

EVALUATION AGREEMENT AND KNOW-HOW TRANSFER

Between

LICENSEE
&
LICENSOR

On

PRINTED INORGANIC SEMICONDUCTOR LEADS

RECITALS

- A. Licensor ("LICENSOR") is a _____ corporation having principal place of business at _____.
- B. LICENSEE ("LICENSEE ") is a _____ corporation having a place of business at _____.
- C. LICENSEE wishes to engage LICENSOR to evaluate LICENSEE'S LED as defined in the Statement of Work ("SOW"), which is attached to this Agreement in Exhibit A-1.
- D. The Parties hereby establish the terms and conditions under which they plan to carry out the evaluation.

Now, therefore, effective as of, December __th 201__ (the "Effective Date") the Parties agree as follows:

Article 1: Definitions

- 1.1 "Agreement" shall mean this Sponsored Research Agreement between LICENSOR and LICENSEE including any agreed upon Statements of Work. The "Main Body" of this Agreement shall include all terms of this Agreement except terms and provisions in the Statement of Work.
- 1.2 "Days" as used herein shall mean calendar days including weekends.
- 1.3 "Intellectual Property" means inventions, discoveries, mask designs, know-how, conceptions, writings and other tangible expressions, technical data rights, patents, copyrights and trade secrets. Intellectual Property specifically excludes trademarks, service

marks, trade names and trade dress

- 1.4 "Background Intellectual Property" means and includes (1) all Intellectual Property developed, first conceived or reduced to practice by a Party before the Effective Date as well as (2) all Intellectual Property developed, first conceived or reduced to practice by a Party since the Effective Date but which intellectual property is not specifically conceived or developed in performing the tasks specified in Statement of Work of either this Agreement, or which is funded independently of this Agreement, as well as (3) all Intellectual Property first conceived or reduced to practice by a Party after this Agreement has terminated or expired, even if such Intellectual Property falls within the scope of the Statement of Work.
- 1.5 "Project Intellectual Property" means Intellectual Property developed specifically in the course of performing the Statement of Work of this Agreement. Project Intellectual Property does **not** include any Background Intellectual Property.
- 1.6 "Project Patents" means any patents that are a subset of "Project Intellectual Property".
- 1.7 "LICENSEE Project Intellectual Property" means Project Intellectual Property first conceived and reduced to practice solely by LICENSEE Personnel in the course of performing the tasks set forth within the Statement of Work of this Agreement. LICENSEE Project Intellectual Property specifically excludes all Background Intellectual Property.
- 1.8 "LICENSOR Project Intellectual Property" means Project Intellectual Property first conceived and reduced to practice solely by LICENSOR Personnel in the course of performing the tasks set forth within the Statement of Work of this Agreement. LICENSOR Project Intellectual Property specifically excludes all Background Intellectual Property.
- 1.9 "Joint Project Intellectual Property" means Project Intellectual Property first conceived and reduced to practice jointly by LICENSEE Personnel and LICENSOR Personnel in the course of performing the tasks set forth within the Statement of Work of this Agreement.
- 1.10 "Statement of Work" or "SOW" means those tasks to be performed by LICENSOR and/or its subcontractors during the term of this Agreement as set forth as a material part of this Agreement in Exhibit A-1 (the SOW signed concurrent with this Agreement shall be the "Original SOW" or "Phase 1 SOW") or as may be added in subsequent Statements of Work and added to Exhibit A-1 (later added SOWs shall be "Subsequent SOWs" or "Phase 2 SOW"). To be valid and considered a Statement of Work, each Statement of Work must be (1) signed by the technical leads and (2) must be limited in scope to improving, developing and transfer of knowledge related to the LICENSEE FOU and (3) any SOW, other than the original SOW, must contain detailed a) Terms, b) Goals, c) Outline of Activities, d) Payment schedule and e) Deliverables and Acceptance Criteria.
- 1.11 "Confidential Information" means "Discloser Information" as defined in the Confidential Disclosure Agreement with number C2KMC023311 with amendment C2KMC023311-A1 effective as of September 15th 2012 between the parties.

