

## License Agreement

This License Agreement ("**Agreement**"), dated as of September 30, 2013 (the "**Effective Date**"), is by and between RICHARD DARROW, an individual having an address at 40 Henning Terrace, Denville, NJ 07834 ("**Licensor**") and Parkside Optical Inc., with offices located at 650-375 Water Street, Vancouver, BC, Canada V6B 5C6 ("**Licensee**").

WHEREAS, Licensor has developed a proprietary compound for cleaning camera lenses, optical surfaces, transparent surfaces, and other surfaces with white, gray, transparent, and/or translucent carbon black (the "**Invention**");

WHEREAS, Licensor desires to have the Invention developed and commercialized;

WHEREAS, Licensor has applied for a provisional patent (the "**Patent Rights**") covering the Invention;

WHEREAS, Licensee is involved in the design production and marketing of products to clean fingerprints on high-quality optical and screen products including developing, manufacturing and selling products under the trademark LensPen ( the "**Trademark**"); and

WHEREAS, Licensee desires to obtain a license to utilize the Invention upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**1. Definitions.** For purposes of this Agreement, the following terms shall have the following meanings:

"**Action**" has the meaning set forth in **Section 15.1**.

"**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause

the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"**Agreement**" has the meaning set forth in the preamble.

"**Auditor**" has the meaning set forth in **Section 6.2**

"**Business Day**" means a day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by Law to be closed for business.

"**Confidential Information**" means any information that is treated as confidential by either party, including trade secrets, technology, the Invention (including the specific ingredients and formulation), information pertaining to business operations and strategies, and information pertaining to sources of raw materials, customers, pricing and marketing.

Without limiting the foregoing, Confidential Information includes the terms and existence of this Agreement.

Confidential Information of the Receiving Party does not include information that the Receiving Party can demonstrate by documentation: (i) was already known to the Receiving Party without restriction on use or disclosure prior to receipt of such information directly or indirectly from or on behalf of the Disclosing Party other than the Invention; (ii) was or is independently developed by the Receiving Party without reference to or use of any of the Disclosing Party's Confidential Information; (iii) was or becomes generally known by the public other than by breach of this Agreement by, or other wrongful act of the Receiving Party or any of its Representatives; or (iv) was received by the Receiving Party from a Third Party who was not, at the time, under any obligation to the Disclosing Party or any other Person to maintain the confidentiality of such information.

"**Development Reimbursement**" has the meaning set in **Section 5.1**.

"**Disclosing Party**" has the meaning set forth in **Section 11.1.6.2**

"**Earned Royalty**" has the meaning set forth in **Section 6.2**.

"**Effective Date**" has the meaning set forth in the preamble.

"**Field of Use**" means the fields listed in Schedule 1.

"**Improvement**" means any enhancement or modification to the technology that is the subject of the Invention.

"**Improvement Notice**" has the meaning set forth in **Section 3.1**.

**"Invention"** has the meaning set forth in the preamble.

**"Law"** means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, award, decree, other requirement or rule of law of any federal, state, local or foreign government or political subdivision thereof, or any arbitrator, court or tribunal of competent jurisdiction.

**"Licensed Patents"** means (a) the patents and patent applications listed in Schedule 2, all patents issuing from the patent applications listed in Schedule 2 and all continuations, continuations-in-part, divisions, extensions, substitutions, reissues, re-examinations and renewals of any of the foregoing, and (b) any patents in the Territory issuing from any applications filed after the Effective Date and that claim priority from any of the patents or patent applications identified in subsection (a) or from which any of the patents or patent applications identified in subsection (a) claim priority.

As used in this Agreement, the term "patent" means (i) valid and enforceable unexpired letters patent (including inventor's certificates) including, without limitation, any substitution, extension (such as supplementary protection certificates), registration, confirmation, reissue, re-examination, renewal or any like filing thereof, and (ii) pending applications for letters patent, including without limitation any continuation, continuation-in-part (but only to the extent supported in the specification, and entitled to the priority date of, the parent application) or division thereof and any provisional application, and any foreign counterpart and all patents that issue therefrom.

**"Licensed Products"** means any products sold by Licensee that incorporates or otherwise uses the Invention, the Licensed Patents and/or the Technology Rights.

**"Licensee"** has the meaning set forth in the preamble.

**"Licensor"** has the meaning set forth in the preamble.

**"Losses"** means all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

**"Minimum Royalty"** has the same meaning set forth in **Section 5.2**.

**"Patent Rights"** has the meaning set forth in the preamble.

**"Payment Statement"** has the meaning set forth in **Section 6.4(b)**.

"**Person**" means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association or other entity.

