, California and, more particularly,  
22 specifications for the products being produced by SVOT on behalf of LUMICON were to be  
23 shipped to SVOT at its Fremont manufacturing plant and the manufacturing pursuant to the terms of  
24 the NDA was to occur at Fremont, California.

25 12. After execution of the NDA by SVOT, SWEISS informed Officers of SVOT, John Gao  
26 and Meghan Shan, (OFFICERS) that DEBORAH and MARC owned and operated LUMICON and  
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1 proposed to the OFFICERS that SVOT manufacture optical components on LUMICON's behalf,  
2 including astronomy filters (GOODS).

3 13. DEBORAH informed the OFFICERS that it was for SVOT to begin preparation to  
4 manufacture the GOODS in excess of one million United States dollars every 12 to 15 months, as  
5 soon as possible; and DEBORAH stated that it was desired for SVOT to be the exclusive  
6 manufacturer of the GOODS that would bear the LUMICON trademark (MARK); and four months  
7 later written blanket purchase orders (BPO) started arriving from LUMICON, copies of the BPOs  
8 are attached as Exhibits 2-7.

9 14. There was an oral understanding between LUMICON and SVOT that the BPOs were  
10 provided to ensure SVOT had the raw materials and machine-time available to manufacture the  
11 quantity in the BPO for the year and subsequently written release purchase orders (POs) would be  
12 provided indicating the goods that are to be shipped to LUMICON from SVOT manufactured in  
13 accordance with the BPOs, with the understanding that these products were ready for shipment  
14 having been produced in response to the receipt of the BPOs. In all practicality each BPO  
15 represented a requirements contracts and the POs operated as a request for goods ready for purchase  
16 by a third party; attached hereto are copies of POs received from LUMICON as Exhibits 8-13 for  
17 which the GOODS were shipped pursuant thereto and for which amounts are due and outstanding  
18 for said GOODS that were shipped.

19 15. When DEBORAH informed SVOT that it was desirous for SVOT to be the exclusive  
20 manufacturer of the GOODS bearing the LUMICON trademark DEBORAH had already entered  
21 into another agreement with OSI in June 2014 for the manufacture, by OSI, of certain astronomy  
22 related components that also bore the MARK, such as metallic tubes and rings for use in telescopes;  
23 and SVOT is informed and believes LUMICON was already in breach of said agreement due to  
24 failing to pay several invoices of OSI, resulting in OSI slowing delivery of the product to  
25 LUMICON and culminating in the filing of a lawsuit on July 21, 2015 by OSI against DEBORAH  
26 and LUMICON in the Sacramento Superior Court as case number 34-2015-00182045  
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1 (SACRAMENTO ACTION) alleging, *inter alia*, fraud, misrepresentation, breach of contract, just  
2 to name a few.

3 16. SVOT is informed and believes that in order to maintain cash flow for LUMICON,  
4 DEBORAH to make up for the lost manufacturing services of OSI, LUMICON requested SVOT to  
5 make as many as SVOT was able, rings, bearing the MARK, for mounting of the GOODS as SVOT  
6 is informed and believes that LUMICON never had any capacity to manufacture any products  
7 bearing the LUMICON mark and, in fact, LUMICON had never had any manufacturing capacity  
8 since its inception in 2012 and, according to deposition testimony given under oath by DEBORAH  
9 on October 28, 2015 (DEPOSITION), up to that time LUMICON had never turned a profit and,  
10 instead, was riddled with debt causing DEBORAH, who was the only individual operating  
11 LUMICON on a day-to-day basis, to provide infusions of cash from the personal savings of  
12 DEBORAH and MARC of tens of thousands of dollars, much of which went to pay Maurice Sweiss  
13 for, *inter alia*, the acquisition of a 50% interest in a partnership (PARTNERSHIP) that was  
14 proffered to DEBORAH the material terms of which SVOT is informed and believes is set forth in  
15 Exhibit 14 attached hereto.

16 17. Shortly after the PARTNERSHIP was proffered to DEBORAH, DEBORAH registered  
17 LUMICON with the Secretary of State of California as a limited liability company; however, in  
18 contradiction to the PARTNERSHIP, DEBORAH was not the sole owner; rather, DEBORAH  
19 testified at the DEPOSITION that MARC, her husband, was the sole owner of LUMICON and  
20 SVOT is informed and believes that SWEISS was unaware of this when SWEISS transferred  
21 ownership of the Federal Registration for the MARK, registration number 1238066 ('066  
22 Registration) to DEBORAH and SVOT is informed and believes that DEBORAH intentionally  
23 failed to acquire an ownership interest in LUMICON so as to break the privity of interest between  
24 LUMICON and the owner of the MARK that is the subject of the '066 Registration, at this time,  
25 DEBORAH, so that LUMICON would have no rights in the MARK, thereby preventing SWEISS  
26 from enjoying his 50% ownership interest the MARK that resulted from the PARTNERSHIP,  
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1 because DEBORAH was no longer using the MARK that was the subject of the '066 Registration,  
2 rather LUMICON was using the word Lumicon independent of the MARK that was the subject of  
3 the '066 Registration and was developing its own mark to the same term independent of the '066  
4 Registration.

5 18. SVOT is informed and believes that at all relevant times herein LUMICON had no  
6 assets, excepting the MARK and, in fact, was in a negative cash flow from its inception by virtue of  
7 the constant payments being made to SWEISS by DEBORAH and MARC and that the primary  
8 function of LUMICON was to first undermine SWEISS's partnership rights to enjoy the benefit of  
9 any good will generated in the MARK by LUMICON, which, in fact was recognized vis-a-vis an  
10 agreement reached between SWEISS and LUMICON and DEBORA and MARC in which after  
11 much litigation DEBORAH and MARC agreed to recognized SWEISS's 50% interest in  
12 LUMICON, a copy of a what SVOT is informed and believes is a relevant portion of that agreement  
13 is attached hereto as Exhibit 15.

14 19. During negotiations between LUMICON and SVOT, LUMICON conveyed a sense of  
15 urgency on the part of SVOT needing to be prepared to commence manufacturing of the goods on  
16 behalf of LUMICON causing SVOT to commence preparation for the impending orders for goods  
17 from LUMICON that resulted in SVOT purchasing new equipment and hiring additional engineers  
18 and technicians for its Research and Development Group to manufacture goods LUMICON and  
19 given the large quantities of goods that LUMICON desired for SVOT to manufacture, SVOT  
20 provided a substantial discount premised upon the concepts of mass product resulting in a lower per  
21 unit sales prices for the goods than otherwise would have been charged: LUMICON promised  
22 SVOT orders for goods in excess of one million dollars (\$1,000,000.00) and approximately  
23 \$1,240,000.

24 20. The BPOs received from LUMICON reflected part of the agreement reached orally  
25 between LUMICON and SVOT during discussion in late 2014 and early 2015, thereby constituting  
26 a contractual order from LUMICON in which SVOT agreed to sale, and LUMICON agreed to  
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1 purchase, (1) a total of 10,000 units of astronomy band-based filters with 2” diameter specifications  
2 for \$60.00 per unit, resulting in a \$150.00 to \$240.00 per unit discount being provided as a result of  
3 the large quantities ordered; (2) 10,000 units of astronomy band-based filters with 1.25” diameter  
4 specifications for \$28.00 per unit, resulting in a \$92.00 to \$122.00 discount; (3) 2,000 units of  
5 astronomy 15 color filters having 1.25” diameter specifications, as well as 2,000 units of astronomy  
6 15 color filters having 2” diameter specifications at \$5.00 to \$6.00 per unit, resulting in a discount  
7 as the normal market rate for these types of goods was in a range of \$25-\$40.

8 21. To satisfy its manufacturing obligations resulting from the receipt of the BPOs, SVOT  
9 spent at least \$650,000 to hire employees and purchase the necessary equipment and contracted to  
10 pay another \$500,000.00 for the purchase coating machines, as well as underwent several months of  
11 qualification tests, the costs of which were borne entirely by SVOT, in which units were  
12 manufactured to ensure GOODS shipped would satisfy the specifications received from LUMICON.

13 22. During 2015 SVOT shipped 1,300 units to LUMICON having a contracted value of  
14 \$29,915.36 in response to the release POs received from LUMICON and less than an order of  
15 magnitude than that which LUMICON had induced SVOT to prepare for production and provide a  
16 reduced contracted per unit rate, i.e., the BPOs received from LUMICON set forth a requirement of  
17 manufacturing that SVOT was to undertake ten times greater than the goods actually requested by  
18 LUMICON; however, had a mass production discount not been provided, the value of the goods  
19 manufactured by SVOT and received by LUMICON would be \$134,300.00 before interest.