- 1.12 “Party” and “Parties” means LICENSEE or LICENSOR, as determined by the context when the singular case is used, and LICENSEE and LICENSOR when the plural case is used.
- 1.13 “Personnel” mean LICENSEE or LICENSOR employees, contractors, consultants and agents as determined by the context.
- 1.14 “LICENSEE Field of Use” or “LICENSEE FOU” means applications and implementations of inorganic LEDs that meet all of the following criteria: (1) emit light in the wavelength spectrum between 380nm and 740nm; and (2) are substantially planar devices having a lateral dimension of between 20 and 30 μm ; and (3) are suspended in a liquid and subsequently deposited on a substrate by a printing process.
- 1.15 “LICENSOR Fields of Use” or “LICENSOR FOU” means all fields of use that are not LICENSEE Fields of Use
- 1.16 “Licensed Products” shall mean inorganic LEDs that (1) emit light in the wavelength spectrum between 380nm and 740nm; and (2) are substantially planar devices having a lateral dimension of between 20 and 30 μm ; and (3) are suspended in a liquid and subsequently deposited on a substrate by a printing process.
- 1.17 Light emitting diode or LED shall mean an optoelectronic device consisting of a semiconductor structure configured to contain a p-n electrical junction and electrical contacts to form a diode such that when a current is imposed the device emits light by spontaneous emission.

ARTICLE 2. GRANT OF RIGHTS

2.01 Know-How Grant.

- (a) Subject to any pre-existing encumbrances, and subject to LICENSEE’s timely payment of all license fees, royalties and service fees specified in Section 3, and subject to LICENSEE’s adherence to the terms of this Agreement, LICENSOR hereby grants under LICENSOR Know How in LICENSOR’s Background Intellectual Property (not-including patents) to LICENSEE a world-wide, nonexclusive, nontransferable, non-sublicenseable, world-wide, royalty-free license:
- (i) to use the licensed know how for the purpose of developing Licensed Products within the LICENSEE Field of Use, and
 - (ii) to use (including operate and maintain), sell, lease, have made, offer for sale, import, export (subject to section 10.1), distribute and otherwise dispose of throughout multiple tiers of distribution any Licensed Products and perform services that incorporate or use any Licensed Products but only within the LICENSEE Licensed Field of Use.
- (b) The license “to have made” granted to LICENSEE under Section 2.01(a) means only that LICENSEE may contract with its subsidiaries or suppliers for the sole

purpose of making for LICENSEE the Licensed Products.

- (c) The license to LICENSEE of Section 2.01(a) and 2.01(b):
 - (i) shall be strictly limited to use in or for Licensed Products in the Licensed Field of Use,
 - (ii) shall be subject to confidentiality limitations no less restrictive than those set forth in this Agreement.
- (d) The license grants and rights set forth in this section 2.01 are not intended to, and shall not be construed to, grant any rights under any patents.

2.02 LICENSOR Project Patent License Grant for the LICENSEE Field of Use.

- (a) Subject to any pre-existing encumbrances, and subject to LICENSEE's timely payment of all license fees, and service fees specified in Section 3, and subject to LICENSEE's adherence to the terms of this Agreement, LICENSOR grants to LICENSEE an exclusive, nontransferable, non-sublicenseable, fully paid up, royalty free, perpetual world-wide license under any LICENSOR Project Patents to make, offer to sell, sell, use, export (subject to section 10.1), have made, import, and otherwise dispose of throughout multiple tiers of distribution Licensed Products in the LICENSEE Field of Use.
- (b) The license "to have made" granted to LICENSEE under Section 2.02(a) means only that LICENSEE may contract with its Subsidiaries or suppliers for the sole purpose of making for LICENSEE the Licensed Products.
- (c) The license to LICENSEE of Section 2.03(a) and 2.03(b):
 - (i) shall be strictly limited to use in or for Licensed Products in the LICENSEE Field of Use, and
 - (ii) shall be subject to confidentiality limitations no less restrictive than those set forth in this Agreement.

