

# ACUITY BRANDS LIGHTING – MUTUAL CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is entered into and is effective as of Insert Date (the "Effective Date") between Acuity Brands Lighting, Inc., a Delaware corporation ("ABL") and Insert Name of Company, a corporation/business organized under the laws of the state of Insert State or Country of Incorporation ("Company"). The parties acknowledge that ABL and Company are in discussions about a potential business relationship between them (the "Business Relationship") in connection with which certain Confidential Information (as defined below) of ABL and Company may be disclosed to the other party. In consideration of the mutual covenants set forth below, ABL and Company each agree as follows:

1. **Confidential Information.** As used in this Agreement, the term "Confidential Information" means all information, whether or not reduced to writing, related to the potential business relationship or to the business of either party or its Affiliates (as defined below) that (a) is disclosed by one party or its Representatives (as defined below) (the "Disclosing Party") to the other party (the "Recipient") or observed by the Recipient on the Disclosing Party's premises, and (b) is identified as confidential or with other similar designation(s) by the Disclosing Party, or would otherwise reasonably be understood to be confidential under the circumstances. Confidential Information includes but is not limited to data (technical and non-technical), formulas, patterns, compilations (including compilations of customer information), programs (including models), devices, methods (including design methods), techniques, drawings (including equipment drawings), processes, financial information (including sales forecasts), pricing, lists of actual or potential customers or suppliers (including identifying information about those customers), operational information, planning or strategy information, research and development information, information about existing and future products, and information about personnel matters of the Disclosing Party or its Affiliates. Confidential Information also includes information disclosed by a third party that otherwise meets the foregoing definition, and the fact that negotiations are taking place hereunder. An "Affiliate" means any legal entity that one of the parties hereto owns, that owns one of the parties or that is under common control with one of the parties. "Control" and "own" mean possessing a 50% or greater interest in an entity or the right to direct the management of the entity.

2. **Exclusions.** For purposes of this Agreement, the term "Confidential Information" does not include any data or information which: (a) the Recipient can establish was already known by the Recipient at the time of disclosure hereunder by the Disclosing Party; (b) is or becomes generally known to the public other than as a result of a disclosure by the Recipient; (c) is received by the Recipient from a third party, without restriction on disclosure, and without breaching any obligation of confidentiality about which the Recipient knew or should have known; or (d) is independently developed by the Recipient without use or reliance on, directly or indirectly, of Confidential Information received from Disclosing Party, as demonstrated from the written records of the Recipient.

3. **Confidentiality and Non-Use of Confidential Information.** Each of the parties hereto and its Representatives (a) must use the same care and discretion as it employs with its own confidential and proprietary information (but in no event less than reasonable care and discretion) to maintain in confidence, and prevent disclosures of, the Confidential Information of the other party, and (b) must not use the Confidential Information of the other party except to further the Business Relationship or as otherwise specifically authorized in writing by the Disclosing Party. Under no circumstances, except as expressly set forth below, shall the Recipient reproduce, distribute or otherwise provide, directly or indirectly, any Confidential Information of the other party to any person or entity outside of this Agreement without the consent of the Disclosing Party. Each party understands that in addition to its obligations to the other party under this Agreement, it may not use any Confidential Information of the other party in violation of any federal or state securities laws governing insider trading. Each party understands and will inform its Representatives that such laws prohibit any person, directly or indirectly, from buying or selling securities of any company while in possession of material non-public information regarding that company.

4. **Permitted Disclosures.** Disclosures of the Confidential Information of the Disclosing Party may be made only to Affiliates, employees, agents, advisors or independent contractors of the Recipient who are directly involved in performing or evaluating the Business Relationship, and who have a specific need to know such information, and who are obligated to hold the information in confidence and otherwise to comply with the terms of this Agreement (collectively, "Representatives"). The Recipient agrees to instruct each of its Representatives to maintain the confidentiality of all of the Confidential Information, and shall be liable for any unauthorized disclosures of Confidential Information by the Recipient's Representatives. Neither party shall directly or indirectly contact, or discuss the Business Relationship contemplated under this Agreement, with any person who is not a designated Representative of the other party.

5. **Mandatory Disclosure.** If Confidential Information is required to be produced by law, court order or governmental authority, the Recipient must promptly notify the Disclosing Party of that obligation. The Recipient shall not produce or disclose any such Confidential Information until the Disclosing Party has (a) requested protection from the court or other legal or governmental authority issuing the process (with the reasonable assistance of the Recipient at the Disclosing Party's expense) and the request has been denied, (b) consented in writing to the production or disclosure of such Confidential Information, or (c) taken no action to protect its interest in the Confidential Information within ten (10) business days (or such shorter period required by order of a court or other legal or governmental authority) after receipt of notice from the Recipient of the obligation to produce or disclose. Notwithstanding the foregoing, the Recipient shall only disclose such portion of the Disclosing Party's Confidential Information which the Recipient is advised by counsel is required for the Recipient to comply with law.

