

CONFIDENTIALITY AGREEMENT

This Agreement is made as of the ____ day of _____, 200_.

BETWEEN:

(the "**Company**")

AND:

PATEX Research and Consulting Ltd.
- operating as PATSCAN,
5230 Patrick Street
Burnaby, British Columbia, V5J 3B3

("Patex")

WHEREAS:

- A. The Company is developing an idea or invention, as more particularly described in Schedule A hereto (the "**Idea**");
- B. The Company would like Patex to perform certain services, the performance of which will require the disclosure of the Idea to Patex; and
- C. The parties wish to maintain the confidentiality of the Idea.

NOW THEREFORE in consideration of the mutual covenants and obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Company and Patex (the "**Parties**") hereby agree as follows:

1. **NOVELTY SEARCH BY PATEX**

- 1.1 Company will provide a disclosure of the Idea to Patex for the purpose of conducting a search of publicly available information for the purposes only of evaluating the possible novelty (patentability) of the Idea (the "**Search**").

2. **CONFIDENTIAL INFORMATION**

- 2.1 Patex recognizes that Company is conducting ongoing research and development of the Idea. By virtue of the disclosure of information relating to the Idea being made to Patex by Company hereunder, Patex, in carrying out the Search, possesses, and will possess

in the future, confidential information relating to the Idea (including, without limitation, information made known to Patex by Company during the period of or arising out of its Search) ("**Confidential Information**").

2.2 "**Confidential Information**" shall not include:

- (a) information in the public domain at the time of Patex's receipt thereof from Company;
- (b) information that, after Patex's receipt thereof from Company, became a part of the public domain through no act or omission of Patex or its officers, employees, agents, advisors or other representatives;
- (c) information that Patex can show was lawfully within its possession prior to or independently of its receipt thereof from Company;
- (d) information received in good faith by Patex from a third party, who is lawfully in possession of, and had the right to disclose, the same; and
- (e) information that the parties agree in writing to release from the terms of this Agreement.

3. **NON-DISCLOSURE**

3.1 Patex understands that Patex's relationship with Company creates a relationship of confidence and trust between Patex and Company with respect to any Confidential Information which pertains to the Idea.

3.2 Patex agrees that, except as directed by Company, Patex will not at any time during or after the term of this Agreement disclose to any person whatsoever, or otherwise exploit, any Confidential Information. All Confidential Information shall be the sole and exclusive property of Company, who shall be the sole owner of all inventions, copyrights, trademarks, trade secrets, patents, designs and all other rights in connection with such Confidential Information (the "**Proprietary Rights**").

3.3 Patex agrees that all documents, records, apparatus, equipment and other physical property, whether or not pertaining to Confidential Information, furnished to Patex by Company, in connection with the Idea, shall be and remain the sole property of Company and shall be delivered to Company immediately as and when requested by Company.

3.4 Patex shall not use, develop, test, promote, sell, lease or market any products or services using or incorporating the Proprietary Rights, or any portions thereof, unless specifically authorized by Company in writing, and Patex shall not use or exploit for its own benefits the Proprietary Rights, or any portions thereof, without specific written authorization from

the Company. Patex shall not disclose the results of its evaluation to anyone without specific written authorization of the Company.

4. **REPORTING AND PAYMENT**

- 4.1 Patex will submit a report to Company setting out the results of Patex's Search (the "Search Results").
- 4.2 Patex shall examine the Idea, conduct the Search and provide the Search Results at the expense of Company. In consideration for the conduct of the Search, and the provision of the Search Results, in addition to any payment terms set out in the Patent Search Request form signed by Company and Patex, Company agrees to pay Patex, amounts invoiced by Patex, within 30 days of the date of any correct invoice delivered by Patex.
- 4.3 All overdue amounts will bear simple interest at the rate of 18 percent per annum, calculated daily from the date payment was due until the date payment (including accrued interest thereon) is made in full. Failure by Company to pay any correct Patex invoice within 90 days of the date of delivery thereof shall relieve Patex of any and all obligations hereunder to Company, however Company's obligations shall continue and Patex shall retain all benefit accruing to it under this agreement.

5. **TERM AND TERMINATION**

- 5.1 This Agreement shall commence on the date first above written, and unless earlier terminated in accordance herewith, shall continue in force until such time as Patex delivers the Search Results to Company, provided that the Parties agree that their rights and obligations hereunder shall remain in force and effect for a period of five years following the termination of this Agreement for any reason.
- 5.2 Upon Company's request and, in any event, when this Agreement has expired or terminated, Patex will promptly return to Company or certify as destroyed all of Company's Confidential Information that is in Patex's possession or control.