2.03 Patent License Grant to Joint Project Patents.

- (a) Subject to any pre-existing encumbrances, LICENSEE grants to LICENSOR an exclusive, world-wide, paid up, royalty free, perpetual, transferable, sublicenseable, license under LICENSEE's interest in all Joint Project Patents to make, offer to sell, sell, use, export (subject to section 9.1), have made, import, and otherwise dispose of throughout multiple tiers of distribution any products and/or services in the LICENSOR Fields of Use.
- (b) Subject to any pre-existing encumbrances, LICENSOR grants to LICENSEE an exclusive, world-wide, paid up, royalty free, perpetual, transferable, sublicenseable, license under LICENSOR's interest in all Joint Project Patents to make, offer to sell, sell, use, export (subject to section 9.1), have made, import, and otherwise dispose of throughout multiple tiers of distribution any Licensed Products and/or services in the LICENSEE Field of Use.

- 2.04 Except as the Parties have expressly agreed to in Sections 2.01, 2.02, and 2.03, nothing in this Agreement is or shall be construed as (a) granting any right to sublicense others or (b) granting by implication, estoppel, or otherwise, any licenses or rights under patents, copyrights, trademarks, or other intellectual property rights of either Party or any third party.
- 2.05 Any exercise of LICENSEE's "have made" rights with a third party under section 2.01, 2.02 and 2.03 shall be governed by an agreement between LICENSEE and the third party that shall: (a) obligate the third party to terms no less restrictive to LICENSEE under this Agreement with respect to sections specifying export control regulations and sections (specifying confidentiality obligations) and, sections relating to indemnification for commercialization and (b) automatically terminate upon the earlier to occur of (i) the termination of this Agreement or (ii) breach of the agreement by the third party.

2.6 Background Patents The Parties have not identified any LICENSOR Background Patents that the parties believe are necessary for LICENSEE to make or use the Licensed Products. In the event that the Parties discover LICENSOR Background Patents that are necessary for LICENSEE to make or use the Licensed Products, the Parties agree to negotiate in good faith, upon request by either party, for a license to the LICENSOR Background Patents, ("Additional Patents"). The license to any Additional Patents shall be made subject to and limited by all previous and then existing encumbrances, grants and extensions thereof, and all other obligations to third parties with respect to the Additional Patents. Nothing set forth in this section 2.07 shall be deemed to restrict in any way either party from entering into agreement with other third parties relating to any Background Intellectual Property including the Additional Patents. Thus it is possible that LICENSOR's right to license the Additional Patents may be limited by existing agreements and may be further limited or extinguished by possible future agreements with other third parties, which may include, but is not limited to assignment of these Additional Patents to third parties.

Article 3. Payments to LICENSOR

- 3.1 License Fee. Within ten (10) days of the Effective Date of this Agreement, LICENSEE shall pay LICENSOR a non-refundable fee of one hundred fifty thousand U.S. Dollars (U.S. \$150,000) ("License Fee") for the initial license to LICENSOR Know-How set forth in section 2.01.
- 3.2 Services Payment: In consideration of the performance of the Services as described in the SOW by LICENSOR hereunder, LICENSOR agrees to invoice and LICENSEE agrees to pay LICENSOR a non-refundable payment total of US \$150,000 (one hundred and fifty thousand) dollars at the earlier of: (i) completion of the Statement of Work or (ii) March 31, 2013.
- 3.3 All payments to LICENSOR for services shall be due thirty (30) days after receipt of the invoice, and shall be non-refundable,

3.4 Late Payments and Collections: In the event that LICENSEE fails to pay any amounts due under this Agreement, LICENSEE agrees to pay LICENSOR's reasonable costs of collection, including reasonable attorneys' fees and court costs and interest, compounded daily. If any LICENSEE payments are more than thirty (30) days late, in whole or part, LICENSEE shall pay interest on such late payments at a rate Two Percent (2%) above the prime rate of interest quoted by Citibank in New York, New York at the close of business on the first business day of each month during which any portion of such late payments and any accrued interest remains unpaid (the "Applicable Interest Rate for the Current Month"). The Applicable Interest Rate for the Current Month shall be reset on the first business day of each month, and interest shall compound daily based on the daily equivalent of the Applicable Interest Rate for the Current Month. The Parties agree that failure to make timely payment shall be deemed a material breach under this Agreement and shall result in the cancellation of any and all licenses at LICENSOR's sole discretion.

3.5 Payment Information:

LICENSEE agrees to pay LICENSOR in US dollars either via check sent to the Accounts Receivable department at LICENSOR or wired to LICENSOR's US bank account, the instructions of which shall be provided under separate cover or with the invoice.