"**Quarterly Period**" means each three-month period commencing on the 1st of February, 1st of May, 1st of July and 1st of November.

"**Receiving Party**" has the meaning set forth in **Section 11.1**

"**Representatives**" means a Party's and its Affiliates' employees, officers, directors, consultants and legal advisors.

"**Review Period**" has the meaning set forth in **Section 6.2**

"**Sell-off Period**" has the meaning set forth in **Section 16.5**.

"**Sublicensing Royalty**" has the meaning set forth in **Section 6.3**.

"**Subject Removal**" shall mean when the Licensor has provided to the Licensee the website address for the supplier of white carbon black and the product SKU for white carbon black. Licensee will have 24 hours to confirm that the website is operational and that white carbon black is sold on the website.

"**Technology Rights**" shall mean (a): Licensor technical information, data, know-how, processes, procedures, compositions, devices, method formulae, protocols, techniques, software, designs, drawings or other data, which are not covered by the Patent Rights including any trade secret right, bailment right, or copyright.

"**Term**" has the meaning set forth in **Section 16.1**.

"**Termination Notice**" has the meaning set forth in **Section 16.12**.

"**Territory**" means the entire world.

## **2. Grant.**

**2.1 Scope of Grant.** Subject to the terms and conditions of this Agreement, Licensor hereby grants to Licensee during the Term the exclusive right and license to develop, sell, manufacture and market Licensed Products in the Territory within the Field of Use including an exclusive right and license to commercially exploit the Licensed Patents, Patent Rights and and/or Technology Rights for this purpose; provided, however, that failure to obtain patent(s) for the Invention shall not affect Licensee's obligations hereunder.

**2.2 Existing and prior Licensee formulations.** Nothing in this Agreement shall affect the Licensee's entitlement to continue to develop, sell, manufacture and market

products incorporating the Licensee's existing or prior carbon black formulations. Such carbon black formulations, which are black in appearance, are not within the scope of the Invention and are not the subject of this Agreement.

**2.3 Restrictions on Licensor.** Licensor shall not itself or grant others the right to make, use, offer to sell, sell or import Licensed Products during the Term in the Field of Use in the Territory.

**2.4 Sublicensing.** Licensor hereby grants to Licensee the right to grant sublicenses of any of its rights under the Licensed Patents in accordance with the terms of this Agreement, subject to Licensor's approval not to be unreasonably withheld or delayed.

### **3. Improvements.**

**3.1 Notice of Improvements.** If Licensor files a patent application anywhere in the Territory for any Improvement, Licensor shall provide written notice (the "**Improvement Notice**") to Licensee within thirty (30) days after the filing date of the patent application with a copy of the patent application and such other details of the Improvement as Licensee reasonably requires to effectively evaluate the Improvement.

**3.2 License to Improvements.** Licensee may include any patent application covering Improvements as a Licensed Patent under this Agreement by providing written notice to Licensor within thirty (30) days after the Improvement Notice identifying the Improvement patent applications Licensee chooses to include as a Licensed Patent. Such patent applications will be deemed to be a Licensed Patent effective on the Licensee's notice in accordance with **Section 17.6**.

**3.3 Ownership of Improvements.** Licensee hereby agrees that any Improvement developed or conceived by Licensee is the sole and exclusive property of Licensor. Licensee also agrees to assign the entire right, title and interest in any such Improvement to Licensor without further remuneration, and deliver any papers to establish Licensor's ownership of the Improvement. Licensee also hereby agrees that, should a sublicensee be approved in accordance with **Section 2.3**, that any such sublicense shall provide that any Improvement developed or conceived by the sublicensee is the sole and exclusive property of Licensor. For the avoidance of doubt Licensor acknowledges that any invention, development, intellectual property right which Licensee may develop in connection with the manufacture of the Prototype and the Licensed Product which do not relate to the Licensed Patents or the Technology Rights shall remain the sole and exclusive property of the Licensee.

### **4. Technical Assistance.**

Licensors shall provide Licensee appropriate disclosure of the Technology Rights and other information as may be necessary for Licensee to use and develop the Patent Rights, the Technology Rights and the Invention.

#### **5. Inventory Purchasing Assistance.**

Licensors shall provide Licensee with reasonable assistance in (i) in identifying sources of the raw ingredients necessary to manufacture Licensed Products and (ii) obtaining adequate supplies of such raw ingredients; provided that the foregoing is not a guarantee that adequate supplies will be available or at all. Within three (3) Business Days after the execution of this Agreement, Licensors will provide Licensee with the identity of sources and 8,750 grams of white carbon black (the “**Initial Supply**”). Licensee will reimburse Licensors for the cost of the Initial Supply within ninety (90) days.

