

PLEDGE AND CONDITIONAL ASSIGNMENT OF LICENSE AGREEMENT

This PLEDGE AND CONDITIONAL ASSIGNMENT OF LICENSE AGREEMENT (this "Agreement") is made as of _____ (the "Effective Date"), by and among _____ with an address at _____ (the "Licensor"), _____ an Ohio corporation having its address at _____ (the "Licensee"), and the Director of the Ohio Development Services Agency whose address is 77 South High Street, 28th Floor, Columbus, Ohio 43215, Attn: Loans and Servicing Office (LN 201__) (the "Director").

RECITALS:

- A. _____ and Licensee entered into Patent and Technology License Agreement Agt. No. _____ dated effective as _____ (the "License Agreement") pursuant to which Licensee licensed certain rights in the Patent Rights and Technology Rights (each as defined in the License Agreement) (the "Technology"). _____ assigned the License Agreement to Licensor.
- B. Licensee desires to enter into that certain Loan Agreement (the "Loan Agreement") between Licensee and the Director dated as of _____ pursuant to which the Director will loan Licensee an amount not to exceed _____ (the "Loan").
- C. As a condition to execution of the Loan Agreement and the extension of the Loan, the Licensee has agreed to pledge its rights under the License Agreement to the Director pursuant to which the Director will succeed to Licensee's rights hereunder, at the Director's election, upon an Event of Default (as defined in the Loan Agreement).

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Pledge and Conditional Assignment. As collateral security for the prompt and complete payment and performance of all obligations under the Loan Agreement and other Loan Documents (as defined in the Loan Agreement), subject to Section 2 hereof, Licensee hereby pledges to the Director its right, title and interest in and to the License Agreement (the "Pledged Interest"), and hereby grants to the Director a first lien on its right, title and interest in and to the Pledged Interest, and all of its products, proceeds, substitutions, additions, and all books, records, and papers relating to the foregoing (all of which are referred to herein as the "Collateral").

2. Rights of Licensee. So long as no Event of Default has occurred under the Loan Agreement and other Loan Documents, Licensee shall have all rights, powers and privileges pertaining to the Collateral and the Director shall not be entitled to any such rights with respect to the Collateral. For the avoidance of doubt, unless there is an Event of Default, the Director shall have no rights under the License Agreement, all of which shall remain the sole and exclusive rights of the Licensee. If there is an Event of Default, then the Director has thirty (30) days from the Event of Default to elect to have and does have Licensee's rights under the License Agreement assigned to the Director (the "Election Period"). If the Director elects to have Licensee's rights under the License Agreement assigned to the Director, prior to or contemporaneously with such assignment, the Director shall be obligated to pay all fees,

royalties and any other amounts owed by Licensee as set forth in the License Agreement and the Director shall thereafter comply in all respects with the License Agreement as the licensee thereunder (until the License Agreement is otherwise assigned or the Assignment Period expires as provided in this Agreement) and Licensor shall have no further obligations to Licensee under this Agreement and the License Agreement. The Director shall have one hundred eighty (180) days (or such greater time if Licensor agrees to provide a written extension in its sole discretion) from the date that Licensee's rights under the License Agreement are assigned to the Director ("Assignment Period") to assign the Director's rights as licensee under the License Agreement to a new licensee reasonably acceptable to Licensor, which consent from Licensor shall not be unreasonably withheld. If the Director does not elect to have and does have Licensee's rights under the License Agreement assigned to the Director during the Election Period, or the Director does not find a party that is reasonably acceptable to Licensor during Assignment Period, the License Agreement will automatically terminate and the Licensor shall have no further obligations to the Director or Licensee under this Agreement and the License Agreement. Upon the request of Licensor following the termination or assignment of the License, the Director shall provide written evidence of the same to Licensor in such form and content reasonably acceptable to Licensor.

3. Covenants of Licensee and Licensor.

a. Until the earlier of either (1) the Loan is paid in full to the Director and all of Licensee's obligations under the Loan Agreement are terminated; (2) the Election Period ends without the Director electing to and actually does have Licensee's rights under the License Agreement assigned to the Director; or (3) the Assignment Period ends, Licensor agrees that it will provide prior written notice to the Director allowing the Director to exercise its rights under this Agreement before Licensor cancels, terminates or modifies the License Agreement. In the event of a breach of the License Agreement by Licensee, Licensor agrees that it will provide notice of such breach and an opportunity to cure to the Director for the same cure period applicable to Licensee thereunder with such cure period to commence on the date notice is delivered to the Director. In the event that Licensor and Licensee intend to modify the License Agreement, Licensor or Licensee shall give the Director written notice of the proposed modification and the Director shall have fifteen (15) calendar days to respond in writing with an objection to the modification, and if no objection is received by Licensor and Licensee, the Director shall be deemed to have consented to the modification.