3.6 Taxes:

All U. S. federal, state and local taxes imposed as a result of the existence of this Agreement or the performance of the parties hereunder shall be borne and paid by the party required to do so by applicable law. For the sake of clarity, it is understood and agreed that all prices set forth in this Agreement are exclusive of any applicable taxes (including any interest and/or penalty assessed upon audit). LICENSOR will set out on its invoice to LICENSEE, any California sales tax due on the payments under this Agreement and such sales tax (if any) shall be the financial responsibility of LICENSEE. All payments to LICENSOR by LICENSEE shall be made without any deduction for taxes, assessments, or other charges that may be imposed on LICENSOR or on such payments by any governmental body, authority or agency outside the U. S., and all such non-U. S. taxes, assessments and charges shall be assumed and paid on behalf of the appropriate party by LICENSEE ("Non U.S. Tax"). If LICENSEE does pay any such Non U.S. Tax on LICENSOR's behalf it shall provide LICENSOR in a timely manner with a copy of the official tax receipt evidencing such payment

Article 4: Intellectual Property

4.1 Title: Title to Project Intellectual Property shall vest as follows:

- 4.1.1 LICENSOR shall have title to all LICENSOR Project Intellectual Property.
- 4.1.2 LICENSEE shall have title to all LICENSEE Project Intellectual Property.
- 4.1.3 Joint Project Intellectual Property will be jointly owned by LICENSOR and LICENSEE.

4.2 **IP Protection:** The protection and perfection of rights in Project Intellectual Property shall be governed as follows:

- 4.2.1 **Protection Of LICENSOR Project Intellectual Property:** LICENSOR shall be solely responsible for, and shall have complete discretion with respect to, the protection and perfection of its rights in any LICENSOR Project Intellectual Property, including for example, obtaining US and foreign patents thereon. Further, LICENSOR shall be solely responsible for all costs associated with obtaining and maintaining any such rights including legal fees, patent application fees and patent maintenance fees.
- 4.2.2 **Protection Of LICENSEE Project Intellectual Property:** LICENSEE shall be solely responsible for, and shall have complete discretion with respect to, the protection and perfection of its rights in any LICENSEE Project Intellectual Property, including for example, obtaining US and foreign patents thereon. Further, LICENSEE shall be solely responsible for all costs associated with obtaining and maintaining any such rights including legal fees, patent application fees and patent maintenance fees.
- 4.2.3 **Protection Of Joint Project Intellectual Property:** LICENSOR shall have sole discretion on decisions related to and shall manage Joint Project Intellectual Property. The Parties shall equally divide all costs associated with obtaining and maintaining any such rights including legal fees, patent application fees and patent maintenance fees. In the event that either Party declines to obtain or maintain any such right in a particular Joint Project Patent, the other Party may assume all responsibility and all further costs associated with that Joint Project Patent and the Party declining to obtain or maintain shall assign its title to that Joint Project Patent to the other Party. In the event of such assignment, the grant in section 2.03 to the party declining to obtain or maintain any such rights shall convert from an exclusive license to a non-exclusive license.

Article 5: Term

5.1 **Term:** This Agreement shall continue in full force and effect from the Effective Date until it is terminated by mutual agreement of the parties or otherwise terminated as set forth under this article 5.

5.2 **Termination of Specific LICENSOR Obligations** Any and obligations of LICENSOR under the SOW and of this Agreement shall terminate upon the later of (1) one year after the Effective Date or (2) final delivery of the Deliverables to LICENSEE.

5.3 **Termination:**

- 5.3.1 **Breach:** If either Party (hereinafter called “Breaching Party”) breaches any material term or condition of this Agreement, the other Party (hereinafter called “non-Breaching Party”) may notify the Breaching

Party in writing of such breach, setting forth the nature of the breach in reasonable detail. If the Breaching Party fails to cure such breach within sixty (60) days after the receipt of the foregoing notice from the non-Breaching Party for any and all material breaches, then the non-Breaching Party may terminate this Agreement effective immediately upon a second written notice to the Breaching Party. Such termination shall also result in the immediate termination of all licenses and grants of rights set forth in Article 2 of this Agreement to the Breaching Party.