#### **6. Royalties and Other Consideration.**

**6.1 Development Reimbursement Payments.** Licensee shall pay to Licensors the sum of One Hundred Thousand US Dollars (\$100,000.00) (the “**Development Reimbursement**”), which shall be non-refundable and payable as follows: \$50,000 within 24 hours of the satisfaction of the Subject Removal (the “**Initial Development Fee Payment**”); \$25,000 on January 31, 2014; and \$25,000 on April 14, 2014. Licensors shall provide Licensee with a summary schedule showing expenses incurred by him to date and prospective expenses to be incurred by him in connection the development of the Licensed Patents, the Patent Rights and/or the Technology Rights and the prosecution of the United States provisional patent application and any additional patents and patent applications with respect thereto.

**6.2 Earned Royalty; Minimum Royalty.** Licensee shall pay to Licensors a royalty (the “**Earned Royalty**”) equal to \$.0625 per unit for each unit of Licensed Product sold by Licensee or a permitted sublicensee during the Term. Licensee shall pay Licensors a minimum royalty guaranty of \$100,000 (the “**Minimum Royalty**”) per year during the term of this Agreement as a minimum guaranty against Earned Royalties to be paid by Licensee hereunder. The Minimum Royalty shall be payable as follows: \$20,000 on October 31, 2013, \$20,000 on January 31, 2014, \$30,000 on April 30, 2014 and \$30,000 on July 31, 2014; thereafter the Minimum Royalty shall be payable at the end of each Quarterly Period, at the rate of \$25,000 per quarter, as such amount may be reduced by the amount of Earned Royalties paid by Licensee to Licensors for such quarter, commencing with the Quarterly Period beginning October 1, 2014. For the avoidance of doubt, in the event that a Licensed Product is sold in combination with another Licensed Product, such as in a kit or package, the Earned Royalty shall be due for each Licensed Product included in such kit or package.

**6.3 Sublicensing Royalty.** Licensee shall pay to Licensor a sublicensing royalty ("**Sublicensing Royalty**") equal to the Earned Royalty with respect to any sublicense which is approved in accordance with the terms of this Agreement during the Term.

**6.4 Payment Terms and Royalty Statements.**

(a) All Earned Royalties and any other sums payable under this Agreement shall be paid in US dollars by wire transfer to a bank account to be designated in writing by Licensor within thirty (30) days of the end of each successive Quarterly Period.

(b) Payments to Licensor pursuant to **Section 5.3** and **Section 5.4** shall be accompanied by a statement (a "**Payment Statement**") showing:

- (i) the total sales, by unit with the sales of each separate Licensed Product listed separately of all Licensed Products sold or otherwise disposed of by Licensee or any permitted Sublicensee in the relevant Quarterly Period; and
- (ii) the Quarterly Period for which the Earned Royalty and the Sublicensing Royalty was calculated.

**6.5 Payment Disputes.** Licensee may withhold from payment any and all payments and amounts Licensee disputes in good faith, pending resolution of the dispute provided that Licensee:

- (a) timely pays all amounts not subject to dispute;
- (b) notifies Licensor of the dispute at least five (5) business days prior to the due date, specifying in such notice:
  - (i) the amount in dispute; and
  - (ii) the reason for the dispute set out in sufficient detail to facilitate investigation by Licensor and resolution by the parties.
- (c) works with Licensor in good faith to resolve the dispute promptly; and
- (d) promptly pays any amount determined to be due by resolution of the dispute.

**7. Commercially Reasonable Efforts.** Licensee will use commercially reasonable efforts to diligently develop, manufacture, market, and otherwise commercialize products and processes incorporating the Invention under the License Agreement, in accordance with the terms of a Development Plan, as specified below. Within thirty (30) days from the date of this Agreement, Licensee will provide Licensor with an acceptable

Development Plan. The “**Development Plan**” will include an outline of a program for rolling out products incorporating the Invention. Licensee shall diligently and continuously use its commercially reasonable efforts throughout the entire Territory licensed hereunder and during the entire Term of this license to promote and expand its sales of Licensed Products hereunder and to compete with any similar businesses, products or services.

## **8. Records and Audit.**

**8.1 Records.** Licensee shall keep records of its and its sublicensees' sales of Licensed Products reasonably necessary for the calculation of payments to be made to Licensor hereunder. Licensee shall maintain its records in accordance with generally accepted accounting principles and for a minimum of seven (7) years from the date created.

