**PREEMPTIVE RIGHTS ASSIGNMENT AGREEMENT**

This PREEMPTIVE RIGHTS ASSIGNMENT AGREEMENT (this "Agreement") is entered into in Columbus, Ohio, on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2014, by and between **Ohio State Innovation Foundation** ("Assignor"), and \_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** ("Assignee") (both the Assignor and Assignee hereinafter collectively called the "Parties" and individually a "Party").

WITNESSETH:

WHEREAS, the Assignor is a shareholder of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the "Company") and has executed a certain Shareholders Agreement (defined below) which granted the Assignor certain preemptive rights;

WHEREAS, the Assignor, pursuant to Section 3.01(b) of the Shareholders Agreement, may assign those preemptive rights described above;

WHEREAS, the Assignor desires to assign those rights to the Assignee and the Assignee desires to obtain the preemptive rights;

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree to the following:

# ASSIGNMENT

## Preemptive Rights Assignment: Assignor hereby assigns, transfers and conveys to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the Assignor's Preemptive Rights under that certain Shareholders Agreement dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2014 (the "Shareholders Agreement"), and Assignee hereby accepts and acquires such Assignor's Preemptive Rights.

## **[Price: The price of the assignment of Assignor's Preemptive Rights is the sole and total sum of one (\_\_\_) \_\_\_\_\_\_\_\_\_\_\_ Dollars which Assignee has paid to Assignor in cash. Assignor hereby declares that it has received such amount to its entire satisfaction.]**

## Subscription Right: As a consequence of the transfer referred to in the preceding sections, Assignee shall have the right to subscribe a total of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ shares.

# REPRESENTATIONS AND WARRANTIES

## Representations and Warranties of Assignee: Assignee represents and warrants to Assignor as follows:

### Organization. Assignee is a company duly organized and validly existing under the laws of \_\_\_\_\_\_\_\_\_\_ and has all requisite corporate power and authority necessary to enable it to own, lease or otherwise hold its properties and assets and to carry on its business as presently conducted.

### Authorization; Validity. Assignee has all requisite corporate power and corporate authority to enter into and perform its obligations under this Agreement. The execution, delivery and performance by Assignee of this Agreement have been duly authorized by all necessary action on the part of Assignee. This Agreement has been duly executed and delivered by Assignee. This Agreement constitutes legal, valid and binding obligations of Assignee enforceable against it in accordance with their respective terms.

### No Conflicts. The execution, delivery and performance by Assignee of this Agreement will not conflict with, result in any violation of or default (with or without notice or lapse of time or both) under, give rise to a right of termination, cancellation or acceleration of any obligation (in each case by any third party) or to the loss of any benefit under (i) any provision of the organizational documents of Assignee, or (ii) any judgement, injunction, applicable law or contract to which it is a party or by which it or any of its properties is bound. To the knowledge of Assignee no third party approval and no governmental approval is required to be obtained or made by Assignee in connection with the execution, delivery and performance of this Agreement and the transactions contemplated by this Agreement, except for third party approvals or governmental approvals the absence of which, individually or in the aggregate, would not have an adverse effect on the ability of Assignee to perform in all material respects its obligations under this Agreement in accordance with its terms.

### Legal Proceedings: There is no litigation, arbitration or governmental investigation or proceeding pending or, to the knowledge of Assignee, threatened, against or affecting Assignee that individually or when aggregated with one or more other such litigations, arbitrations or governmental investigations or proceedings has or might reasonably be expected to have a material adverse effect on Assignee's ability to execute this Agreement.

### Consents: No consent, waiver, approval or authorization of, or filing, registration or qualification with, or notice to, any governmental unit or any other person or entity is required to be made, obtained or given by Assignee in connection with the execution, delivery and performance of this Agreement by Assignee.

## Representations and Warranties of Assignor: Assignor represents and warrants to Assignee as follows:

### Organization. Assignor is a not for profit corporation duly organized and validly existing under the laws of the State of Ohio, and it has all requisite power and authority necessary to enable it to own, lease or otherwise hold its properties and assets and to carry on its business as presently conducted.

### Authorization; Validity. Assignor has all requisite corporate power and corporate authority to enter into and perform its obligations under this Agreement. The execution, delivery and performance by Assignor of this Agreement has been duly authorized by all necessary action on the part of Assignor. This Agreement has been duly executed and delivered by Assignor. This Agreement constitutes legal, valid and binding obligations of Assignor, enforceable against it in accordance with their respective terms.