20 23. The payment terms for each shipment of the GOODS was net thirty days DEBORAH  
21 timely paid the first invoice that was transmitted with the GOODS delivered to LUMICON pursuant  
22 to the POs (INITIAL SHIPMENT) of approximately \$2650.00 by credit card on behalf of  
23 LUMICON.

24 24. Following the receipt and payment for the INITIAL SHIPMENT, SVOT manufactured  
25 and shipped to LUMICON hundreds of GOODS to satisfy its obligation on the POs, each shipment  
26 including an invoice with a terms of payment within 30 days in response to several released POs  
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1 received over the course of the first three quarters of 2015; however, no timely payments were  
2 received for those GOODS, despite SVOT making several demands for payment to of LUMICON  
3 and when no invoices were being satisfied, SVOT reduced the quantity of GOODS shipped to  
4 LUMICON in late September 2015.

5 25. During the last quarter of 2015 DEBORAH visited SVOT's place of business in  
6 Fremont, California (FREMONT MEETING) and informed the OFFICERS that LUMICON had  
7 run into financial problems and proposed moving the operations of LUMICON to SVOT's place of  
8 business in Fremont to produce the GOODS jointly. During these discussions, DEBORAH  
9 beseeched the OFFICERS to have SVOT extend time for LUMICON to pay for the GOODS  
10 manufactured and shipped to LUMICON before the FREMONT MEETING (SHIPPED GOODS)  
11 by SVOT, as well as inquired about whether SVOT would provide a loan of \$25,000 to LUMICON  
12 to which SVOT agreed to make a \$5,000 loan to LUMICON.

13 26. During the FREMONT MEETING, DEBORAH was informed by the OFFICERS that  
14 SVOT would continue to manufacture the GOODS for LUMICON upon receipt of advance  
15 payment for the same to which DEBORAH agreed and during the first quarter of 2016 SVOT  
16 manufacture and shipped several shipments of GOODS (PREPAID SHIPMENTS) to LUMICON on  
17 the order of dozens of unit for which prepayment was received by LUMICON.

18 27. As is now known to SVOT, the financial troubles that LUMICON was complaining of at  
19 the FREMONT MEETING had begun long before LUMICON had contacted SVOT: due to the dire  
20 financial condition of LUMICON since its inception, many vendors of the company had initiated  
21 lawsuits against LUMICON and at the time of the FREMONT MEETING no less than five lawsuits  
22 that had been initiated against LUMICON, including the aforementioned SACRAMENTO ACTION  
23 and a lawsuit by SWEISS in the Superior Court of Ventura for Unlawful Detainer that resulted in  
24 the filing of an action against SWEISS (VENTURA ACTIONS) by DEBORAH that provided  
25 SWEISS an opportunity to realize that DEBORAH did not fulfill her obligations under the  
26 PARTNERSHIP AGREEMENT.



1           28. On or about March 1, 2016 SVOT inquired about the repayment of the \$5,000 and the  
2 other outstanding invoices for the SHIPPED GOODS to which DEBORAH communicated that she  
3 would provide such payments; however, the \$5,000.00 was paid only after the filing of the instant  
4 action and payments were still outstanding for the SHIPPED GOODS.

5           29. DEBORAH communicated with SVOT sometime in late 2016 that the SHIPPED  
6 GOODS were rejected as not being of suitable quality and no payments will be forthcoming and  
7 SVOT requested the rejected GOODS to be returned and would not requirement payment for them,  
8 but the rejected GOODS were not returned, and on December 29, 2015, DEBORAH sent a written  
9 text message to SVOT in which she said that DEBORAH would “pay for all invoice in full going  
10 forward . . . [and] add a separate amount to be applied to the old invoices . . .” that SVOT  
11 interpreted as DEOBRAH personally answering for the debt LUMICON owes SVOT for the  
12 SHIPPED GOODS.

13           30. To date, payments are outstanding for the SHIPPED GOODS; however, SVOT had  
14 discovered that DEBORAH and/or MARC had been offering the SHIPPED GOODS for auction  
15 and/or sale on EBay under the ID “waycool4u(1712)” at prices some of which were lower than the  
16 price for which SVOT had agreed to produce the GOODS.

17           31. To mitigate its damages, SVOT has been offering for sale many of the goods  
18 manufactured in reliance upon the BPOs received and requests by LUMICON having the MARK  
19 recited thereon and, as a result of these activities OSI and its principle officer Cary Chleborad  
20 initiated a lawsuit against SVOT and its officers in the Sacramento Superior Court as case number  
21 34-2017-0021938 alleging upon a verified complaint alleging that OSI is a third party beneficiary of  
22 the NDA agreement and that SVOT’s actions of selling the GOODS that recited the MARK violated  
23 the NDA and further that SVOT and its principles were committing criminal acts and was liable on  
24 various cause of actions, including unlawful business practice, misappropriation of trade secrets,  
25 conversion, violation of the Uniform Trade Secrets action.  
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1           32. SVOT is informed and believes that the third party beneficiary rights OSI claims to have  
2 results from a settlement agreement (SETTLEMENT AGREEMENT) reached between OSI and  
3 DEBORAH, MARC and LUMICON, a copy of which is attached hereto as Exhibit 16, which states,  
4 *inter alia*, that LUMICON is to cease all business operation immediately and OSI is to be  
5 transferred physical inventory and assets of LUMICON, including those GOODS in the possession  
6 of SVOT, as well as control of the Lumicon.com internet domain; control of Lumicon web store  
7 account and server; control of the Lumicon Social media accounts, including Facebook, LinkedIn  
8 and twitter and the filing of the Assignment of Ownership of the Lumicon trademark with the  
9 USPTO, which, in short, was a transfer to OSI of all the assets of any value of LUMICON without  
10 incurring any liability for the outstanding debt; and in return, DEBORAH was to be paid  
11 \$250,000.00, and in furtherance of that fraud OSI has sought to prevent SVOT from enjoying the  
12 very benefits of the contract in which OSI now claims rights to enforce.

13           33. SVOT is informed and believes that LUMICON is merely the *alter ego* of DEBORAH  
14 and MARC based upon MARC being the sole owner and DEBORAH being the individual running  
15 the day-to-day operation of the same, because the acts of DEBORAH and MARC with respect to the  
16 establishment and operation of LUMICON was to perpetrate fraud upon multiple parties throughout  
17 its existence to maintain control of the MARK: LUMICON was used to perpetrate a fraud upon  
18 SWEISS to deprive SWEISS of ownership in the rights of the MARK, who, at the time LUMICON  
19 was established was the owner of the MARK and, believing that LUMICON had been established in  
20 accordance with the PARTNERSHIP willingly assigned the '066 Registration to DEBORAH within  
21 six weeks of the establishment of LUMICON; secondly LUMICON was used to perpetrate a fraud  
22 upon both OSI and SVOT in that DEBORAH would have LUMICON enter into agreements for the  
23 production of goods in which there was never any intention to repay the manufactures for the goods  
24 and services provided and when being sued by OSI and SWEISS DEBORAH, realizing that the  
25 MARK was at risk of being controlled by SWEISS through the VENTURA ACTIONS or OSI  
26 through the SACRAMENTO ACTION, DEBORAH failed to file the declaration of continued use  
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1 allow the '066 Registration to be cancelled; however, by the time of the '066 Registration was  
2 cancelled MARC had already created another limited liability company incorporating in its name  
3 the MARK, LUMICON SCIENCE CENTER, LLC, registration date May 22, 2015 and MARC had  
4 filed an new trademark application on May 17, 2016, two months are the '066 Registration had been  
5 cancelled for DEBORAH's failure to file an administrative document of continued use, which  
6 SVOT is informed and believes was an attempt to maintain control the MARK by either  
7 DEBORAH or MARC or both: the trademark application MARC filed on May 17, 2016, was filed  
8 as an individual, i.e., not affiliated with any business entity, and sought registration of the mark  
9 LUMICON on the Principle Register of the United States Trademark Office for goods in  
10 international class 009, namely Optical Filters; Filters for Optical Devices, as well as others:  
11 application number 87040344 ('044 Application).

12 34. The '044 application was assigned to OSI on or about December 2, 2016; and this  
13 application became abandoned on March 6, 2017; and SVOT is informed and believes that the third  
14 and final use of LUMICON to defraud creditors arises from DEBORAH and MARC entering into  
15 the settlement agreement with OSI in which all assets are transferred to OSI in return for  
16 \$250,000.00 to be paid to DEBORAH leaving only a shell of a company from which creditors, such  
17 as SVOT, can seek compensation for harmed caused by it while continuing to enjoy the benefit of  
18 the MARK by virtue of the SETTLEMENT AGREEMENT.