- 5.3.2 **Insolvency**: To the extent permitted by applicable law (including 11 U.S.C. Section 365), either Party may terminate this Agreement, including but not limited to, termination of all the licenses and grant of rights set forth in Article 2 of this Agreement, by giving written notice of termination to the other Party, if the other Party makes a general assignment for the benefit of creditors; applies for or consents to the appointment of a receiver, trustee or liquidator for substantially all of its assets or such a receiver, trustee or liquidator is appointed; or such other Party has filed against it an involuntary petition of bankruptcy that has not been dismissed within sixty (60) days thereof, or files a voluntary petition of bankruptcy, or a petition or answer seeking reorganization, or seeks to take advantage of any other law relating to relief of debtors; or has wound up or liquidated its business. To the extent applicable law prevents a party from terminating this Agreement, then the parties shall have only those rights and remedies permitted by applicable law, including the United States Bankruptcy Code and, more specifically but not limited to 11 U.S.C. Section 365.
- 5.3.3 **Termination for Convenience**: No termination for convenience shall be granted under this Agreement.

5.4 **Effect of Termination**:

- 5.4.1 **Existing Obligations**: Any termination or expiration of this Agreement shall not: (a) affect the rights of either Party against the other Party in respect of the period up to and including the date of termination or expiration, nor (b) relieve any Party from any obligations hereunder which have accrued on or before the date of such termination.
- 5.4.2 **Survival**: Terms and conditions of this Agreement that shall survive the termination or expiration of this Agreement, are Article 2 ("Grant of Rights"), Section 3.1 ("Payment") of Article 3, Article 8 ("Confidential Information"), Article 4 ("Intellectual Property"), Article 6 ("Warranties and Limitations Of Liability"), Section 9.1 ("Export"), Section 9.8 ("Governing Law") and Section 9.11 ("Promotional Use").

- 5.4.3 **Rights Reserved Under Breach:** The right of the terminating Party under Section 5.2.1 above is not an exclusive remedy, and such Party shall be entitled, if the circumstances warrant, alternatively or cumulatively, to damages for breach of this Agreement, to an order requiring performance of the obligations of this Agreement or to any other legally available remedy.
- 5.4.4 **Termination of Specific LICENSOR obligations:** Any obligations of LICENSOR relating to services delivered under Sections 6.1-6.2 and any Statements of Work of this Agreement shall terminate upon the final delivery of the Deliverables to LICENSEE.

Article 6: Administration and Governance

6.1 Services to be Provided: Based on ideas, concepts and materials provided by LICENSEE, LICENSOR agrees to perform, directly and through the use of sub-contractors, the tasks set forth in the Statement Of Work (attached as Appendix A) (the “Services”). The Services shall result in Deliverables that are specified in the Statement of Work. The Deliverables created per this Agreement shall consist solely of experimental data and reports.

6.2 Delivery and Acceptance of Deliverables: LICENSOR shall commence preparation of the Deliverables for LICENSEE promptly following receipt by LICENSOR of this Agreement executed by LICENSEE and payment of the License Fee in section 3.1. Subject to LICENSEE providing timely delivery of materials to be used in the Deliverables and timely payment of amounts due, LICENSOR shall thereafter use commercially reasonable efforts to complete the delivery of the Deliverables to LICENSEE within the time frame set forth in the SOW. LICENSOR shall notify the estimated arrival date to LICENSEE before LICENSOR dispatches the Deliverables. The Deliverables shall be deemed accepted by LICENSEE unless LICENSOR receives written notice from LICENSEE, within ten (10) Days of LICENSEE’s receipt of the Deliverables from LICENSOR, specifically identifying any deficiencies in the delivery.

6.3 Technical Consultation: During the term of this Agreement, it is possible that LICENSEE and LICENSOR may arrange LICENSEE visits to LICENSOR. In the event that LICENSEE Personnel visit LICENSOR, the LICENSEE Personnel may have limited access to LICENSOR facilities. Any such access shall be governed pursuant to standard LICENSOR policies, rules and regulations regarding security, confidentiality and schedule of operation and visitation.

