

## **Mutual Non-Disclosure Agreement (Disclosing party)**

This Mutual Nondisclosure Agreement ("Agreement") is entered into between Retronix International, Inc., a corporation organized and existing under the laws of the USA having its registered office of business at 65 Enterprise, Aliso Viejo, CA 92694 (hereinafter referred to as "Party A") and WONIK IPS, a corporation organized and existing under the laws of Republic of Korea having its registered office of business at 33 Jije-dong, Pyeongtaek-city Gyeonggi-do, Republic of Korea (hereinafter referred to as "Party B") as of 4/15/11 ("the Effective Date") to protect the confidentiality of certain Confidential Information of the parties to be disclosed under this Agreement to discuss sales, product distribution and engineering services support for the North American and European markets (the "Permitted Use").

### **1. Confidential Information**

"Confidential Information (CI) of a party will mean any and all technical and non-technical information disclosed by such party ("Disclosing Party") to the other party ("Receiving Party") during the term of this Agreement. "CI" may include without limitation:

- a. trade secrets, inventions, ideas, processes, computer source and object code, formulate, data, programs, drawings, drafts, experimental results, sample, specifications, fee tables, manufacturing costs, other works of authorship, know-how, improvements, discoveries, developments, designs, and techniques;
- b. information regarding products, plans for research and development, marketing and business plans, budgets, financial statements, contracts, prices, suppliers, and customers;
- c. information regarding the skills and compensation of Disclosing Party's employees, contractors, and other agents; and
- d. the existence of any business discussions, negotiations, or agreements between Disclosing Party and Receiving Party or any third party.
- e. Tangible information (including, without limitation, documents, devices, computer readable media, etc.) that disclose or embody CI shall be marked by Disclosing Party as "Confidential", "Proprietary" or the substantial equivalent thereof. CI that is disclosed orally or visually shall be identified by Disclosing Party as confidential at the time of disclosure and reduced to a written summary by Disclosing Party, who shall mark such summary as "Confidential", "Proprietary" or the substantial equivalent thereof and delivered to Receiving Party within

thirty(30) days after such disclosure occurs. Receiving Party shall treat such information as Disclosing Party's Confidential Information pending receipt of such summary and thereafter as provided herein.

## **2. Confidentiality Obligations**

Subject to the section titled "Exclusions," Receiving Party agrees that it shall

- a. hold in confidence and not disclose to any third party any CI of Disclosing Party, except as approved in writing by Disclosing Party;
- b. protect such CI with at least the same degree of care that Receiving Party uses to protect its own CI, but in no case less than reasonable care. However, in any case, neither party shall disclose to the other party any CI which will be considered as a national or state secret under the law applicable to the Disclosing Party;
- c. use the Disclosing Party's CI for no purpose other than the Permitted Use;
- d. limit access to Disclosing Party's CI to those of Receiving Party's employees or authorized representatives having a need to know who have signed confidentiality agreements containing, or are otherwise bound by, confidentiality obligations at least as restrictive as those contained herein. The Receiving Party will be liable for any breach by such persons to whom it has disclosed CI under the terms of such confidentiality obligations; and
- e. immediately notify Disclosing Party upon discovery of any loss or unauthorized disclosure of Disclosing Party's CI.

The parties agree that neither party will communicate any information to the other party in violation of the proprietary rights of any third party.

## **3. Exclusions.**

Receiving Party has no obligations under this Agreement with respect to any portion of Disclosing Party's CI if such Receiving Party can demonstrate with competent evidence that such portion

- a. was already in the public domain at the time it was communicated to Receiving Party by Disclosing Party;
- b. entered the public domain subsequent to the time it was communicated to Receiving Party by Disclosing Party, through no fault of Receiving Party;

- c. was in Receiving Party's possession free of any obligation of confidence through reasonable proof prior to the time it was communicated to Receiving Party by Disclosing Party;
- d. was rightfully communicated to Receiving Party free of any obligation of confidence subsequent to the time it was communicated by Disclosing Party;
- e. was developed by employees or agents of Receiving Party independently of and without reference to any information communicated to Receiving Party by Disclosing Party; or
- f. was communicated by Disclosing Party to an unaffiliated third party free of any obligation of confidence.

#### **4. Restrictions**

Receiving Party shall not reproduce the Disclosing Party's CI in any form except as required for the Permitted Use. Any copy of any of Disclosing Party's CI remains the property of Disclosing Party and will contain all confidential or proprietary notices or legends that appear on the original, unless otherwise authorized in writing by Disclosing Party. Receiving Party acknowledges that Disclosing Party's software programs contain valuable CI and agrees that it shall not modify, reverse engineer, decompile, create other works from, or disassemble any software programs contained in the CI unless otherwise authorized in writing by Disclosing Party.

#### **5. Improvements**

During the term of this Agreement, in the event that each party should make any improvements or inventions with respect to CI, each party shall immediately notify the other party of such improvements or inventions and agrees to consult and determine whether and who to acquire patents thereon.

#### **6. Term; Ongoing Obligations**

- a. This Agreement shall become effective as of the Effective Date and shall remain for one (1) years. Either Party may terminate this Agreement with respect to future disclosures of CI by ninety (90) days prior written notice to the other party.
- b. Each party's obligations under this Agreement shall continue in full force and effect with respect to CI of the other party for three (3) years after expiration or termination of this Agreement.