19 35. SVOT has used the mark LUMICON continuously and without interruption on optical  
20 goods, namely filters, since SVOT commenced manufacturing the GOODS and has used the mark  
21 LUMICON in commerce regulated by the United States Congress shortly thereafter; SVOT  
22 currently has on file with the USTO a trademark application for the mark LUMICON directed to  
23 goods in international class 009 as application number 87470828 ('828 Application) and subsequent  
24 to the filing of the '828 Application OSI revived the '044 Application.

25 **FIRST CAUSE OF ACTION**  
26 **CONVERSION**  
27 **(Against Defendants Lumicon, Deborah and Marc)**

1 36. SVOT re-alleges and incorporates by reference every allegation contained in paragraphs  
2 1-35 of this Complaint as though fully set forth herein.

3 37. LUMICON, DEBORAH AND MARC wrongfully exercised control over personal  
4 property of SVOT, namely the GOODS manufactured and shipped to LUMICON  
5 INTERNATIONAL, LLC before the FREMONT MEETING.

6 38. SVOT, had a right to possess the GOODS shipped to before the FREMONT MEETING  
7 and LUMICON, DEBORAH AND MARC intentionally and substantially interfered with SVOT's  
8 GOODS by taking possession of the GOODS and refusing to pay for the same or return the same to  
9 SVOT and eventually selling the GOODS to third parties.

10 39. SVOT did not consent to LUMICON, DEBORAH AND MARC intentional and  
11 substantial interference with SVOT's rights in the GOODS.

12 40. SVOT was harmed by LUMICON, DEBORAH AND MARC intentional and substantial  
13 interference with SVOT's rights in the GOODS.

14 41. LUMICON, DEBORAH AND MARC intentional and substantial interference with  
15 SVOT's rights in the GOODS's conduct was a substantial factor in causing SVOT's harm.

16 **SECOND CAUSE OF ACTION**  
17 **INTENTIONAL MISREPRESENTATION**  
18 **Civil Code 1572**  
19 **(Against Defendants Lumicon and Deborah)**

20 42. SVOT re-alleges and incorporates by reference every allegation contained in paragraphs  
21 1-35 of this Complaint as though set forth herein.

22 43. DEBORAH in her representative capacity of LUMICON made several representations to  
23 SVOT (REPRESENTATIONS) that when made DEBORAH and LUMICON never intended to  
24 satisfy: 1) each of the BPOs represented an annual requirements for LUMICON; 2) that each  
25 invoice submitted to LUMICON for SHIPPED GOODS would be paid by LUMICON within 30  
26 days; 3) DEBORAH agreed in writing during the month of December 2015 that DEBORAH would  
27 personally pay for the amount due and owing by LUMICON for the SHIPPED GOODS in order to

1 induce SVOT to continue manufacturing GOODS on behalf of LUMICON, which SVOT did, and  
2 to date DEBORAH has not carried out that promise.

3 44. Neither LUMICON nor DEBORAH did not intend to perform the  
4 REPRESENTATIONS when made that is demonstrated by recognizing when the promises were  
5 made LUMICON, SVOT is informed and believes, had never made a profit in its entire  
6 existence and had negative capital and a negative cash flow resulting DEBORAH and MARC  
7 having to infuse the company with their personal money and LUMICON had no means of  
8 acquiring liquidity having been turned-down for a loan; moreover, SVOT is informed and  
9 believes that LUMICON had no existing distribution network proprietary to it by which to  
10 timely receive payment for the SHIPPED GOODS, resulting LUMICON, DEBORAH and  
11 MARC resorting to auctioning the SHIPPED GOODS on ebay, an activity over which any  
12 participant has limited control over the ultimate price at which a product would be sold; and  
13 when money was received for SHIPPED GOODS sold by LUMICON, DEBORAH would divert  
14 the money to, inter alia, her personal benefit, including defending lawsuits in which LUMICON,  
15 MARC and DEBORAH had been named as defendants by other vendors that provided goods  
16 and services to LUMICON and who had not been paid for the same; that the entire scheme was  
17 contrived to establish continued use of the MARK, without which the MARK could go  
18 abandoned and then destroy the purpose of establishing LUMICON in the first place, acquiring  
19 by deceit the rights to the MARK from SWEISS; given the dearth of manufacturing capacity of  
20 LUMICON, SVOT is informed and believes that the only manner by which DEBORAH and  
21 LUMICON could continue its fraud upon SWEISS and maintain use of the MARK in order to  
22 avoid abandonment given the negative cash flow of LUMICON and payments made by  
23 DEBORAH to SWEISS preventing LUMICON from having any operating capital is to  
24 fraudulently induce vendor to perform services for LUMICON without intending to satisfy the  
25 contractual arrangements with those vendors and the final evidence of an intent never to pay on  
26 the contract with SVOT is the SETTLEMENT AGREEMENT with OSI that is tantamount to an  
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1 agreement to embezzle all of the value of LUMICON and work with OSI in rebuilding the  
2 MARK while leaving creditors of LUMICON with a worthless shell of a company.

3 45. LUMICON AND DEBORAH intended SVOT to rely on the REPRESENTATIONS  
4 to acquire the SHIPPED GOODS at the reduced price and without ever paying SVOT for them.

5 46. SVOT reasonably relied on the REPRESENTATIONS and incurred substantial  
6 expenses in manufacturing the GOODS and shipping the GOODS.

7 47. LUMICON AND DEBORAH accepted the GOODS and sold the GOODS to third  
8 parties while refusing to pay SVOT for the GOODS.

9 48. SVOT was harmed by the REPRESENTATIONS.

10 49. SVOT's reliance on the REPRESENTATIONS was a substantial factor in causing its  
11 harm.

12 **FOURTH CAUSE OF ACTION**  
13 **NEGLIGENT MISREPRESENTATION**  
14 **(Against Defendants Lumicon International, LLC, Deborah, Marc)**

15 50. SVOT re-alleges and incorporates by reference every allegation contained in paragraphs  
16 1-35 of this Complaint as though set forth herein.

17 51. LUMICON, DEBORAH and MARC represented that it is desired that SVOT  
18 manufacture optical components on LUMICON's behalf, including astronomy filters (GOODS) and  
19 that SVOT begin preparation to manufacture the GOODS in excess of one million United States  
20 dollars every 12 to 15 months, as soon as possible and LUMICON AND MARC and, in fact SVOT  
21 received from LUMICON a myriad of BPOs that constituted annual requirement contracts that  
22 SVOT was to prepared to manufacture so that when POs were received the GOODS would be ready  
23 to ship to LUMICON and LUMICON, DEBORAH and MARC made these representations;  
24 however, there was no need for SVOT to fabricate this quantity of goods as it turned out the BPOs  
25 required ten times greater quantity of goods to be manufactured by SVOT than was actually  
26 purchased by LUMICON and it appears that LUMICON, DEBORAH and MARC sought to "hook"  
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1 the fish by requiring huge capital outlays that created not only a dependency by SVOT on  
2 LUMICON, DEBORAH and MARC, but also resulted in LUMICON, DEBORAH and MARC  
3 acquiring a substantial reduction in per unit price of the goods.

4 52. LUMICON, DEBORAH and MARC intended for SVOT to rely on the representations.

5 53. SVOT reasonably relied upon the representations of LUMICON, DEBORAH and  
6 MARC.

7 54. SVOT was harmed by the representations and SVOT's reliance on the representations of  
8 LUMICON, DEBORAH and MARC was a substantial factor in causing SVOT's harm due to the  
9 SHIPPED GOODS not being paid for by either LUMICON, DEBORAH or MARC.

10 **FIFTH CAUSE OF ACTION**  
11 **BREACH OF WRITTEN CONTRACT**  
12 **(Against Defendant Lumicon International, LLC and Deborah)**

13 55. SVOT re-alleges and incorporates by reference every allegation contained in paragraphs  
14 1-35 of this Complaint as though set forth herein.

15 56. LUMICON made promises to SVOT desiring SVOT to manufacture optical components  
16 on LUMICON's behalf, including astronomy filters (GOODS) and that SVOT begin preparation to  
17 manufacture the GOODS in excess of one million United States dollars every 12 to 15 months, as  
18 soon as possible and creating multiple contracts..

19 57. LUMICON knew, or should have known, after entering into the contracts, that  
20 LUMICON would never purchase over one million dollars in astronomy filters from SVOT, thereby  
21 misleading SVOT to SVOT's prejudice.