6.4 Communications

LICENSOR and LICENSEE shall each designate a program participant as the lead contact for ongoing communication, and to handle any questions from each other that might arise as a consequence of the work conducted during performing the Services.

2.4.1.1 The technical lead contact for LICENSOR is:

Tel:+
E-mail:

2.4.1.2 The technical lead contact for LICENSEE is

Tel: +
E-mail:

Article 7: Warranties and Limitations of Liability

7.1 Specific Disclaimers. Nothing in this Agreement is or shall be construed as:

- (a) A warranty or representation by either party as to the validity or scope of any patent or patent application; or
- (b) A warranty or representation that anything made, used, sold, or otherwise disposed of under any license granted, technology transferred, or know-how provided in this Agreement is or will be free from infringement of patents, copyrights, and other rights of third parties; or
- (c) A requirement that either party file any patent application, secure any patent, continue prosecution of any patent or maintain any patent in force; including any patent and/or patent applications that may be licensed in this Agreement; or
- (d) An obligation by LICENSOR to bring or prosecute actions or suits against third parties for infringement of any patents; or,
- (e) An obligation to furnish any technical assistance or information or any information concerning pending patent applications; or,
- (f) Conferring any right to use in advertising, publicity, or otherwise any trademark or trade name of any entity; or
- (g) Any warranty or representation that the experimental services provided is free of inaccuracies or omissions.

7.2 General Disclaimer. ALL DELIVERABLES, MATERIALS, SERVICES, TANGIBLE AND INTANGIBLE INFORMATION SUPPLIED BY LICENSOR TO LICENSEE IS

PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. LICENSOR MAKES NO REPRESENTATIONS, EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, NOR ASSUMES ANY REPOSNIBILITIES WHATEVER WITH RESPECT TO THE COMMERCIAL SUCCESS, USE, SALE LEASE, OR OTHER DISPOSITION BY OR FOR LICENSEE OR ITS VENDORS OR TRANSFEREES OF LICENSED TECHNOLOGY, PATENTS, KNOWHOW OR PRODUCTS. LICENSEE ACKNOWLEDGES THAT THE DELIVERABLES, SERVICES, INFORMATION AND MATERIALS PROVIDED IN THE SERVICE PROVIDED ARE EXPERIMENTAL IN NATURE, AND THAT THE RESULTS CANNOT BE PREDICTED WITH ANY DEGREE OF CERTAINTY. THUS LICENSOR ALSO MAKES NO REPRESENTATIONS, EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, NOR ASSUMES ANY RESPONSIBILITIES WHATEVER WITH RESPECT TO THE RESULTS AND DELIVERABLES. LICENSOR HEREBY EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR ANY PARITUCLAR PURPOSE.

7.3 Indemnity. LICENSOR shall not be responsible for any liability of any kind under any legal or equitable theory as a result of claims or suits arising out of the manufacture, use, sale, lease or other disposition of any results and deliverables. The Parties agree that the results and deliverables are experimental in nature and are not designed for commercial use. Thus, LICENSEE shall indemnify and hold LICENSOR harmless from and against all liability, claims, and suits that result from the commercialization of the Licensed Products as well as the manufacture, use, sale, lease or other disposition of the results and deliverables that relate to commercial use of the deliverables and services. _

7.4 Limited Relationship. LICENSEE acknowledges and agrees that it has no expectation that it shall obtain any anticipated amount of profits by virtue of this Agreement. The parties agree that the termination provisions herein, in terms of both notice and default events, are reasonable and agree not to contest same by way of wrongful termination proceedings or otherwise.

7.5 Limitation of Liability. EXCEPT FOR LICENSEE'S INDEMNIFICATION TO LICENSOR FOR LIABILITIES RELATED TO COMMERCIALIZATION AND COMMERCIAL USE, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY LOSS OF USE, INTERRUPTION OF BUSINESS OR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS AND ATTORNEY'S FEES) REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT PRODUCT LIABILITY OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR LICENSEE'S INDEMNIFICATION TO LICENSOR FOR LIABILITIES RELATED TO COMMERCIALIZATION AND COMMERCIAL USE, LICENSEE'S TOTAL CUMULATIVE LIABILITY ARISING FROM OR RELATED TO THIS AGREEMENT SHALL NOT EXCEED THE AMOUNTS DUE AND OWING AND (\$250,000) TWO-HUNDERED FIFTY THOUSAND DOLLARS. LICENSOR'S