### **8.2 Audit.**

(a) Licensor, at its own expense, may, for a period of three (3) years after receiving any Payment Statement from Licensee, nominate an independent Certified Public Accountant or any other individual reasonably acceptable to Licensee (the “**Auditor**”), who will have access to Licensee's sales and sublicensing records for the Licensed Products, as well as all records relating to any manufacturing, marketing and distributing the Licensed Products and such other materials as the Licensor may deem reasonably necessary, upon reasonable but not less than fifteen (15) Business Days' prior written notice to Licensee and during Licensee's normal business hours for the purpose of verifying the payments made under this Agreement. The Auditor shall conduct such audit in a manner designed to minimize disruption of Licensee's normal business operations. All information and materials made available to or otherwise obtained or prepared by or for the Auditor in connection with such audit shall be deemed Licensee's Confidential Information and shall be subject to the Auditor's entry, prior to conducting the audit, into a written agreement with Licensee containing confidentiality and restricted use obligations at least as restrictive as those set out in **Section 11**. Licensor may not exercise this right more than twice in any calendar year.

(b) Licensor shall provide to Licensee a copy of the Auditor's audit report within five (5) business days of Licensor's receipt of the report. Licensee shall have fifteen (15) days to review and articulate any disputes it may have with the report (the “**Review Period**”). Licensor shall cause the Auditor to be available to Licensee, at reasonable times and upon reasonable notice during the Review Period. If the report shows that payments made by Licensee are deficient and Licensee does not dispute the report, Licensee shall pay Licensor the deficient amount within ten (10) days after the end of the Review Period together with interest on the deficient amount equal to 10% per annum or the then highest rate permitted by law, whichever is lower. If the report shows that payments made by Licensee are in excess of the required payment, Licensor shall

pay Licensee the excess amount within ten (10) days after it provides the copy of the Auditor's audit report to Licensee. In the event the undisputed portion of the Auditor's report shows a deficiency equal or greater than \$5,000 or ten percent of the Earned Royalties due for the period subject to the report, then Licensee shall reimburse Licensor for the reasonable costs of such report.

(c) The failure of Licensor to request verification of any Payment Statement during the following three year period is deemed acceptance by Licensor of the accuracy of the Payment Statement and the payments made by Licensee in accordance with the Payment Statement.

## **9. Patent Prosecution and Maintenance.**

**9.1 Patent Prosecution and Maintenance.** Subject to **Section 9.2**, for each patent application and patent under the Licensed Patents, Licensor shall:

(a) prepare, file and prosecute such patent application:

(b) maintain such patent; and

(c) pay all fees and expenses associated with its activities pursuant to **Section 9.1(a)** and **Section 9.1(b)**;

(d) keep Licensee informed, on a quarterly basis, of the filing and progress of all material aspects of the prosecution of such patent application, and the issuance of patents from any such patent application;

(e) consult with Licensee concerning any decisions which could affect the scope or enforcement of any issued claims or the potential abandonment of such patent application or patent; and

(f) notify Licensee in writing of any additions, deletions or changes in the status of such patent or patent application.

**9.2 Abandonment.** If Licensor wishes to abandon any patent application or patent that is a Licensed Patent, it shall give Licensee thirty (30) days prior written notice of the desired abandonment. Such abandonment shall not affect Licensee's obligations to Licensor hereunder. On Licensee's request, which may be provided at any time after the notice of desired abandonment, Licensor shall assign to Licensee any such patent application and patent Licensor wishes to abandon; provided, however, that such assignment shall not affect Licensee's obligations to Licensor hereunder.

## **10. Third-Party Infringement.**

**10.1** A party receiving notice of alleged infringement of regarding the Patent Rights, the Technology Rights, the Invention or the Licensed Products, or having a declaratory judgment action alleging invalidity or noninfringement of the Patent Rights, the Technology Rights, the Invention or the Licensed Products brought against it, shall promptly provide written notice to the other party of the alleged infringement or declaratory judgment action, as applicable. The parties shall mutually determine how to address the allegations provided that Licensor shall have no obligation to defend such allegations but will cooperate with Licensee if Licensee elects to defend such allegations.

**10.2** In the event that Licensee reasonably believes that a third-party is infringing the Patent Rights, the Technology Rights or the Invention it shall notify the Licensor and Licensor and Licensee shall mutually determine whether to enforce the Patent Rights, Technology Rights or rights to the Invention.

## **11. Compliance with Laws.**

**11.1 Patent Marking.** Licensee shall comply with the patent marking provisions of 35 U.S.C. § 287(a) by marking all Licensed Products or the packaging (in either case in compliance with applicable law) with the word "patent" or the abbreviation "pat." and either the numbers of the relevant Licensed Patents or a web address that is freely accessible to the public and that lists the relevant Licensed Patents and their corresponding patent numbers. Licensee shall comply with the patent marking laws of each country in the Territory for Licensed Products sold in those countries.