22 58. SVOT fulfilled all the necessary conditions to properly fulfill the terms of this contract,  
23 including spending over \$500,000 in hiring the necessary personnel and purchasing the necessary  
24 equipment and raw materials, as well as spending several months to perform the development work  
25 necessary to produce the GOODS.

26 59. SVOT began fulfilling its obligations under the terms of the contract in good faith.  
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**CAUSE OF ACTION  
For Declaratory Relief  
(Against all Defendants)**

68. SVOT incorporates by reference and re-alleges paragraphs 1-35 as if fully set forth herein.

69. An actual controversy has arisen and now exists between SVOT and LUMICON INTERNATIONAL, LLC, a California business entity; OPTICAL STRUCTURES INCORPORATION, a California Corporation; DEBORAH NEVEUX, an individual; MARC NEVEUX, an individual; concerning their respective rights in the trademark LUMICON as applied to optical components and more specifically optical filters including but not limited to ownership in the trademark and the right to use the trademark in the State of California, as well as SVOT's rights in using the trademark LUMICON on its products and products it is selling to mitigate damages caused by breach of the contract by LUMICON, in light of the NDA.

70. SVOT requires a judicial determination of the rights and obligations of parties to this lawsuit including ownership and use of the trademark LUMICON as applied to goods, namely optical components and optical filters.

71. A judicial declaration is necessary and appropriate at this time so that the parties may ascertain their rights and duties with respect to the trademark LUMICON. A judicial declaration will have the practical effect of lessening the burdens on the parties.

**PRAYER FOR RELIEF**

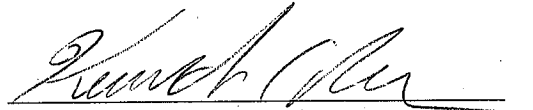
WHEREFORE, Plaintiff prays for the damages and relief set forth below:

1. Compensatory damages according to proof, but in an amount of at least \$1,200,000;
2. Punitive and exemplary damages;
3. Costs of suit;

1 4. Declaratory Judgement that SVOT is the exclusive owner of the rights in the trademark  
2 LUMICON as applied to optical goods, namely optical filters and enjoining the Defendants from  
3 using the term LUMICON in connection with the Defendants' business; and  
4 5. For such other relief as the Court may deem just and proper.

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8 Date: November 21, 2017

LAW OFFICES OF KENNETH C. BROOKS

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11 By: Kenneth C. Brooks  
12 Attorney for Plaintiff  
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## EXHIBIT 1

## MUTUAL NON-DISCLOSURE AGREEMENT

This Agreement is entered into by and between Lumicon International, LLC (LUMICON), a California Limited Liability Company located at 730 East Easy Street, Simi Valley, CA 93065, which operates under the relevant trade names of Lumicon and Parks Science and Astronomy Center, and Silicon Valley Optics Technology, Inc. (SVOTEK), a California Corporation located at 44141 S. Grimmer Blvd., Fremont, CA 94538 (the "parties"), effective September 16, 2014.

WHEREAS, it is recognized that both parties each desire to protect their respective concepts, designs, trade secrets and other confidential information concerning their respective technology, processes, marketing information and pricing; and

WHEREAS, it is understood that mutual disclosure of certain secret, proprietary and protected information will be necessary in forming a relationship with respect to production of Lumicon products by SVOTEK and its affiliated companies,

NOW, THEREFORE, it is agreed by both parties that:

1. "Confidential Information" shall mean any information, technical data or know-how, including, without limitation, that which relates to research, product development, product schedules, services, inventions, processes, mask works, techniques, designs, drawings, engineering, prototyping, marketing, finances, merchandising, sales information and business strategies, as disclosed to one party by the other party, which is designated or verbally disclosed as "CONFIDENTIAL" (or similar designation), is disclosed in circumstances of confidence, or would be understood by the parties, exercising reasonable business judgment, to be confidential, including information viewed or learned by a party during a visit to the other party's facilities.
2. Any trade secrets, confidential information or proprietary concepts received or learned by either party hereto, or any of the employees, servants or agents of such party, relating to the business or customers of the other party (the disclosing party), shall be deemed the exclusive property of the disclosing party and shall remain the valuable scientific, trade and engineering secrets of the disclosing party.
3. All disclosures made under this Agreement are to be used only for the purpose for which those disclosures were made and that access to such disclosed information shall be limited to those persons who have a reasonable need to know.
4. Any documents or objects of a confidential nature, which are received by one party, shall not be copied by the receiving party, without the explicit authorization of the disclosing party and shall be promptly returned to the other party upon demand, together with any copies thereof.
5. None of the obligations of this Agreement shall apply to any information which is in or comes into the public domain without violation of this Agreement, or which is known by either party prior to disclosure to it by the other party.
6. None of the obligations of this Agreement shall apply to any information which is received lawfully by either party from a third party subsequent to this Agreement, or is released by

either party to others without restriction, or is independently developed by either party, provided that the person or persons developing same for one party have not had access to the same information as received from the other party. The burden of proving the existence of facts, which would negate the obligations of this Agreement under this paragraph and Paragraph 5 above, shall rest with the receiving party.

7. The parties understand and recognize that the Confidential Information made available hereunder may be subject to the Export Administration Regulations of the United States of America Department of Commerce and other regulations relating to the export of technical data. The parties are familiar with and agree to comply with all such regulations, including any future modifications thereof.
8. This agreement supersedes all previous agreements with respect to the subject matter hereof and shall be governed by and construed in accordance with the laws of the State of California, without reference to conflict-of-law principles.
9. This Agreement may not be amended, nor any obligation thereof waived, except in writing signed by each of the parties.
10. The receiving party's obligations under this Agreement shall survive the termination or expiration of this Agreement and shall be binding upon the receiving party's heirs, successors and assigns.
11. This Agreement may be signed in two or more counterparts, none of which need contain the signatures of each of the parties, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument. Execution of the Agreement via a facsimile machine, or via a document scanner and email transmission, will be considered by the parties to be as if the execution were transacted in person.
12. Subject to the provisions of this Agreement, the obligation of confidentiality under this Agreement shall continue for five (5) years from the date of receipt of each confidential disclosure, unless mutually agreed to shorten or cancel.
13. The activity period to exchange confidential information shall expire two years from the date of this Agreement, unless extended in writing by the Parties.
14. Communications concerning this Agreement shall be directed to:

Lumicon International, LLC	Silicon Valley Optics Technology, Inc.
Deborah Neveux 730 Easy Street Simi Valley, CA 93065  Phone: (805) 520-0047 FAX: (805) 435-1425 Email: dneveux@lumicon.com	Florence Hu, Bus. Dev. Specialist 44141 S. Grimmer Blvd. Fremont, CA 94538  Phone: (510) 623-1161 FAX: (510) 217-2223 Email: florenceh@svotek.com


*mailed  
09/30/2014  
←*

- 15. In addition to the non-disclosure restrictions indicated above, SVOTEK agrees that it will not engage in the sale of any parts of the designs provided by LUMICON. LUMICON likewise agrees that it shall not use any confidential information provided by SVOTEK to manufacture products considered to be proprietary to SVOTEK, although this does not restrict LUMICON from manufacturing its own products or from having its products manufactured by another party.
- 16. SVOTEK agrees that any product designs, specifications or other developments and creations that occur during the term of this Agreement with regard to new or existing products which SVOTEK shall create, design, develop or manufacture for LUMICON shall be the property of LUMICON without any liability for royalties or additional remuneration of any kind.