b. Until the Loan is paid in full to the Director and all obligations under the Loan Agreement are terminated, Licensee agrees that, without prior written consent of the Director, Licensee will not: (1) cancel, terminate or modify (except as provided in Section 3.a.) the License Agreement or waive any substantial right or remedy under the License Agreement, except in connection with a termination of the License Agreement whereby Licensor agrees to irrevocably convey and assign to Licensee all of its right, title and interest in and to the Technology, (2) sell, assign (by operation of law or otherwise) or otherwise dispose of, or grant any option with respect to, any of the Collateral, or (3) create or permit to exist any lien, option or other charge or encumbrance upon or with respect to any of the Collateral.

c. Licensee further agrees that it will (1) comply with all of the terms and conditions of the License Agreement, (2) execute all such documents and will do all such acts as

the Director may reasonably request from time to time to carry into effect the provisions and intent of this Agreement, (3) promptly send to the Director copies of all notices of default which Licensee shall send or receive with respect to the License Agreement, and (4) appear in and defend any action or proceeding arising under or in any manner connected with the License Agreement.

4. Mutual Representations. Licensor and Licensee each represent and warrant to the other and the Director that:

a. neither the execution and delivery of this Agreement nor the consummation of any of the transactions contemplated hereby does or will constitute or give rise to a breach of or default under any agreement or violation of any law, regulation or other legal requirement applicable to said party; and

b. the License Agreement is in full force and effect.

5. Licensor's Representations. Licensor represents and warrants to the Director that:

a. except as described in the License Agreement, it, _____, or one of their affiliates is the sole and exclusive legal and beneficial owner of the Technology/has control by ownership of the entire right, title and interest in and to the Technology and is the record owner of all patent applications and issued patents that are part of the Technology;

b. it has, and will retain, the right, power and authority to grant the license to Licensee;

c. it has not brought or threatened any claim against any third party alleging infringement of any Technology, nor to its knowledge is any third party infringing, preparing or threatening to infringe any patent, or practicing any claim of any patent application, included as part of the Technology; and

d. it has no knowledge of any factual, legal or other reasonable basis for any litigation, claim or proceeding arising out of the Technology.

6. Licensee's Representations. Licensee represents and warrants to the Director that:

a. it has not previously granted any assignment or sublicense of its rights under the License Agreement;

b. it has no knowledge after reasonable investigation of any factual, legal or other reasonable basis for any litigation, claim or proceeding arising out of the Technology; and

c. it has no knowledge that any third party is infringing, preparing or threatening to infringe any patent, or practicing any claim of any patent application, included as part of the Technology.

7. Patent Prosecution and Maintenance. For each patent application and patent that is part of the Technology, Licensor or Licensee shall notify the Director (or the Director's assignee upon the exercise of the Director's rights hereunder) as required in the License Agreement about changes in the status of such patent or patent application.

8. Indemnification. Licensee agrees to indemnify, defend and hold the Director harmless from and against any and all liability, loss, damage and expense, including reasonable attorneys' fees, which the Director may incur with respect to the License Agreement or by reason of this Agreement, provided such liability, loss, damage and/or expense is not incurred due to the grossly negligent, willful or wrongful conduct of the Director.

9. Notices. Any notice provided for herein shall be in writing and sent postage prepaid by registered or certified mail, return receipt requested, or by personal delivery, sent to the address set forth above. Notice may also be provided by e-mail or facsimile with evidence of successful transmission if the e-mail address and/or facsimile number have been provided to the other party in writing. Any party may change its address by notice to the other parties.

10. Waiver. The failure of the parties to avail themselves of any of the terms of this Agreement for any period of time or times shall not be construed or deemed to be a waiver of any of its rights hereunder. The rights and remedies of the parties under this Agreement are cumulative, not in lieu of, but in addition to, any other rights and remedies which the parties may have available.

11. Governing Law, Forum Selection and Consent to Jurisdiction. This Agreement shall be governed by, construed and enforced in accordance with the internal substantive laws of the State of Ohio. The Licensor, Licensee and Director hereby agree that any action to enforce any provision of this Agreement shall be brought exclusively in the Ohio Court of Claims and each party hereto agrees that venue and jurisdiction are proper in such courts.

12. Miscellaneous. If any provision of this Agreement is held to be illegal, invalid, or unenforceable in any respect, the parties agree that such term or provision shall be deemed to be modified to the extent necessary to permit its enforcement to the maximum extent permitted by applicable law. This Agreement contains the entire understanding of the parties regarding the specific subject matter of this Agreement and supersedes all previous agreements. This Agreement cannot be modified, except by written agreement of the parties. Except as set forth herein, this Agreement shall not be assignable or transferable by the parties without the prior written consent of the other parties hereto. This Agreement may be executed in one or more counterparts, and a facsimile or electronically transmitted signature shall constitute an original. Upon Licensee's prompt and complete payment and performance of all obligations under the Loan Agreement and other Loan Documents, this Agreement will automatically terminate.

[Remainder of Page Left Intentionally Blank; Signature Page to Follow.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

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