**11.2 Regulatory Clearance.** Licensor shall, at Licensee's expense, reasonably cooperate with Licensee in obtaining any clearances from governmental agencies to market the Licensed Products.

**11.3 Recordation of License.** Licensor shall record this Agreement as required by the laws of any country as a prerequisite to enforceability of this Agreement in the courts of such countries or for other reasons and any recordation fees and related costs and expenses shall be at Licensor's expense.

## **12. Confidentiality.**

**12.1 Confidentiality Obligations.** Each party (the "**Receiving Party**") acknowledges that in connection with this Agreement it will gain access to Confidential Information of the other party] (the "**Disclosing Party**"). As a condition to being furnished with Confidential Information, the Receiving Party agrees to:

(a) not use the Disclosing Party's Confidential Information other than as strictly necessary to exercise its rights and perform its obligations under this Agreement and for the avoidance of doubt in the event of a termination of this Agreement (as distinguished

from the expiration of this Agreement pursuant to Section 16.4) Licensee shall not use the Invention for any purpose; and

(b) maintain the Disclosing Party's Confidential Information in strict confidence and, subject to **Section 12.2**, not disclose the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent, provided, however, the Receiving Party may disclose the Confidential Information to its Representatives who:

- (i) have a "need to know" for purposes of the Receiving Party's performance, or exercise of its rights with respect to such Confidential Information, under this Agreement;
- (ii) have been apprised of this restriction; and
- (iii) are themselves bound by nondisclosure agreements at least as restrictive as those set forth in this **Section 11**, provided further that the Receiving Party shall be responsible for ensuring its Representatives' compliance with, and shall be liable for any breach by its Representatives of, this **Section 11**.

The Receiving Party shall use reasonable care, at least as protective as the efforts it uses with respect to its own confidential information, to safeguard the Disclosing Party's Confidential Information from use or disclosure other than as permitted hereby. In addition, Licensee may disclose such of Licensor's Confidential Information as may be required to fulfil Licensee's reporting requirements as a wholly-owned subsidiary of a publicly listed company; provided, however to the extent practical, Licensee shall provide Licensor advance notice of, and a copy of the proposed disclosure with sufficient time for Licensor to review and comment on Licensee's proposed disclosure.

**12.2 Exceptions.** If the Receiving Party becomes legally compelled to disclose any Confidential Information, the Receiving Party shall:

- (a) provide prompt written notice to the Disclosing Party so that the Disclosing Party may seek a protective order or other appropriate remedy or waive its rights under this **Section 11**; and
- (b) disclose only the portion of Confidential Information that it is legally required to furnish.

If a protective order or other remedy is not obtained, or the Disclosing Party waives compliance, the Receiving Party shall, at the Disclosing Party's expense, use reasonable efforts to obtain assurance that confidential treatment will be afforded the Confidential Information.

### **13. Representations and Warranties.**

**13.1 Mutual Representations and Warranties.** Each party represents and warrants to the other party that:

(a) To the extent applicable, it is duly organized, validly existing and in good standing as a corporation or other entity as represented herein under the laws and regulations of its jurisdiction of incorporation, organization or chartering;

(b) it has, and throughout the Term shall retain, the full right, power and authority to enter into this Agreement and to perform its obligations hereunder;

(c) the execution of this Agreement, in the case of the Licensee, by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate/organizational action of the party; and

(d) when executed and delivered by such party, this Agreement shall constitute the legal, valid and binding obligation of that party, enforceable against that party in accordance with its terms.

(e) there are no encumbrances, liens or security interests involving the Invention or any Licensed Patent.

(f) Except as otherwise expressly set forth above, Licensor does not make any representations or warranties of any kind, either express or implied, including but not limited to warranties of merchantability, fitness for a particular purpose; validity, enforceability, non infringement, title and validity of patent claims or scope of patent rights or claims, issued or pending. Specifically and not to limit the foregoing, Licensor makes no warranty or representation (i) regarding the validity or scope of the Patent Rights or (ii) that the exploitation of the Patent Rights, the Technology Rights, the Invention or the development, manufacture, marketing and sale of the Licensed Products will not infringe any patent rights or intellectual property or other rights of a third party and Licensee assumes the entire risk with respect thereto.

**14. Exclusion of Consequential Damages.** To the fullest extent permitted by Law, Licensee shall not be liable to Licensor for any consequential, incidental, indirect, exemplary, special, punitive or enhanced damages whether arising out of breach of contract, tort (including negligence) or otherwise (including the entry into, performance or breach of this Agreement), regardless of whether such damage was foreseeable and whether or not the other party has been advised of the possibility of such damages.