The parties execute this Agreement of their own free will and volition as indicated below:

**SILICON VALLEY OPTICS TECHNOLOGY, INC.**

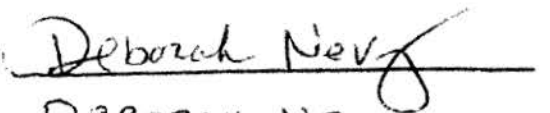
**LUMICON INTERNATIONAL, LLC**

By: X   
 Dr. John Gao  
 President / CTO

By: \_\_\_\_\_  
 Dr. Maurice Sweiss  
 President

Date: September 16, 2014

Date: September 16, 2014

By:   
 DEBORAH NEVEU X  
 (For Lumicon Int'l, LLC)

Date: September 30, 2014

(mailed to Florence)

9/30/2014

## EXHIBIT 2

80 West Easy Street  
 Simi Valley, CA 93065  
 Phone: (805) 520-0047

# Blanket Purchase Order

Date	P.O. No.
4/21/2015	100657

<b>Vendor</b>
SVOtek 44141 S. Grimmer Fremont, CA 94538

<b>Ship To</b>
Lumicon International, LLC 80 W. Easy Street, # 3 Simi Valley, CA 93065

Lumicon Item #	Description	Qty	Price Each	Amount
LC5835	Filter # 1 (Per Lumicon Specs) - Size: 45mm  Requirements: 1). SVO-tek to provide Lumicon with initial order of 50 pieces for testing and approval of quality. Once approved, the rest of this blanket purchase order will become valid. 2). Lumicon to complete blanket purchase order within 12 to 15 months. 3). Product to be released and invoiced upon clear to ship order by Lumicon.	2,000	60.00	120,000.00
			<b>Total</b>	\$120,000.00



## EXHIBIT 3



80 West Easy Street  
 Simi Valley, CA 93065  
 Phone: (805) 520-0047

# Blanket Purchase Order

Date	P.O. No.
5/8/2015	100658

<b>Vendor</b>
SVOTek 44141 S. Grimmer Fremont, CA 94538

<b>Ship To</b>
Lumicon International, LLC 80 W. Easy Street, # 3 Simi Valley, CA 93065

Lumicon Item #	Description	Qty	Price Each	Amount
LC5760	# 21 Orange (SV565) (Hoya # 056) - 1"	2,000	5.00	10,000.00
LC5765	# 21 Orange (SV565) (Hoya # 056) - 45mm	2,000	7.00	14,000.00
	Specs:			
	1. Per Hoya Specs			
	2. A/R Coating Both Sides			
	Requirements:			
	1). Lumicon to complete blanket purchase order within 12 to 15 months.			
	2). Product to be released and invoiced upon clear to ship order by Lumicon.			
			<b>Total</b>	\$24,000.00

## EXHIBIT 4



80 West Easy Street  
 Simi Valley, CA 93065  
 Phone: (805) 520-0047

# Blanket Purchase Order

Date	P.O. No.
5/8/2015	100659

<b>Vendor</b>
SVOTek 44141 S. Grimmer Fremont, CA 94538

<b>Ship To</b>
Lumicon International, LLC 80 W. Easy Street, # 3 Simi Valley, CA 93065

Lumicon Item #	Description	Qty	Price Each	Amount
LC5740	# 12 Deep Yellow (SV490) (Hoya # Y48) - 1"	2,000	5.00	10,000.00
LC5745	# 12 Deep Yellow (SV490) (Hoya # Y48) - 45mm	2,000	7.00	14,000.00
	<b>Specs:</b>			
	1). Per Hoya Specs			
	2). A/R Coating Both Sides			
	<b>Requirements:</b>			
	1). Lumicon to complete blanket purchase order within 12 to 15 months.			
	2). Product to be released and invoiced upon clear to ship order by Lumicon.			
			<b>Total</b>	\$24,000.00

## EXHIBIT 5



80 W. Easy Street, # 3  
Simi Valley, CA 93065  
Phone: (805) 520-0047

# Blanket Purchase Order

Date	P.O. No.
6/8/2015	100773

<b>Vendor</b>
SVOTek 44141 S. Grimmer Fremont, CA 94538

<b>Ship To</b>
Lumicon International, LLC 80 W. Easy Street, # 3 Simi Valley, CA 93065

Lumicon Item #	Description	Qty	Price Each	Amount
LC5455	Filter # 3 (Per Lumicon Specs) - Size: 44.9mm  Requirements:  1). Lumicon to complete blanket purchase order within 12 to 15 months. 2). Product to be released and invoiced upon clear to ship order by Lumicon.	2,000	60.00	120,000.00
			<b>Total</b>	\$120,000.00

## EXHIBIT 6



80 W. Easy Street, # 3  
Simi Valley, CA 93065  
Phone: (805) 520-0047

# Blanket Purchase Order

Date	P.O. No.
7/6/2015	100779

Vendor
SVOTek 44141 S. Grimmer Fremont, CA 94538

Ship To
Lumicon International, LLC 80 W. Easy Street, # 3 Simi Valley, CA 93065

Lumicon Item #	Description	Qty	Price Each	Amount
LC5450	Filter # 3 (Per Lumicon Specs) - Size: 26.9mm  Requirements: 1). Lumicon to complete blanket purchase order within 12 to 15 months. 2). Product to be released and invoiced upon clear to ship order by Lumicon.	2,000	28.00	56,000.00
<b>Total</b>				\$56,000.00



## EXHIBIT 7



80 W. Easy Street, # 3  
Simi Valley, CA 93065  
Phone: (805) 520-0047

# Blanket Purchase Order

Date	P.O. No.
7/8/2015	100781

Vendor
SVOTek 44141 S. Grimmer Fremont, CA 94538

Ship To
Lumicon International, LLC 80 W. Easy Street, # 3 Simi Valley, CA 93065

Lumicon Item #	Description	Qty	Price Each	Amount
LC5445	Filter # 2 (Per Lumicon Specs) - Size: 44.9mm  Requirements: 1). Lumicon to complete blanket purchase order within 12 to 15 months. 2). Product to be released and invoiced upon clear to ship order by Lumicon.	2,000	60.00	120,000.00
			<b>Total</b>	\$120,000.00

## EXHIBIT 8



80 W. Easy Street, # 3  
Simi Valley, CA 93065  
Phone: (805) 520-0047  
Fax: (805) 435-1425

# Purchase Order

Date	P.O. No.
4/24/2015	100657-R2

<b>Vendor</b>
SVOTek 44141 S. Grimmer Fremont, CA 94538

<b>Ship To</b>
Lumicon International, LLC 80 W. Easy Street, # 3 Simi Valley, CA 93065

Item #	Description	Blanket PO #	Ship Via	Expected
		Qty	Price Each	Total
LC5835	RELEASE NO. 2 (Blanket PO # 100657) Filter # 1 (Per Lumicon Specs) - Size: 45mm To be released upon approval and clearance of PO # 100657-R1	100657	Best Way	5/20/2015
		150	60.00	9,000.00
<b>Total</b>				\$9,000.00

## EXHIBIT 9



80 W. Easy Street, # 3  
 Simi Valley, CA 93065  
 Phone: (805) 520-0047  
 Fax: (805) 435-1425

# Purchase Order

Date	P.O. No.
5/8/2015	100659-R1

<b>Vendor</b>
SVOTek 44141 S. Grimmer Fremont, CA 94538

<b>Ship To</b>
Lumicon International, LLC 80 W. Easy Street, # 3 Simi Valley, CA 93065

Item #	Description	Blanket PO #	Ship Via	Expected
		100659	Best Way	5/8/2015
		Qty	Price Each	Total
LC5740	# 12 Deep Yellow (SV490) (Hoya # Y48) - 1"	100	5.00	500.00
LC5745	# 12 Deep Yellow (SV490) (Hoya # Y48) - 45mm	100	7.00	700.00
			<b>Total</b>	\$1,200.00

## EXHIBIT 10

# Purchase Order

80 W. Easy Street, # 3  
 Simi Valley, CA 93065  
 Phone: (805) 520-0047  
 Fax: (805) 435-1425

Date	P.O. No.
8/5/2015	100659-R2

<b>Vendor</b>
SVOTek 44141 S. Grimmer Fremont, CA 94538

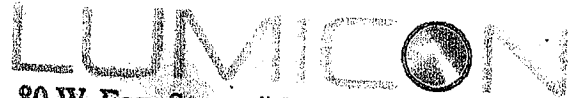
<b>Ship To</b>
Lumicon International, LLC 80 W. Easy Street, # 3 Simi Valley, CA 93065

<b>Sidemark</b>	<b>Blanket PO #</b>	<b>Ship Via</b>	<b>Expected</b>
	100659	Best Way	8/8/2015

Item #	Description	Qty	Price Each	Total
LC5740	# 12 Deep Yellow (SV490) (Hoya # Y48) - 26.9mm	100	5.00	500.00
LC5745	# 12 Deep Yellow (SV490) (Hoya # Y48) - 44.9mm	100	7.00	700.00
<b>Requirements:</b> 1). Per Hoya Specs 2). A/R Coating Both Sides				
			<b>Total</b>	\$1,200.00



## EXHIBIT 11



80 W. Easy Street, # 3  
Simi Valley, CA 93065  
Phone: (805) 520-0047  
Fax: (805) 435-1425

# Purchase Order

Date	P.O. No.
6/8/2015	100773-R1

<b>Vendor</b>
SVOTek 44141 S. Grimmer Fremont, CA 94538

<b>Ship To</b>
Lumicon International 80 W. Easy St., # 3 Simi Valley, CA 93065

Item #	Description	Blanket PO #	Ship Via	Expected
		100773	Best Way	6/8/2015
		Qty	Price Each	Total
LC5455	Filter # 3 (Per Lumicon Specs) - Size: 44.9mm	100	60.00	6,000.00
			<b>Total</b>	<b>\$6,000.00</b>