### No Conflicts. The execution, delivery and performance by Assignor of this Agreement will not conflict with, result in any violation of or default (with or without notice or lapse of time or both) under, give rise to a right of termination, cancellation or acceleration of any obligation (in each case by any third party) or to the loss of any benefit under (i) any provision of the organizational documents of Assignor or the Company, or (ii) any judgement, injunction, applicable law or contract to which it or the Company are a party or by which it or the Company or any of their properties is bound. To the knowledge of Assignor, no third party approval and no governmental approval is required to be obtained or made by Assignor or the Company in connection with the execution, delivery and performance of this Agreement and the transactions contemplated by this Agreement, except for third party approvals or governmental approvals the absence of which, individually or in the aggregate, would not have an adverse effect on the ability of Assignor to perform in all material respects its obligations under this Agreement in accordance with its terms.

### Legal Proceedings: There is no litigation, arbitration or governmental investigation or proceeding pending or, to the knowledge of Assignor, threatened, against or affecting Assignor or the Company that individually or when aggregated with one or more other such litigations, arbitrations or governmental investigations or proceedings has or might reasonably be expected to have a material adverse effect on Assignor's ability to assign the Assignor's Preemptive Rights in accordance with this Agreement.

### Consents: No consent, waiver, approval or authorization of, or filing, registration or qualification with, or notice to, any governmental unit or any other person or entity is required to be made, obtained or given by Assignor or the Company in connection with the execution, delivery and performance of this Agreement by Assignor.

# INDEMNIFICATION

## Assignee: Unless otherwise agreed to in writing by the Parties, Assignee hereby agrees to defend, indemnify and hold harmless Assignor and its officers, employees, consultants, representatives and agents against and from any and all loss arising, directly or indirectly, from any material breach by Assignee of the representations, warranties or covenants made by Assignee herein.

## Assignor: Unless otherwise agreed to in writing by the Parties, Assignor agrees to defend, indemnify and hold harmless Assignee and its officers, employees, consultants, representatives and agents, if any, against and from any and all loss arising, directly or indirectly, from any material breach by Assignor of the representations or warranties made by Assignor herein.

# GOVERNING LAW AND VENUE

## Governing Law: This Agreement will be governed by and construed in accordance with the laws of the State of Ohio without regard to its conflict of law principles.

## Venue: Any dispute or action arising between the parties for which Assignor or Assignee is permitted to bring a court proceeding shall be brought exclusively in the state courts located in Columbus, Ohio, and Assignee hereby irrevocably consents to the exclusive jurisdiction of such courts for any such action or proceeding.

# MISCELLANEOUS

## Notices: Notices or other communications to any Party required or contemplated hereunder shall be sent to the address set forth below or at such other address as shall be designated by such Party and shall be delivered personally, facsimile or US Postal, and shall be deemed to have been effectively given (a) in the case of personal delivery, on the date of personal delivery, (b) if sent by facsimile, when the transmission report shows the notice has been sent, and (c) if sent by US Postal, three days after mailing.

To Assignee: **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attn.:

Tel:

Fax:

E-mail address:

with a copy to: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

To Assignor: **Ohio State Innovation Foundation**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attn:

Tel:

Fax:

E-mail address:

with a copy to: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

## Waivers: Except as otherwise provided in this Agreement, any failure of any of the Parties to comply with any obligation, covenant, agreement or condition herein may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting such waiver, but such failure or delay by any Party in exercising any right, power or remedy under this Agreement shall not operate as a waiver thereof; nor shall any single or partial exercise of any of the same preclude any future exercise thereof.

## Expenses: Except as otherwise provided in this Agreement, all other costs and expenses incurred in connection with this Agreement shall be paid by the Party incurring such cost or expense.

## Severability: If any provision of. this Agreement shall be held to be illegal, invalid or unenforceable, the Parties agree that such provision will be enforced to the maximum extent permissible so as to effect the intent of the Parties, and the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby. If necessary to effect the intent of the Parties, the Parties will negotiate in good faith to amend this Agreement to replace the unenforceable language with enforceable language which as closely as possible reflects such intent.

## Entirety of Agreement: The provisions of this Agreement set forth the entire agreement and understanding among the Parties as to the subject matter hereof and supersede all prior agreements, oral or written, and all other prior communications between the Parties relating to the subject matter hereof, other than the Shareholders Agreement.

## No Assignment: Except as expressly permitted under this Agreement and under the Shareholders Agreement, no Party may assign any of its rights or obligations hereunder without the prior written consent of the other Party. Any attempted assignment of this Agreement in violation of this Section shall be void and of no effect,

## Successors and Assigns: This Agreement shall be binding upon, inure to the benefit of and be enforceable by the Parties and their respective successors and permitted assigns.

## No Third-Party Beneficiaries: This Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein express or implied shall give or be construed to give to any Person, other than the Parties and such assigns, any legal or equitable rights hereunder.

## Counterparts: This Agreement may be executed in any number of counterparts and by Parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument.

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed as of the date of this Agreement by their duly authorized representatives.

**ASSIGNEE:**

By:

**ASSIGNOR:**

By: