**Mutual Confidentiality And Non-Disclosure Agreement**

AGREEMENT dated and effective as of the \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 2012 by and between (insert the name of the owner company here) and (insert the name of the owner/legal signing officer of the company here) (collectively, “**(insert the abbreviated name of owner the company here)** ”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Other Party**”) (each of (insert the name of the owner company here) and Other Party may be referred to herein as the "**Owner**" and/or the "**Recipient**", as the case may be, of information).

WHEREAS, the parties have entered into discussions concerning a possible business relationship or transaction and may determine to enter into such a relationship or transaction (the "**Transaction**");

WHEREAS, to further these ends, an Owner may disclose to a Recipient certain of the Owner's Proprietary Information (as hereinafter defined) for the purpose of enabling the Recipient to evaluate the Transaction and perform thereunder, if the Transaction is consummated; and

WHEREAS, the parties agree that the Owner's information is proprietary and confidential property of the Owner.

NOW THEREFORE, in consideration of the mutual covenants hereinafter set forth and for other good and valuable consideration, the acceptance and sufficiency of which are hereby acknowledged, each of the parties hereto, intending to the legally bound, does hereby agree as follows:

1. Proprietary Information. In the course of evaluating the Transaction, and if consummated, performing in accordance with the terms to be negotiated for the Transaction, the Recipient will have access to, among other things, certain of the Owner's confidential and proprietary business documents and information, including, but not limited to, marketing data, financial information, sources of supply, technologies, products, know-how, product specifications, trade secrets, current and future product marketing plans, current and future research and development, and product characteristics and specifications, all of which are or may be deemed to be confidential and proprietary and are owned and used by or are exclusively licensed to the Owner. Such information shall be referred to hereinafter as "Proprietary Information" and shall also include any and all other confidential and proprietary information relating to the business conducted by the Owner; provided, however, that the following information shall not be deemed Proprietary Information: (i) information which has become publicly available without breach hereunder by the Recipient or another person, (ii) information which was rightfully received by the Recipient from a source not under obligation of confidentiality to the Owner, (iii) information in the possession of the Recipient, in written or other recorded form, prior to disclosure by the Owner, (iv) information which is developed by the Recipient independent of any Proprietary Information, and (v) information which the Owner has approved in writing for release by the Recipient without restriction. Notwithstanding the foregoing, it shall not be a breach of this Agreement for either party to disclose Proprietary Information of the other party if required to do so under law or in a judicial or other governmental investigation or proceeding, provided the other party has been given prior notice and the disclosing party has sought all available safeguards against widespread dissemination prior to such disclosure. Proprietary Information may be preliminary or incomplete and relate to products under development or planned for development. PROPRIETARY INFORMATION IS PROVIDED "AS IS." NO REPRESENTATIONS OR WARRANTIES ARE MADE BY EITHER PARTY. THE OWNER ACCEPTS NO RESPONSIBILITY FOR ANY EXPENSES, LOSSES OR ACTIONS INCURRED OR UNDERTAKEN BY RECIPIENT AS A RESULT OF RECIPIENT'S USE OF PROPRIETARY INFORMATION. Recipient acquires no intellectual property rights under this Agreement except the limited rights necessary to evaluate the Transaction and to perform thereunder if the Transaction is consummated.

2. Confidentiality Obligations. The Recipient acknowledges that the Owner has protected the secrecy of all Proprietary Information, that said Proprietary Information is of critical importance to the Owner, that a violation of this Agreement would seriously and irreparably impair and damage the Owner's business, and that the Recipient shall keep all Proprietary Information in strict confidence and protect such Proprietary Information with the same degree of care (but no less than a reasonable degree of care) normally used to protect its own similar Proprietary Information. If the Owner is a publicly-held company, the Recipient understands that the Owner's Proprietary Information may be considered material, non-public information under Federal and state securities laws and the Recipient could be found in violation thereof if the Recipient takes advantage of such information by (i) trading in the Owner's or any other entity's stock, or (ii) furnishing information to others in connection with the trading of such stock.

3. Non-Use and Non-Disclosure. The Recipient shall hold the Proprietary Information in secrecy and confidence in accordance with the provisions of this Agreement and shall use the Proprietary Information solely for the purpose of evaluating whether to enter into the Transaction and to perform thereunder if the Transaction is consummated. The Recipient shall not disclose, divulge, provide or otherwise make available any Proprietary Information, or any portion or summary thereof, to any person, firm, corporation or other entity other than Recipient's officers, directors, employees, shareholders, accountants, attorneys and agents on a need-to-know basis in order to permit those people to assist the Recipient to evaluate the Transaction and to perform thereunder if the Transaction is consummated. In the event that the Owner requests in writing, the Recipient shall promptly deliver to the Owner all documents and other recordings containing Proprietary Information supplied to the Recipient and all copies thereof and agrees to destroy promptly all notes, summaries, analyses and compilations prepared by the Recipient or for the Recipient's use containing or reflecting any such Proprietary Information. The disclosure of any Proprietary Information disclosed by the Owner hereunder shall not constitute any option, grant or license to the Recipient under any copyright, other intellectual property right or other right heretofore, now or hereinafter held by the Owner.