## EXHIBIT 12

# Purchase Order

80 W. Easy Street, # 3  
 Simi Valley, CA 93065  
 Phone: (805) 520-0047  
 Fax: (805) 435-1425

Date	P.O. No.
7/6/2015	100779-R1

<b>Vendor</b>
SVOTek 44141 S. Grimmer Fremont, CA 94538

<b>Ship To</b>
Lumicon International, LLC 80 W. Easy Street, # 3 Simi Valley, CA 93065

<b>Sidemark</b>	<b>Blanket PO #</b>	<b>Ship Via</b>	<b>Expected</b>
	100779		4/21/2015

Item #	Description	Qty	Price Each	Total
LC5450	Filter # 3 (Per Lumicon Specs) - Size: 26.9mm	150	28.00	4,200.00
			<b>Total</b>	<b>\$4,200.00</b>

## EXHIBIT 13



80 W. Easy Street, # 3  
 Simi Valley, CA 93065  
 Phone: (805) 520-0047  
 Fax: (805) 435-1425

# Purchase Order

Date	P.O. No.
7/8/2015	100781-R1

Vendor
SVOTek 44141 S. Grimmer Fremont, CA 94538

Ship To
Lumicon International, LLC 80 W. Easy Street, # 3 Simi Valley, CA 93065

Sidemark	Blanket PO #	Ship Via	Expected
	100781	Best Way	7/8/2015

Item #	Description	Qty	Price Each	Total
LC5445	Filter # 2 (Per Lumicon Specs) - Size: 44.9mm	100	60.00	6,000.00
			<b>Total</b>	\$6,000.00

## EXHIBIT 14

**Partnership Agreement:**

August 8, 2012

Maurice Sweiss is the current sole owner of Lumicon International (The Company) all rights, and all related assets. Lumicon is a company engaged in the manufacturing and retail/wholesale of astro-photographic equipment as well as the distribution of optical products.

Maurice Sweiss agrees to sell and Debbie Neveux agrees to buy; 50% of the company which includes all related assets, Intellectual Property, equipment and inventory for a total sum of \$350,000.00 to be paid as follows:

- a) \$50,000.00 paid in full immediately upon signing.
- b) \$100,000.00 paid in full on or before August 31, 2012.
- c) \$200,000.00 paid in full on or before December 31, 2012.

Maurice Sweiss agrees to be a "silent partner" and keep the name of the business in the form of an L.L.C. showing Debbie Neveux as the new sole owner.

The general duties of both parties are outlined in a separate document (Duties of Parties), hereby attached by reference. Both parties agree to share assets and liabilities.

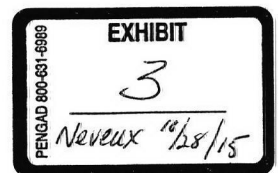
SELLER - Maurice Sweiss: \_\_\_\_\_

Date: \_\_\_\_\_

BUYER - Debbie Neveux: \_\_\_\_\_

Date: \_\_\_\_\_

P000810





## EXHIBIT 15

## **AMENDMENT TO MUTUAL RELEASE AND SETTLEMENT AGREEMENT**

This Amendment to Mutual Release and Settlement Agreement (this "Amendment") is between DEBORAH NEVEUX, an individual ("Deborah"), MARC NEVEUX, an individual ("MARC"), VALLEY AIRSOFTING, LLC, a California limited liability company ("VAL"); MAURICE SWEISS, an individual ("MAURICE"), ODEH "EDDIE" SWEISS, an individual ("EDDIE"). For purposes of this Amendment, Deborah, Marc, VAL, Maurice and Eddie are each a "party," and collectively, the "parties."

### **RECITALS**

WHEREAS, on or about June 13, 2016, the parties executed that Mutual Release and Settlement Agreement (the "Agreement"), which effectively settled all claims between the parties pursuant to pending litigation in the Ventura County Superior Court, to wit: Case No. 56-2015-00467483-CU-BC-VTA and all related cross-claims as well as Case No. 56-2015-0047862-CU-UD-VTA. A copy of said Agreement is attached hereto as Exhibit "A" and incorporated herein by this reference.

WHEREAS, pursuant to the aforementioned litigation, a Notice of Pendency of Action ("Lis Pendens") was recorded with the Ventura County Recorder's Office against the real property commonly known as 730-750 East Easy Street, Simi Valley, California (the "Subject Property").

WHEREAS, pursuant to the aforementioned Agreement, all of the aforementioned litigation was dismissed with the Ventura County Superior Court reserving jurisdiction thereof pursuant to CCP Section 664.6 to enforce the terms of the Agreement;

WHEREAS, for purposes of enabling the parties to pursue further business dealings with each other, they now desire to amend certain provisions of said Agreement.

NOW THEREFORE, in order to promote harmonious business relations between the parties to their mutual benefit, and for other good and valuable consideration the receipt of which is hereby acknowledged, the parties hereto agree as follows:

### **AGREEMENT:**

The Mutual Release and Settlement Agreement ("Agreement") is hereby amended as follows:

Paragraph 2.c. is deleted in its entirety and replaced as follows:

2.c. Maurice on the one hand, and Deborah, Marc and VAL on the other, hereby release each other from any and all claims that have accrued through and including the effective date of the Agreement, pertaining to Lumicon, Lumicon International, Lumicon International, LLC and all of its related intellectual property, assets and good will (collectively "Lumicon") in whatever manner Lumicon has existed or now presently exists. Such release also includes, but is not limited to the Lumicon Agreement. In consideration of such release, Deborah and Maurice hereby agree that they shall jointly form a California Limited Liability Company (the "LLC") of which they shall be the only members unless otherwise agreed to by them in writing, each to own a fifty (50) percent interest in such LLC. In consideration of and as a capital contribution for their respective 50% interests, they shall each contribute their respective interests in all of the related intellectual property, assets and goodwill of Lumicon in its present condition, free and clear of any debts, liens, liabilities or encumbrances of any kind. The new

LLC shall be organized under the laws of the State of California under the name "Clear Sky Optics, LLC" and shall do business under the fictitious business name "Lumicon International, LLC." Deborah and Maurice shall share equally in the attorney's fees and costs of setting up such California LLC. Deborah shall further cooperate in preparing, signing and filing any instruments which may be required to allow the new LLC to use the name "Lumicon International, LLC."

Paragraph 2.k. shall be added to the Agreement as follows:

2.k. Within fifteen (15) days from the execution hereof, Deborah, Marc and VAL shall execute and record with the Ventura County Recorder's office a Withdrawal of Notice of Pendency of Action (Lis Pendens).

**10. Forbearance from Instituting Future Proceedings.** The parties agree that this provision shall not apply to nor be effective against their future business dealings as it relates to Lumicon as contemplated pursuant to paragraph 2.c. hereinabove. In all other respects, paragraph 10 shall remain the same.

This Amendment may be signed in counterparts, each of which constitutes one and the same instrument and shall be binding and enforceable as if all the parties have executed the same copy hereof. Facsimile and scanned/mailed signatures shall be accepted as though they were original signatures. Each Party has cooperated in the drafting and preparation of this Amendment. Hence, in any construction to be made of this Amendment, the same shall not be construed against any party on the basis that the party was the drafter. The parties have had the opportunity to consult legal counsel in entering into this Amendment, and have had the opportunity to review this Amendment.

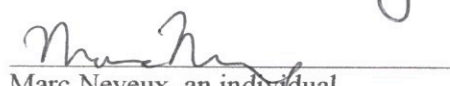
All provisions of the Mutual Release and Settlement Agreement, except as otherwise amended hereinabove, are hereby affirmed by the parties and shall remain in full force and effect.

Each party is signing this Amendment on the date stated opposite that party's signature.

Date: 6/13, 2016.

  
Deborah Neveux, an individual

Date: 6/13, 2016.

  
Marc Neveux, an individual

Date: 6/13, 2016.

  
Maurice Sweiss, an individual

Date: 6/13, 2016.

  
Eddie "Eddie" Sweiss, an individual

**VALLEY AIRSOFTING LLC**

Date: 6/13, 2016.