**15. Indemnification.**

**15.1** Each Party shall indemnify, defend and hold harmless the other party and its officers, directors, employees, agents, successors and assigns (each, an "indemnitee") against all Losses arising out of or resulting from any third party claim, suit, action or proceeding related to or arising out of or resulting from its breach of any representation, warranty, covenant or obligation under this Agreement (each an "**Action**").

**15.2** Licensee shall defend, indemnify and hold harmless Licensor, and his successors and assigns, for and against any and all claims of any kind arising out of or related to the exercise of any rights granted Licensee under the definitive License Agreement, including without limitation, from the sale and marketing of the Licensed Products or arising out of or related to the breach of this Agreement by Licensee.

**15.3 Indemnification Procedure.** The indemnified party shall promptly notify the indemnifying party in writing of any Action and cooperate with the indemnified party at the indemnifying party's sole cost and expense. The indemnifying party shall immediately take control of the defense and investigation of the Action and shall employ counsel reasonably acceptable to indemnified party to handle and defend the same, at the indemnifying party's sole cost and expense. The indemnifying party shall not settle any Action in a manner that adversely affects the rights of any indemnified party without the indemnified party's prior written consent, which shall not be unreasonably withheld or delayed. The indemnified party's failure to perform any obligations under this **Section 15.3** shall not relieve the indemnifying party of its obligation under this **Section 15.3** except to the extent that the indemnifying party can demonstrate that it has been materially prejudiced as a result of the failure. The indemnified party may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing.

## **16. Term and Termination.**

**16.1 Term.** This Agreement shall commence as of the Effective Date and, unless terminated earlier in accordance with **Section 16.2**, shall remain in force for eighteen (18) years from the date of this Agreement (the "**Term**").

### **16.2 Termination.**

(a) Either party may terminate this Agreement on written notice to the other party if the other party materially breaches this Agreement and such breach:

- (i) is incapable of cure;
- (ii) is a payment default and such default remains uncured for five (5) days after the breaching party receives written notice thereof;
- (iii) is not a payment default and is capable of cure, and remains uncured forty-five (45) days after the breaching party receives written notice

thereof or if such breach is incapable of being cured within such forty-five (45) then, so long as the breaching party is diligently seeking to cure the breach the other party shall not have the right to terminate this Agreement unless such breach remains uncured for more than 120 days after written notice thereof.

(b) Either party may terminate this Agreement by written notice to the other party if the other party:

- (i) becomes insolvent or admits inability to pay its debts generally as they become due;
- (ii) becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, which is not fully stayed within ninety (90) Business Days or is not dismissed or vacated within ninety (90) days after filing;
- (iii) is dissolved or liquidated or takes any corporate action for such purpose;
- (iv) makes a general assignment for the benefit of creditors; or
- (v) has a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

(c) Licensor may terminate this Agreement, if Licensee ceases to carry on its business related to this Agreement or if Licensee is not selling any Licensed Products and such failure continues for one hundred twenty (120) days after written notice from Licensor to Licensee.

**16.3 Effect of Termination.** On any expiration or termination of the entirety of this Agreement the Receiving Party shall (a) return to the Disclosing Party all documents and tangible materials (and any copies) containing, reflecting, incorporating or based on the Disclosing Party's Confidential Information; (b) permanently erase the Disclosing Party's Confidential Information from its computer systems, to the extent practicable and (c) certify in writing to the Disclosing Party that it has complied with the requirements of this **Section 16.3**.

**16.4 Expiration.** At the expiration of the Term, provided Licensee is not at that time in breach of this Agreement, Licensee shall have a completely paid-up, royalty-free right and license to subsequently make, have made, use, offer to sell, sell and import in the Field of Use in that country any and all products that were previously Licensed Products and shall have no further obligations to Licensor in the Field of Use with respect to such Licensed Patents or such Products.

**16.5 Sell-Off Period.** On termination of this Agreement for any reason, Licensee shall have the right to dispose of all stocks of Licensed Products in its possession and all Licensed Products in the course of manufacture at the date of termination for a period of one year after the date of termination (the "**Sell-off Period**"), in accordance with the terms and conditions of this Agreement. Any royalty payable under the provisions of **Section 6.2** shall be paid to Licensor as set forth herein after (a) termination, with respect to royalties accrued prior to the effective date of termination, and (b) the expiration of the Sell-off Period, with respect to royalties accrued during the Sell-off Period.