TOTAL CUMULATIVE LIABILITY ARISING FROM OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL NOT EXCEED THE LESSER OF EITHER (1) (\$250,000) TWO-HUNDRED FIFTY THOUSAND DOLLARS OR (2) THE AMOUNTS ACTUALLY PAID TO LICENSOR UNDER THIS AGREEMENT. THIS LIMITATION OF LIABILITY WILL BE GIVEN FULL EFFECT EVEN IN THE EVENT OF A FAILURE OF ESSENTIAL PURPOSE. THE PARTIES ACKNOWLEDGE THAT THESE LIMITATIONS OF LIABILITY REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT THE PARTIES WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS.

7.6 **No Agency.** The parties agree that they are independent parties and that neither of them is authorized to make any commitment or representation on the other's behalf,

Article 8: Public Release of Information.

8.1 Public Release: Except to the extent required by law, any news release, public announcement, or advertising or publicity proposed to be released by either Party concerning progress and results that depend on Project Intellectual Property and the Agreement terms and conditions, shall be subject to the written approval of the other Party prior to release. Notwithstanding the foregoing, both Parties retain full and unfettered rights to publish or otherwise disclose their respective Proprietary Information and their respective Background Intellectual Property

8.2 Should LICENSOR elect to publish Project Intellectual Property or technical data, first arising out of the Agreement, (i) LICENSOR shall consult with LICENSEE and obtain LICENSEE's written approval in advance, such approval to be timely provided and not unreasonably withheld, about the manner of publication, including without limitation whether to identify LICENSEE; and (ii) such papers shall be published after the Parties have had a reasonable opportunity to file patent application(s) relating to the Project Intellectual Property or technical data to be published. Notwithstanding the foregoing, the Parties may mutually agree to jointly publish Project Intellectual Property or technical data first arising out of this Agreement. Notwithstanding the policy favoring publishing, each Party shall abide by the terms of the Confidential Disclosure Agreement referenced in section Article 8.2.

Article 9: Confidential Information

9.1 This Agreement imposes no obligation to accept the disclosure of Confidential Information.

9.2 Confidential Information received from a disclosing party ("Discloser") under this Agreement shall be governed by the terms of the Confidential Disclosure Agreement (Serial No C2KMC023311 with amendment C2KMC023311-A1) effective as of September 15th, 2012 between the Parties.

Article 10 General.

10.1 Export: Neither Party will export or re-export or cause to be exported or re-exported, directly or indirectly, any technical information, or the direct product of such technical information, or any product that is provided by the other Party under this Agreement, to any country for which United States law requires an export license or other government approval at the time of such export without first obtaining any required license or approval.

10.2 Performance: Neither Party shall be liable for any delay or default in performance of services that is caused by conditions beyond its reasonable control including but not limited to acts of God, wars, insurrections, strikes, fires, floods, earthquakes, work stoppages, and embargoes.

10.3 Subject to the limitations of Article 4 ("Intellectual Property"), this Agreement shall not prevent either Party from entering into a similar agreement with any third party or from developing, manufacturing, or selling any product or service that competes with the other Party's products or services.

10.4 Publicity: LICENSOR and LICENSEE agree not to use or refer to this Agreement, the details of the Project or the Project results or any provision of or rights granted under this Agreement in any publicity, advertising, or promotional activity without the express written approval of the other party, such approval not to be unreasonably withheld by either party. Notwithstanding anything in this Agreement to the contrary, the Agreement is NOT confidential and each Party shall have the right to disclose the existence of this Agreement as part of or in conjunction with the filing and publication of any quarterly, annual or other report required to be filed with the Security Exchange Commission of the United States or a comparable agency of any foreign country with jurisdiction over the disclosing party.

10.5 Transfer & Assignment: Neither Party may transfer or assign any right or obligation under this Agreement without the prior written consent of the other Party. Any attempted transfer or assignment by any Party in violation of this clause shall be voidable at the option of any of the other Party. Under a change of control of any Party, continued license rights to that Party are subject to the agreement of the other Party.