4. Non-Solicitation and Non-Circumvent. In partial consideration of the access to Proprietary Information of (insert the owner abbreviation here) hereunder, Other Party shall not itself or permit any third party to use, directly or indirectly, any Proprietary Information in connection with or for the purpose of competing with (insert the owner abbreviation here). (insert the owner abbreviation here)is a licensee of certain rights in certain patents (collectively, the “**Patents**”) for certain territories which rights were granted to (insert the owner abbreviation here), directly or indirectly, from the inventor or licensor thereof, (insert the name of said person and/or the company with whom the above are registered to) (“**Inventor**”). In partial consideration of access to the Proprietary Information of (insert the owner abbreviation here), during the term of this Agreement and for ten (10) years thereafter, none of Other Party or any of its affiliates shall, directly or indirectly: (i) contract with Inventor (or any of its affiliates, licensees or sub-licensees) to procure any rights in the Patents or other intellectual property, or otherwise; or (ii) interfere in the relationship between (insert the owner abbreviation here)and Inventor or any of its affiliates or licensees, except as expressly permitted by (insert the owner abbreviation here).

5. Ownership of Proprietary Information. All Proprietary Information shall remain the exclusive property of the Owner and nothing in this Agreement, or any course of conduct between the parties shall be deemed to grant to the Recipient any rights in or to the Proprietary Information of the Owner, or any part thereof, other than as expressly granted herein.

6. Remedies. It is specifically understood and agreed that any breach of this Agreement is likely to result in irreparable injury to the Owner and that the remedy at law alone will be an inadequate remedy for such breach, and that in addition to any other remedy it may have, the Owner shall be entitled to seek the specific performance of this Agreement by the Recipient and to seek both temporary and permanent injunctive relief (to the extent permitted by law) without the necessity of proving actual damages.

1. Term. The term of this Agreement shall be three (3) years after which it shall automatically renew for additional and successive three (3) year terms unless terminated by either party on notice to the other party at least ninety (90) days prior to the end of the then current term. Notwithstanding the termination of this Agreement, all Proprietary Information disclosed by any Party to the other shall remain confidential and shall be treated in accordance with Sections 2 through 6 hereof, unless and until such Information is determined to be excluded from the definition of Proprietary Information through no fault of the Recipient.

8. Governing Law and Language. This Agreement shall be construed under and governed by the laws of the (insert the word “state” or “province” here) of (insert the name of the state/province here). Each party agrees to submit any dispute hereunder to the courts of that jurisdiction in the District of (insert the city/town name here). The parties hereto agree that this agreement is drafted and executed in the English language. *(insert the equivalent of the previous sentence in the secondary language of the country or state/province and/or of the mother tongue (if not English) of the person signing the contract – here)*

9. Waiver; Severability. The waiver by either party of a breach or a default of any provision of this Agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or any other provision, nor shall any delay or omission on the part of either party to exercise or avail itself of any right, power or privilege that it has, or may have hereunder, operate as a waiver of any right, power or privilege by such party. No waiver of any provision of this Agreement shall be effective unless in writing and executed by the party waiving the right. If any provision of this Agreement, or the application thereof to any person or circumstance shall, for any reason or to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the fullest extent permitted by law.

10. Definitive Agreement. Neither party is legally obligated to go forward with the Transaction or any other business transaction. Either party may terminate discussions or negotiations with the other party at any time. Either party may engage in discussions or negotiations with third parties, even if such discussions or negotiations relate to possible business transactions similar or identical to the Transaction.

11. Entire Agreement; Amendments. This Agreement sets forth the entire understanding and agreement of the parties and supersedes and terminates any and all oral or written agreements or understanding between the parties as to the subject matter of this Agreement. This Agreement may be modified or amended only by a writing signed by both parties.

**IN WITNESS WHEREOF**, the parties hereto have duly executed this Agreement as a binding contract under seal as of the day and year first above written.

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| (insert the owner abbreviation here).  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Name: ç  Title:  Date: | Other Party: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Name:  Title:  Date: |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (insert the owner abbreviation here)  Date: |  |