**16.6 Survival.** The rights and obligations of the parties set forth in this **Section 16.6** and **Section 1** (Definitions), **Section 12** (Confidentiality), **Section 13** (Representations and Warranties), **Section 15** (Indemnification), **Section 16.3** (Effect of Termination), **Section 16.4** (Expiration), **Section 16.5** (Sell-off Period) and **Section 17** (Miscellaneous), and any right, obligation or required performance of the parties in this Agreement which, by its express terms or nature and context is intended to survive termination or expiration of this Agreement, will survive any such termination or expiration.

## **17. Miscellaneous.**

**17.1 Bankruptcy.** All rights and licenses granted by Licensor under this Agreement are and shall be deemed to be rights and licenses to "intellectual property" and all Licensed Products are and shall be deemed to be "embodiment(s)" of "intellectual property" for purposes of, and as such terms are used in and interpreted under, Section 365(n) of the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* (the "Bankruptcy Code"). Licensee shall have the right to exercise all rights and elections with respect to all Licensed Products that are available to it under section 365(n) of the Bankruptcy Code. Without limiting the generality of the foregoing, Licensor acknowledges and agrees that, if Licensor shall become a debtor (as defined in the Bankruptcy Code) under chapter 7, chapter 11 or chapter 13 of the Bankruptcy Code:

(a) Licensee's rights under this Agreement shall be subject to the provisions of, among other provisions of the Bankruptcy Code, section 365(n); and

Unless and until Licensor or his bankruptcy estate rejects this Agreement, on the written request of Licensee, Licensor shall provide to Licensee all such intellectual property (including embodiments of such intellectual property comprising or relating to any Licensed Product, to the extent protected by applicable nonbankruptcy law) held by Licensor or Licensor's bankruptcy estate, and the same, if not already in Licensee's possession, shall be promptly delivered to Licensee.

**17.2 Force Majeure.** Neither party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by:

- (a) acts of nature;
- (b) flood, fire or explosion;
- (c) war, terrorism, invasion, riot or other civil unrest;
- (d) embargoes or blockades in effect on or after the date of this Agreement;
- (e) national or regional emergency;
- (f) strikes, labor stoppages or slowdowns or other industrial disturbances;

(g) any passage of law or governmental order, rule, regulation or direction, or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition; or

(h) national or regional shortage of adequate power or telecommunications or transportation facilities:

(each of the foregoing, a "**Force Majeure Event**"), in each case, provided that (i) such event is outside the reasonable control of the affected party; (ii) the affected party provides prompt notice to the other party, stating the period of time the occurrence is expected to continue; and (iii) the affected party uses diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

Licensor may terminate this Agreement if a Force Majeure Event affecting Licensee continues substantially uninterrupted for a period of ninety (90) days or more. Unless Licensor terminates this Agreement pursuant to the preceding sentence, all dates by which Licensee must perform any act or on which a Licensee obligation is due shall automatically be extended for a period up to the duration of the Force Majeure Event.

**17.3 Further Assurances.** Each party shall, upon the reasonable request, and at the sole cost and expense, of the other party, promptly execute such documents and perform such acts as may be necessary to give full effect to the terms of this Agreement.

**17.4 Independent Contractors.** The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

**17.5 No Public Announcements.** Neither party shall issue or release any announcement, statement, press release or other publicity or marketing materials relating to this Agreement, or, unless expressly permitted under this Agreement, otherwise use the other party's trademarks, service marks, trade names, logos, domain names or other indicia of source, association or sponsorship, in each case, without the prior written consent of the other party, which shall not be unreasonably withheld or delayed. This section does not apply to any statement or announcement required to be released by the Licensee in order to fulfil its reporting obligations as a wholly-owned subsidiary of a publicly listed company; provided, however to the extent practicable, Licensee shall provide Licensor advance notice of, and a copy of the proposed press release with sufficient time for Licensor to review and comment on Licensee's proposed press release.

**17.6 Notices.** All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given in accordance with this Section:

If to Licensor:

At the address set forth above

If to Licensee:

At the address set forth above

Notices sent in accordance with this Section shall be deemed effectively given: (a) when received, if delivered by hand (with written confirmation of receipt); (b) when received, if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail (in each case, with confirmation of transmission), if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third (3<sup>rd</sup>) day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid.

**17.7 Interpretation.** For purposes of this Agreement, (a) the words “include,” “includes” and “including” shall be deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; and (c) the words “herein,” “hereof,” “hereby,” “hereto” and “hereunder” refer to this Agreement as a whole.

