

This Memorandum of Understanding (“MOU”) is entered into the 28th day of April 2016 by and between XXX, Inc., with offices at YYY, and ZZZ, AAA. XXX and ZZZ are described hereinafter collectively as the “Parties” or “Party”.

This MOU states the agreement between the Parties that ZZZ will be the contract manufacturing partner for XXX to produce Materials.

Now therefore, in consideration of the mutual understandings herein contained, the Parties agree to the following:

## 1. Definitions

- 1.1 “Materials” shall mean the Coating Ready mixtures of metal oxide materials in solution form, and the polymer electrolyte formulation
- 1.2 “Coating Ready” shall mean a mixture of materials (in specific proportions provided by XXX) in the desired solvent that is suitable for use in directly coating substrates

## 2. Description of Partnership

ZZZ will be a contract manufacturing partner for XXX to produce Materials. ZZZ will work closely with XXX to develop scalable syntheses and formulation processes for these materials. Both Parties agree to provide reasonable available resources to strive to meet timing goals, and reduce material costs. XXX will provide funds in the form of non-recurring engineering (NRE) as agreed by the parties in writing. ZZZ and XXX agree to discuss and evaluate CapEx funding options. ZZZ will also provide a service as a toll mixer to generate Coating Ready WE and CE Inks.

## 3. Partnership Roles and Responsibilities

Each Party agrees to perform the following responsibilities in order to support the eventual high-volume manufacturing of Materials.

### XXX Roles and Responsibilities:

- Synthetic protocol and purification protocol development and knowledge transfer to ZZZ for execution of process development experiments.
- Test and validation of the materials through coating evaluations and ( ) device development.
- Work with ZZZ to obtain certifications and registrations with applicable bodies, ensuring compliance with regulations required for sale of the product in target markets, initially North America and Europe.
- Filing of appropriate patents, maintenance of trade secrets and execution of Freedom To Operate (FTO) searches in required countries.

- As part of the anticipated supply agreement XXX will maintain a rolling quarterly, annual volume forecasts to ensure ZZZ is capable of providing required capacity.
- Maintain up to date Materials product specifications

#### **ZZZ Roles and Responsibilities:**

- Execution of process development experiments and suggested protocol modifications to ensure manufacturability
- Modification and use of existing equipment, as applicable, to produce Materials.
- Initiate appropriate quality assurance/control measures
- Support XXX in efforts to obtain certifications and registrations with applicable bodies, ensuring compliance with regulations required for sale of the product in target markets, initially North America and Europe.
- Work to develop supply sources of required raw materials.

#### **4. Supply Agreement:**

Parties will enter into a supply agreement prior to ZZZ commitment to high volume scaling and commitment to CapEx (see Appendix A for estimated timing). This Supply Agreement will establish terms including but not limited to: projection of selling prices for all formulations to XXX (which may include a capital recovery factor in the event of capital equipment investment by ZZZ), product price increases/decreases, delivery lead times, volume based discounts, exclusivity provisions, certificates of conformance (COC), quality control measures, overseas shipment logistics, warranties, infringement of third party intellectual property, insurance, indemnification.

#### **5. Intellectual Property and Licensing**

5.1 Background IP. Intellectual Property owned or controlled by XXX and existing prior to the date of the MOU or developed by XXX on or after the date of the MOU and independent of this MOU ("Background IP") will at all times be owned by XXX.

5.2 XXX will own any Intellectual Property or trade secrets invented, conceived or developed by XXX or ZZZ during the development, product launch and on-going operations, and ZZZ hereby assigns all such Intellectual Property to XXX. XXX Intellectual Property and trade secret ownership includes activities related to materials, process, equipment and the existence of certain commercial relationships that may be disclosed during the course of normal business discussions.

5.3 XXX is solely responsible for any claims of patent infringement against ZZZ with respect to XXX background IP. ZZZ will be responsible for any claims of patent infringement against ZZZ for ZZZ background IP.

6. **Exclusivity:** ZZZ and XXX agree to discuss exclusivity with respect to the materials supplied to XXX under the terms of the Supply Agreement. Any terms regarding such exclusivity shall be as set forth in the Supply Agreement.
7. **Confidentiality:** Both parties recognize the existing NDA signed 3/5/2015 will govern any exchange of information between the two parties. The definition of Confidential Information shall also be expanded to include XXX's proprietary ink formulation, which is considered **trade secret**. For the avoidance of doubt, this includes the percentages of materials contained in each WE or CE Ink and any additives that may be added to the Ink.
8. **Termination:** Either party may terminate this MOU upon 30 days written notice.

# XXX Technologies

The Parties have read and agree with this MOU.

ZZZ, Inc.

XXX Technologies, Inc.

By: \_\_\_\_\_

By: \_\_\_\_\_

***Print***

***Print***

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

**APPENDIX A – KEY COMMERCIALIZATION ACTIVITIES & MILESTONES**

**APPENDIX B – PRICE AND VOLUME TARGETS FOR MATERIALS**