  
Marc Neveux, President

## EXHIBIT 16

**SETTLEMENT AGREEMENT  
AND FULL AND FINAL RELEASE**

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This Settlement Agreement and Full and Final Release ("Agreement") is entered into by and between Cary Chleborad, In his personal capacity and on behalf of and Optical Structures, Inc. (hereafter OSI) (Mr. Chleborad is the CEO and President of OSI) (hereafter referred to as "Releasor"), and Debbie Neveux, in her personal capacity and on behalf of Lumicon International, LLC. (a California Limited Liability Company) (hereinafter referred to collectively as "Releasee").

Releasor and Releasees are hereafter referred to collectively as the "Parties".

Ms. Neveux personally gaurantees each and every covenant and term in this agreement, and agrees that should any liability arise against Lumicon International, LLC, she shall be personal liable for those damages.

Mr. Chleborad personally gaurantees each and every covenant and term in this agreement, and agrees that should any liability arise against OSI, he shall be personal liable for those damages.

Certain disputes, claims, and alleged causes of action have existed by and between Releasor and Releasees that arose out of and are related to the transaction between the Parties, which is the subject matter of Optical Structures, Inc. v. Deborah Neveux, et al, and all related cross actions (Sacramento County Superior Court Case No. 34-2015-00182045).

The parties agree and desire to compromise, settle and provide for the final termination of the disputed claims arising from and pertaining to The Transaction. The Parties desire, by this Agreement, to document the terms of their understanding and further intend that this Agreement shall be a binding legal contract between them, and enforceable pursuant to C.C.P. section 664.6.

Therefore, for and in consideration of the mutual promises and covenants set forth herein, the Parties enter into this Settlement Agreement and Full and Final Release and mutually agree to the following:

1. The Parties shall terminate any and all previously executed agreements between them.
2. The Parties shall dismiss their respective complaints and cross-complaints, with prejudice, against one another. Each party is to bear their own attorney fees and litigation costs.
3. Releasee shall immediately transfer to OSI all Lumicon product (brand, not the LLC) in the possession of Releasee, and any person who may have possession of Lumicon product owned by Releasee, at the time this agreement is fully executed; OSI shall be the owner of this Lumicon product henceforth.
4. Releasee shall immediately transfer all Lumicon intellectual property rights (product drawings, product design ownership, website, domain name) to OSI, and OSI shall be the owner henceforth.



5. Lumicon International LLC. shall cease all business operations immediately. Lumicon International LLC shall be dissolved within 1 year of full execution of this settlement agreement.

6. Releasee shall provide "transition assistance" to OSI for a period of one year via email and telephone. Specifically, Releasee shall notify previous Lumicon customers and suppliers of the transition of Lumicon design and sale to OSI).

7. Releasee shall assist OSI in constructing a "History Page" on the Lumicon website that details the history of Lumicon and its contributions to the company by its owners. The intent is to honor the people who helped construct a major pillar of the astronomy business.

8. Upon full execution of this agreement and transfer of the Lumicon physical inventory/ assets to OSI, OSI shall pay Debbie Neveux \$12,500.00 USD via bank draft.

9. Within 7 days of receipt of the balance of the Lumicon physical inventory and assets, and transfer of the following items, OSI shall pay Debbie Neveux \$12,500.00 USD via bank draft.

a. Control of the Lumicon.com internet domain (domain transfer)

b. Control of the Lumicon web store account and server

c. Control of the Lumicon Social media accounts, including Facebook, LinkedIn and twitter.

d. Filing of the Assignment of Ownership of the Lumicon trademark with the USPTO. OSI shall assume responsibility for all current office action issues.

10. Once the sale items are transferred OSI will immediately begin conducting business under the Lumicon brand name. Each month OSI will pay Debbie Neveux 50% of the gross proceeds from the Lumicon brand sales until the purchase price balance (see paragraph 13) is brought to zero. The term for payment of the purchase balance shall be five years. If the balance at the end of the term is greater than zero, the remaining balance shall be paid in one balloon payment.

11. Payment calculation against the balance shall commence in January 2016 with the first payment being made at the end of January.

12. Payments made to Debbie Neveux, OR Marc Neveux shall be considered to be made to Debbie Neveux.

13. OSI shall pay to Releasee, as a purchase price for the Lumicon brand. \$250,000.00 (with credit being applied for the initial \$25,000 payments noted above).

**No Admission of Liability:** Each parties denies, and continue to deny, any obligation or liability whatsoever with respect to any of the disputes, claims or causes of action arising out of the Settled Claims, and by virtue of this Agreement are in no way admitting any such obligation or liability. Although Releasees continue to deny all liability for the claims asserted against them in this Action, Releasees agree to compromise and settle the claims specified herein, and to avoid further expense in the defense of these claims against them.

**No Assignment:** The Parties represent that they have not assigned, pledged or otherwise sold or transferred, either by written instrument or otherwise, any right, title, interest, or claims she has

or may have in connection with or arising out of the Settled Claims, which are the subject of this Agreement.

**Covenant Not To Sue:** The Parties represent that they shall not not, at any time hereafter, commence, maintain, assist in (except as required by law), encourage, or prosecute any action at law or otherwise, including any type of administrative claim, or assert any claim against one another and/or execute or enforce any judgment against one another or any of their employees or agents for damages or losses of any kind or amount arising directly or indirectly from events that have occurred in connection with or related to The Transaction.

**Representation by Counsel:** The Parties expressly represents and warrants to one another that each has been represented by counsel who has explained to her the entire contents and legal consequences of this Agreement. The Parties further represents and warrants to one another that they have read this Agreement completely and thoroughly, and that each understands that this Agreement conclusively settles any and all claims that she has or may have against one another related to any claims asserted by her or that could have been asserted by each of hem agains the other. The parties further represent that if they chose to not have counsel review this agreement, they understood they had that right and knowingly and voluntarily chose to not exercise it. To the extent that this agreement was not reviewed or approved by counsel, both parties acknowledge that right and agree to waive it, enter into this agreement, and be bound by it.

**Agreement Knowingly and Voluntarily Executed:** The Parties further represents that each of them have freely and voluntarily entered into this settlement on their own behalf; upon the advice of her attorney of record, in the exercise of her own free act, deed and will, relying on her own judgment, free of any duress or coercion; that, except as specifically contained herein, she is not relying on any statement or representation of any other party; that, except as specifically contained herein, no representations, promises or statements made by any agent, attorney or other representative of any party being released hereby have influenced her in making and executing this Agreement; that each party realizes that this Agreement is final and conclusive and that it is her clear intent that the Settlement Payment as described above, is for the sole and exclusive purpose of settling seriously disputed and vigorously contested claims, buying peace and avoiding further and substantial expense of litigation.

The Parties warrant that this Agreement in all respects has been voluntarily and knowingly executed with the express intention of affecting the legal consequences provided by section 1542 of the California Civil Code, that is, the extinguishment of all of the obligations herein designated. Releasor expressly waives any and all rights and benefits conferred by the provisions of section 1542 of the California Civil Code or by the statutes or common law of any jurisdiction that have substantially the same effect as the provisions of said section 1542, which reads:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**

**FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR**

The Parties assume all risks attendant to release of the Settled Claims heretofore or hereafter arising which are unknown, unforeseen, or latent, and understands and acknowledges the significance and consequences of such specific waiver of section 1542.

The Parties further acknowledges and agrees that she is giving up the right to engage in further investigation and discovery of and from one another, which investigation/discovery could disclose further claims against one another, including claims that the other party has concealed activities or omissions that would give rise to additional claims or remedies, and each party hereby expressly and voluntarily waives any and all such rights.

**No Precedent:** The Parties recognize and agree that neither the settlement memorialized by this Agreement, nor the fact of the settlement itself constitutes a precedent of any sort for the resolution of any other claim, dispute, arbitration or lawsuit brought by any Party against the other, nor for the interpretation of any contract or agreement.

**Responsibility for Tax Liability:** The Parties recognizes and agree that each one alone is responsible for any local, state, or federal taxes that may be assessed or owing with respect to the proceeds of this settlement that each one receives. Each party therefore agrees to make no claim against the other party for any payment or non-payment of taxes or regarding or relating to the reporting of the payment described in this Agreement, if any, to any taxing authorities. Releasees acknowledges and agrees that Releasees have made no representations to her regarding the tax consequences of the moneys received by her pursuant to this Agreement. Each party agrees to pay federal and state taxes, if any, which are required by law to be paid with respect to this settlement. Each party further agrees to indemnify and hold the other harmless from any claims, demands, deficiencies, levies, assessments, executions, judgments or recoveries by any governmental entity against The Parties for any amounts claimed due on account of this Agreement or pursuant to claims made under any federal or state tax laws, and any costs, expenses or dangers sustained by The Parties by reason of any such claims, including any amounts paid by each party as taxes, deficiencies, levies, assessments, fines, penalties, interest, attorney fees or otherwise.