Unless the context otherwise requires, references herein: (x) to Sections and Schedules refer to the Sections of and Schedules attached to, this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. Any Schedules referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

**17.8 Headings.** The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

**17.9 Entire Agreement.** This Agreement, together with all Schedules and any other documents incorporated herein by reference, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

**17.10 Assignment.** This Agreement is personal to Licensee. Licensee shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Agreement, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without Licensor's prior written consent, which consent Licensor may give or withhold in its sole discretion. For purposes of the preceding sentence, and without limiting its generality, any merger, consolidation or reorganization involving Licensee (regardless of whether Licensee is a surviving or disappearing entity) will be deemed to be a transfer of rights, obligations or performance under this Agreement. No delegation or other transfer will relieve Licensee of any of its obligations or performance under this Agreement. Any purported assignment, delegation or transfer in violation of this **Section 16.10** is void ab intio. Licensor may freely assign or otherwise transfer all or any of its rights, or delegate or otherwise transfer all or any of its obligations or performance, under this Agreement without Licensee's consent. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective permitted successors and assigns.

**17.11 Insurance.** Licensee shall obtain at its own expense and maintain during the Term of this Agreement and for seven (7) years thereafter, general liability insurance including advertising, blanket contractual, product liability and completed operations liability coverages. All insurance must be provided by a recognized insurance company having a Best's Rating of no less than "A". Prior to any distribution or commercial use of any product incorporating the Invention, Licensee will obtain and maintain product liability insurance in an amount consistent with industry practice, but in any event not less than \_\_\_\_\_ Million Dollars (\$\_\_\_\_\_) per occurrence, and \_\_\_\_ Million Dollars (\$\_\_\_\_\_) in aggregate and personal bodily injury and property damage of \$ \_\_\_ per occurrence. Licensee will provide Licensor with certificates of insurance showing compliance. This provision shall survive the termination or expiration of this Agreement.

**17.12 No Third-Party Beneficiaries.** This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever, under or by reason of this Agreement.

**17.13 Amendment; Modification; Waiver.** This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the waiving party. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege

hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

**17.14 Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

**17.15 Governing Law; Submission to Jurisdiction.**

(a) This Agreement and all related documents, and all matters arising out of or relating to this Agreement, are governed by, and construed in accordance with, the laws of the State of New York, without regard to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of New York.

(b) Any legal suit, action or proceeding arising out of or related to this Agreement or the licenses granted hereunder shall be instituted exclusively in the federal courts of the United States or the courts of the State of New York in each case located in the State of New York and County of New York, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such party's address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court.

**17.16 Waiver of Jury Trial.** Each party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Agreement or the transactions contemplated hereby.

**17.17 Equitable Relief.** Each party acknowledges that a breach by the other party of this Agreement may cause the non-breaching party irreparable harm, for which an award of damages would not be adequate compensation and agrees that, in the event of such a breach or threatened breach, the non-breaching party will be entitled to seek equitable relief, including in the form of a restraining order, orders for preliminary or permanent injunction, specific performance and any other relief that may be available from any court, and the parties hereby waive any requirement for the securing or posting of any bond or the showing of actual monetary damages in connection with such relief. These remedies shall not be deemed to be exclusive but shall be in addition to all other

remedies available under this Agreement at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.

**17.18 Attorney's Fees.** In the event that any action, suit, or other legal or administrative proceeding arising out of or related to this Agreement is instituted or commenced by either party hereto against the other party, the prevailing party shall be entitled to recover its reasonable attorneys' fees and court costs from the non-prevailing party.

**17.19 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission (to which a signed PDF copy is attached) shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

Parkside Optical Inc,

By

“signed”

\_\_\_\_\_

Murray Keating, President

By

“signed”

\_\_\_\_\_

Name: Richard Darrow

**SCHEDULE 1**

**FIELD OF USE**

THE INVENTION, PATENT RIGHTS AND TECHNOLOGY RIGHTS ARE BEING LICENSED TO LICENSEE HEREUNDER TO BE USED IN CONNECTION WITH THE DEVELOPMENT, MANUFACTURE, SALE AND MARKETING OF PRODUCTS FOR CLEANING CAMERA LENSES, OPTICAL SURFACES, TRANSPARENT SURFACES, AND OTHER SURFACES WITH WHITE, GRAY, TRANSPARENT, AND/OR TRANSLUCENT CARBON BLACK

## **SCHEDULE 2**

### **LICENSED PATENTS**

**1. LICENSOR TO PROVIDE WITHIN 24 HOURS OF SIGNING THE AGREEMENT A COPY OF THE PCT APPLICATION FILED IN SEPTEMBER 2012**

**2. TO BE COMPLETED WHEN, AND IF, PATENTS ARE ISSUED TO LICENSOR**