## **7. Disclosure of Information by Law**

Receiving Party may disclose Disclosing Party's CI, without violating the obligations of this Agreement, to the extent such disclosure is required by a valid order of a court or other governmental body having jurisdiction, provided that Receiving Party gives Disclosing Party reasonable prior written notice of such disclosure and makes a reasonable effort to obtain, or to assist Disclosing Party in obtaining, a protective order preventing or limiting the disclosure and/or requiring that the CI so disclosed be used only for the purposes for which the law or regulation required, or for which the order was issued.

## **8. Return of Information**

All tangible information furnished hereunder by Disclosing Party to Receiving Party shall remain the property of Disclosing Party. Upon termination of this Agreement, or upon written request of Disclosing Party, Receiving Party shall ( i ) cease any use of Disclosing Party's CI; and ( ii ) promptly destroy or return to Disclosing Party all documents and other tangible materials containing any portion of, or summarizing, Disclosing Party's CI and all copies thereof. At Disclosing Party's request, an officer of Receiving Party shall provide a certificate attesting to compliance with the foregoing.

## **9. No License Granted**

CI is and shall remain the sole property of Disclosing Party. Receiving Party recognizes and agrees that nothing contained in this Agreement shall be construed as granting any property rights, by license or otherwise, to any of Disclosing Party's CI, or to any invention or any patent, copyright, trademark, or other intellectual property right that has issued or that may issue, based on such CI. Receiving Party shall not make, have made, use or sell for any purpose any product or other item using, incorporating or derived from any of Disclosing Party's CI. Neither this Agreement nor the disclosure of any CI hereunder shall result in any obligation on the part of either party to enter into any further agreement with the other party, license any products or services to the other or to require either party to disclose any particular CI. Nothing in this Agreement creates or shall be deemed to create any employment, joint venture, or agency between the parties. Further, neither party has an obligation to provide CI to the other party as the result of entering into this Agreement.

## **10. Disclaimer**

Disclosing party is providing CI on an “as is” basis for use by Receiving Party at its own risk. Disclosing Party disclaims all warranties, whether express, implied or statutory, including without limitation any implied warranties of title, non-infringement of third party rights, merchantability, or fitness for a particular purpose.

## **11. General Provisions.**

### **11.1 Governing Law and Venue**

This Agreement and any action related thereto shall be governed, controlled, interpreted, and defined by and construed, enforced in accordance with the laws of the Republic of Korea, without giving effect to any conflicts of laws principles that require the application of the law of a different jurisdiction. Each party hereby expressly consents to the personal jurisdiction and venue in the county in which the Party B’s principal place of business is located for any lawsuit filed there arising from or related to this Agreement.

### **11.2 Severability**

If any provision of this Agreement is, for any reason, held to be invalid or unenforceable, the other provisions of this Agreement shall be unimpaired, and the invalid or unenforceable provision shall be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.

### **11.3 No Assignment**

Neither party shall assign or transfer any rights or obligations under this Agreement without the prior written consent of the other party and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing shall be null and void, except that a party may assign this Agreement without such consent to its successor in interest by way of merger, acquisition or sale of all or substantially all of its assets. The terms of this Agreement shall be binding upon assignees.

### **11.4 Notices**

Each party must deliver all notices or other communications required or permitted under this Agreement in writing to the other party at the address listed on the signature page, by courier, by certified or registered mail (postage prepaid and return receipt requested), or by a nationally-recognized express mail service. Notice will be effective upon receipt or refusal of delivery. If delivered by certified or registered mail, any such notice will be considered to have been given

five(5) business days after it was mailed, as evidenced by the postmark. If delivered by courier or express mail service, any such notice shall be considered to have been given on the delivery date reflected by the courier or express mail service receipt. Each party may change its address for receipt of notice by giving notice of such change to the other party.

### **11.5 Injunctive Relief**

Each party acknowledges that its breach of this Agreement may cause irreparable damage to the other party for which monetary damages would not be an adequate remedy and agrees that the other party will be entitled to seek injunctive relief under this Agreement, as well as such further relief as may be granted by a court of competent jurisdiction. The rights and remedies provided to each party herein are cumulative and in addition to any other rights and remedies available to such party at law or in equity.

### **11.6 Waiver**

Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

### **11.7 Entire Agreement**

This Agreement is the final, complete and exclusive agreement of the parties with respect to the subject matters hereof and supersedes and merges all prior discussions between the parties with respect to such matters. This Agreement shall be applied to CI with respect to this Agreement that Disclosing Party has already disclosed before the Effective Date. No modification of or amendment to this Agreement, or any waiver of any rights under this Agreement, will be effective unless in writing and signed by the authorized representatives of both parties.

### **11.8 Authority**

Each person executing this Agreement on behalf of any entity hereby represents and warrants that he or she is duly authorized and has full authority to execute and deliver this Agreement, and bind such entity to the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Mutual NDA to be executed as of the Effective Date.



Name:

By: Stuart Proctor

Title: President, Retronix International, Inc.

Date: 4/15/11

Name: WONIK IPS

By:



Title:

Senior vice president

Date:

4/19/11