6. **Return of Materials.** Within ten (10) days following the Recipient's receipt of a written request from the Disclosing Party, the Recipient must (a) deliver to the Disclosing Party all tangible materials containing or embodying the Confidential Information; and (b) purge all electronic materials containing or embodying the Confidential Information but shall not be otherwise required to erase, expunge or destroy any electronic copies of Confidential Information created as a result of the Recipient's standard back-up policies and procedures for the retention of information in an electronic format, and certify the same to the Disclosing Party in writing. Notwithstanding the foregoing delivery requirement, the Recipient may destroy any notes, analyses or reports generated by the Recipient to the extent any such notes, analyses or reports contain Confidential Information, and the Recipient shall certify such destruction within such ten (10) day period.

7. **Rights and Ownership.** Recipient acknowledges and agrees that any Confidential Information is the sole and exclusive property of the Disclosing Party (or a third party providing such information to the Disclosing Party). Except as expressly herein provided, this Agreement shall not be construed as granting or conferring to either party, either expressly or impliedly, any rights, licenses or interests in or with respect to any Confidential Information of the other party, including any intellectual property rights. This Agreement shall also not create any exclusive business relationship or other rights or obligations between the parties, nor require the parties to enter into any other definitive business agreement.

8. **Competitive Information.** Each of the parties acknowledges and understands that the other party may now market or have under development products or services which are competitive with products or services now offered or which may be offered by the other party, and, except as expressly set forth in this Agreement, the parties' communications hereunder will not serve to impair the right of either party to develop, make, use, procure or market products or services now or in the future which may be competitive with those offered by the other party, nor require either party to disclose any planning or other information to the other party.

9. **Duration.** This Agreement shall govern Confidential Information disclosed during the period commencing on the Effective Date and expiring two (2) years from the Effective Date; provided, however, that Recipient's duty to protect Confidential Information shall continue (a) with respect to Confidential Information which qualifies as a trade secret under applicable law, at all such times thereafter as it so qualifies, and (b) with respect to all other Confidential Information, for a period of two (2) years after the date of disclosure of such information.

10. **Warranties.** The Disclosing Party represents that if the Confidential Information disclosed hereunder contains any confidential or proprietary information of any third party, such third party has authorized the disclosure of such information. No other warranties of any kind are made with respect to any information disclosed under this Agreement.

11. **Notices.** All notices under this Agreement shall be made in writing and shall be deemed properly delivered when (a) delivered personally, (b) sent by e-mail to the address below, or (c) mailed by certified mail, postage prepaid or overnight delivery service to the address of the other party set forth below. Notices shall be effective upon receipt.

12. **Miscellaneous.** The rights and obligations of the parties will inure to the benefit of, will be binding upon, and will be enforceable by the parties and their lawful successors. No license to a party of any trademark, patent, copyright, mask work protection right or any other intellectual property right is either granted or implied by this Agreement or any disclosure hereunder. No modifications of this Agreement or waiver of any of its terms will be effective unless set forth in writing signed by both parties. This contract shall be governed and construed in accordance with the laws of the State of Georgia, excluding its choice-of-law principles, and all claims relating to or arising out of this agreement, or the breach thereof, whether sounding in contract, tort or otherwise, shall likewise be governed by the laws of the State of Georgia, excluding its choice-of-law principles. If either party employs attorneys to enforce any rights arising out of or relating to this Agreement, the prevailing party shall be entitled to recover actual, reasonable attorneys' fees. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. Should any provision of this Agreement be held invalid, illegal or unenforceable for any reason, such provision shall be deemed restricted in application to the extent required to render it valid, and the remainder of this Agreement shall in no way be affected and shall remain valid and enforceable for all purposes.

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the Effective Date.

ACUITY BRANDS LIGHTING, INC.

By: \_\_\_\_\_  
Name: Ken Belconis  
Title: Vice President – Sourcing  
Address: One Lithonia Way, Conyers, GA 30012  
E-Mail: ken.belconis@acuitybrands.com

Insert Company Name

By: \_\_\_\_\_  
Name: Insert Name of Signatory  
Title: Insert Title of Signatory (Must Be Officer)  
Address: Insert Complete Mailing Address  
E-Mail: Insert E-mail Address of Signatory  
Phone: Insert Company Phone Number