6. **DISCLAIMER OF WARRANTY; LIMITATION OF LIABILITY AND INDEMNITY**

- 6.1 COMPANY EXPRESSLY AGREES THAT USE OF THE SEARCH RESULTS SHALL BE AT COMPANY'S SOLE RISK. COMPANY FURTHER ACKNOWLEDGES THAT PATEX ASSUMES NO RESPONSIBILITY OR LIABILITY FOR THE AVAILABILITY, COMPLETENESS, ACCURACY, CONTENT OR TIMELINESS OF ANY OF THE INFORMATION PRODUCED BY THE SEARCH OR INCLUDED IN THE SEARCH RESULTS.

THE SEARCH AND SEARCH RESULTS ARE PROVIDED ON AN "AS IS" BASIS WITHOUT ANY WARRANTIES OF ANY KIND. PATEX, TO THE FULLEST EXTENT PERMITTED BY LAW, DISCLAIMS ALL WARRANTIES, INCLUDING THE WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OF THIRD PARTIES' RIGHTS, AND

THE WARRANTY OF FITNESS FOR PARTICULAR PURPOSE. PATEX MAKES NO WARRANTIES ABOUT THE ACCURACY, RELIABILITY, COMPLETENESS, OR TIMELINESS OF THE SEARCH OR SEARCH RESULTS.

- 6.2 IN NO EVENT WILL PATEX BE LIABLE OR RESPONSIBLE FOR INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OR LOST PROFITS OR REVENUES SUFFERED OR INCURRED BY THE COMPANY OR THOSE CLAIMING THROUGH THE COMPANY IN CONNECTION WITH OR ARISING OUT OF ITS USE OF THE SEARCH OR THE SEARCH RESULTS. IN NO EVENT WILL PATEX'S LIABILITY TO COMPANY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE AMOUNTS PAID BY COMPANY TO PATEX HEREUNDER.
- 6.3 Company will at its own and entire expense, defend, indemnify and hold Patex and its respective directors, officer, employees, licensees, and shareholders ("**Indemnified Persons**") harmless from and against all costs, losses and expenses of any kind, including reasonable legal fees, resulting from or relating to any claim brought against any Indemnified Persons, relating to any or all of the Search or Search Results ("**Third Party Claim**") and Patex will promptly notify Company of any such Third Party Claim of which Patex becomes aware. Patex, upon Company's written request and at Company's expense, will use reasonable commercial efforts to provide Company with such information and assistance as Company may reasonably require for the purpose of investigating, defending or settling each such Third Party Claim.

7. **INJUNCTIVE RELIEF**

- 7.1 Patex acknowledges that disclosure of Confidential Information by Patex or a breach of the provisions contained in Section 3 may give rise to irreparable injury to Company which is inadequately compensatable in damages. Accordingly, Company may seek injunctive relief against the breach or threatened breach of the foregoing undertakings in addition to any other legal remedies which may be available.

8. **GENERAL PROVISIONS**

- 8.1 This Agreement is governed by and will be construed in accordance with the laws of the Province of British Columbia. The parties hereto irrevocably attorn and submit to the non-exclusive jurisdiction of the courts of the Province of British Columbia, sitting in the City of Vancouver, with respect to any dispute related to or arising from this Agreement.
- 8.2 This Agreement shall enure to the benefit of and be binding on the Parties and their respective successors and permitted assigns. Neither Party may assign this agreement, in whole or in part, without the prior written consent of the other party.
- 8.3 This Agreement represents the entire understanding of the parties with respect to the specific subject matter of this Agreement and supersedes all previous understandings, written or oral, between the parties with respect to that subject matter. This Agreement may only be amended with the written consent of the parties or their successors or,

where permitted, assigns, and no oral waiver or amendment shall be effective under any circumstances whatsoever.

8.4 This Agreement may be executed in any number of counterparts and delivered by facsimile with the same effect as if all Parties had all signed and delivered the same document and all counterparts will be construed together to be an original and will constitute one and the same agreement.

IN WITNESS WHEREOF, Company and Patex have signed this Agreement as of the day and year first above written.

“COMPANY”

**PATEX RESEARCH AND CONSULTING LTD.
- OPERATING AS PATSCAN,**

Per: _____
(Signature)

Per: _____
(Signature)

(Name)

(Name)

(Title)

(Title)

(Date)

(Date)

Schedule A
Please see description of the Idea or Invention (attached)