10.6 No Waiver: The express waiver by either party of any provision, condition or requirement of this Agreement shall not constitute a waiver of any future obligation to comply with such provision, condition or requirement. Any delay or omission by either party to exercise any right or remedy under this Agreement shall not be construed to be a waiver of any such right or remedy or any other right or remedy hereunder. All the rights of either party under this Agreement shall be cumulative and may be exercised separately or concurrently.

10.7 Titles and Headings: Titles and headings are for convenience only and shall not be used to interpret this Agreement.

10.8 Governing Law: This Agreement shall be governed and construed in accordance with

NON-BINDING DRAFT FOR DISCUSSION PURPOSES ONLY

the laws of the United States and the State of California except for those provisions that relate to conflict of laws and any disputes shall be adjudicated in forums located therein.

10.9 Severability: In the event that any provision of this Agreement shall be held invalid or unenforceable for any reason, such provision shall be ineffective to the extent of such invalidity or unenforceability and this Agreement shall be construed to effectuate the intent of the Parties to the greatest extent possible, and such invalidity or unenforceability shall not otherwise affect any other provision of this Agreement. At the written request of either Party, the Parties shall enter into good faith negotiations to develop a provision that is an effective substitute for the invalid or unenforceable provision, and such substitute provision shall then be incorporated into this Agreement by amendment in lieu of the invalid or unenforceable provision.

10.10 Interpretation Any construction or interpretation of this Agreement shall not be construed against the drafter.

10.11 Promotional Use: Neither Party shall use the name, logo, or any other indicia identifying the other Party in any advertising, promotional or sales literature without the prior written consent of the other Party.

10.12 Entire Agreement: This Agreement embodies the entire understanding between the parties as to the subject matter of this Agreement and supersedes all previous discussions and documents relating to such subject matter including, but not limited to previous confidentiality Agreements between the parties.

10.13 Amendments: No amendment or modification to this Agreement shall be effective or binding on either party unless the same has been reduced to writing and signed by authorized representatives of both parties.

10.14 Order of Precedence: In the event of a conflict between any Statement of Work and the Main Body of this Agreement, the terms of the Main Body of this Agreement shall govern.

In Witness Whereof, the Parties have caused this Statement of Work to be executed by their duly authorized officers or representatives on the dates shown below.

LICENSEE

LICENSOR

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A-1 STATEMENT OF WORK

Know-How transfer: Review of licensee GaN μ LED fabrication process flow

Overview

LICENSOR will conduct a review of the process flow as developed by Licensee for fabrication of GaN chiplet LEDs. During the review, and starting immediately upon signature, LICENSOR will continuously identify process areas and topics ripe for improvement and transfer existing process know-how to licensee in order to allow for rapid addressing of suboptimal processes. We expect there to be areas where immediate improvements can be made and where LICENSOR can make recommendations within days of signature and that new potential improvements will be identified throughout the engagement.

Initial information gathering and analysis (week 1-3)

The engagement will begin with an on-site review at Licensee for an in-depth introduction to the flow process that will include the out-sourcing arrangements and specifications as well as the fabrication sequence, test results, and an enumeration of the perceived programmatic/technical issues. The initial engagement may include visits to suppliers of out-sourced fabrication steps (e.g., Teledyne) and may include materials and device characterization at LICENSOR. During this, and proceeding sessions, meetings with licensee suppliers, including Teledyne, may be scheduled to improve information gathering and process improvement quality.

Interim Report (week 6)

Based on the analysis, the LICENSOR team will prepare and submit a report evaluating the existing process flow and identifying areas that are prime candidates to improve device performance or yield on the short term, for review by Licensee. Note that this report is likely to contain little new information; as improvement areas are identified they will be immediately communicated to Licensee.

Meeting to Refine activities (week 7)

- Discuss the report conclusions
- Achieve consensus between LICENSOR and LICENCEE in the key problem areas to be addressed
- LICENSOR and Nth working together will develop a plan to realize the proposed improvements.

Detailed plan (week 10)

Based on these discussions, LICENSOR will develop technology options and create a plan for further development and implementation of solutions.

Final report and meeting (week 12)

This will include recommendations for follow-on experimental work and trial runs that can be conducted at LICENSOR for materials characterization, modeling, and processing.