**Violation of Agreement :** The Parties agree that in the event any Party violates this Agreement, or any party must enforce any provision of this agreement, the prevailing party shall be entitled to all damages incurred, including reasonable attorneys' fees and expenses.

**Further Assurances :** Upon execution of this Agreement, each Party shall execute such other and further instruments and take such other action as reasonably may be required to effectuate the terms and spirit of this Agreement.

Further, Releasee agrees to defend and indemnify Releasor in the event a third party makes any claim for liability or damages against Releasor arising from this agreement.

**Entire Agreement :** This Agreement contains the entire agreement relating to the subject matter hereof and supersedes all prior agreements, understanding, negotiations, and discussions, oral or written, relating to such subject matter. There are no warranties, representations, agreements,



arrangements, or understanding, oral or written, relating to the subject matter hereof that are not fully expressed or provided for herein, and the Parties shall not be bound by or liable for any alleged warranty, representation, agreement, arrangement, or understanding not so set forth.

**Applicable Law** : This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of California, without regard to principles of conflicts of law otherwise applicable to such determination; provided, however, this in no way shall prevent the application of the benefits of federal law where applicable. The Sacramento Superior Court shall be the sole venue for all disputes arising between the parties from this agreement, and this Court shall have exclusive jurisdiction to resolve any such dispute.

**Confidentiality and Disparagement** : The Parties agree that they will not, without compulsion of legal process, or in order to defend themselves from any claim of liability arising from this agreement, disclose to any third party any of the terms of this Agreement, including the amounts referred to herein, except that they may disclose such information to their spouse, attorneys, accountants, or other professional advisors to whom disclosure is necessary to effect the purposes for which they consulted such professional advisor(s). They agree that in connection with any disclosure permitted hereunder, they shall cause such third party to whom disclosure has been made to agree to comply with this covenant of confidentiality and non-disclosure, and in the event such third party breaches this covenant of confidentiality and non-disclosure, such breach shall be deemed to have been committed by one or the other, of them, from which the information was obtained.

Each party agrees that neither shall disparage the other to any third person and/or entity (as set forth in the next paragraph), and any disparagement is actionable pursuant to this paragraph.

Any breach of this section shall be considered a material breach of this Agreement, and The Parties acknowledge that both parties deem confidentiality a material condition of this Agreement, absent which they would not have agreed to the terms set forth herein. Nothing in this Section or in any other provision of this Agreement shall, or is intended to, limit any other rights or remedies the parties may have by virtue of this Agreement or otherwise, including the provisions contained in this Agreement relating to injunctive relief and attorneys' fees and costs.

The Parties further agree that a breach of this confidentiality clause and Section P, Non-Disparagement Agreement, would constitute an irreparable harm to both parties and that in the event of any breach of these Sections, The Parties may obtain an injunction prohibiting future breaches. In addition, The Parties, collectively as well as in their individual capacity, agree that (pursuant to California Civil section 1671) if a breach of this section occurs, for each breach, breaching party shall pay to the other liquidated damages, the sum of \$5,000.00, for each breach, which represents a fair estimate of the reasonable compensation for such a breach.

Each statement made by any party against the other is considered to be a separate breach, no matter how uttered, in writing, orally, or by any electronic means. Furthermore, each publication, or republication of any such statement is to be considered a separate breach. If such statement appears on social media or the internet, each day of said appearance shall be considered a separate breach. The availability of injunctive relief is in addition to other remedies available under this Agreement, including any Party's right to damages and any reasonable attorneys' fees and costs available under this Agreement for enforcing this provision, as well as any additional remedies available at law.

**Non-Disparagement Agreement** The Parties agrees that they will not defame or disparage the other party, or any of their affiliates, related entities, or any past or present officers, directors, partners, owners, shareholders, agents or employees and will not say or do anything that damages or impairs in any way the business organization, goodwill, and reputation of the parties or any of its affiliates or related entities.

**Agreement Not To Disclose Information Or Documents** : The Parties agree not to disclose, produce, discuss or make available in any manner to any individual or entity any documents, transcripts, pleadings, emails or correspondence, discovery, witness statements or information relating to this Action, or the settlement, absent a Court Order to do so, or unless it is necessary to defend themselves from any claim of liability arising from this agreement.

**Execution** : This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, fully enforceable counterpart for all purposes hereof; but all of which shall constitute one and the same instrument.

**Interpretation Of The Agreement** : Whenever the context requires, any gender includes all others, and the singular number includes the plural, and vice-versa.

Any captions in this Agreement are inserted for convenience of reference and do not define, describe, or limit the scope or intent of this Agreement or any of its terms.

No inference, assumption, or presumption shall be drawn from the fact that a Party or his/her or its attorney prepared and/or drafted this Agreement.

**Severability** : Should any provision of this Agreement be deemed or be determined by any court of competent jurisdiction to be illegal, invalid, or unenforceable, the legality, validity, or enforceability of the remaining parts, terms, or provisions, shall not be affected, and the illegal, unenforceable, or invalid part, term, or provision shall be deemed not part of this Agreement.

IN WITNESS WHEREOF, the undersigned, intending to be legally bound, have executed this Settlement Agreement and Full and Final Release, effective upon the date when this Agreement becomes executed by all the undersigned:

AGREED AS TO FORM AND CONTENT

Date: 11-5-16

Deborah Neveux  
DEBORAH NEVEUX  
In her personal capacity and on behalf of  
LUMICON INTERNATIONAL, LLC.

Date: 11-5-16

Cary Chleborad  
CARY CHLEBORAD  
In his personal capacity and on behalf of  
OPTICAL STRUCTURES, INC.

\*California required  
Notary Certificate  
attached.

1 Kenneth C. Brooks (SBN: 167792)  
2 LAW OFFICES OF KENNETH C. BROOKS  
3 16 Corning Ave., Suite 136  
4 Milpitas, CA 95035  
5 Telephone: (408) 368-7997

6  
7  
8 Attorney for Plaintiff,  
9 Silicon Valley Optics Technology, Inc.  
10

11  
12 **SUPERIOR COURT OF CALIFORNIA**  
13 **ALAMEDA COUNTY**  
14 **UNLIMITED CIVIL JURISDICTION**  
15

16 SILICON VALLEY OPTICS TECHNOLOGY,  
17 INC., a California Corporation,

18 *Plaintiff,*

19 v.

20 LUMICON INTERNATIONAL, LLC, a  
21 California business entity; OPTICAL  
22 STRUCTURES INCORPORATION, a California  
23 Corporation; DEBORAH NEVEUX, an  
24 individual; MARC NEVEUX, an individual;  
25 CARY CHLEBORAD, an individual; and DOES  
26 1 through 10, inclusive,  
27

28 *Defendants.*

Case No. HG16842987

PROOF OF SERVICE

1. I, Kenneth C. Brooks that I am an active member of the State Bar of California and am not a party to the instant lawsuit; that I have a place of business at 16 Corning Avenue #136, Milpitas, California 95035 and 5329 Thunder Ridge Circle, Rocklin, California 95765 operating under the name Law Offices of Kenneth C. Brooks.

1 2. I served SECOND AMENDED COMPLAINT in Alameda County Superior Court number  
2 HG16842987 by depositing a true copy in a sealed envelope addressed to each person whose name  
3 and addressed shown below and depositing the envelope in the United States mail with the postage  
4 fully prepaid for first class mail.

5  
6 Date of Mailing: November 21, 2017

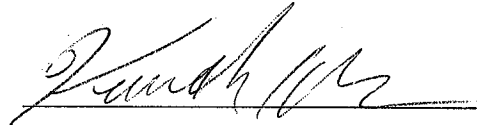
Place of Mailing: Milpitas, CA

7  
8 3. I declare under penalty of perjury under the laws of the State of California that the foregoing is  
9 true and correct.

10 Date: November 21, 2017

11 Kenneth C. Brooks

12 (PRINT NAME)



Signature

13 Name and Address of each Person to Whom Documents were Transmitted

14 4. Name of the person served:

15 Edward E. Alon  
16 ALONG LLP  
17 6303 Owensmouth Ave., 10<sup>th</sup> Floor  
18 Woodland Hills, CA 91367  
[edwardalon@alonllp.com](mailto:edwardalon@alonllp.com)

19 Robert N. Kitay, Esq  
20 Law Office of Robert N. Kitay  
21 5150 Fair Oaks Blvd. #326  
22 Carmichael, CA 95608  
[rkitay@icloud.com](mailto:rkitay@icloud.com)