

DEFINITIVE AGREEMENT

Effective as of August 1, 2016 ("Effective Date"), this definitive agreement ("Agreement") is entered into by and between Inventergy Innovations, LLC, Inc., a California Limited Liability Corporation with a place of business at 900 E. Hamilton Avenue, Suite 180, Campbell, CA 95008, USA ("Inventergy"), and the Low Power Company, Inc., a Delaware Corporation having an address of 212 Thompson Square Mountain View, CA 94043 USA ("Lopoco"); each of these entities is to be considered a "Party" to this Agreement.

1. BACKGROUND

Lopoco has developed a server design (and related know-how and other IP) that uses approximately 75% less power and 50% less space than conventional servers, yet provides the same form factor (e.g., integration into server cluster/rack based infrastructures), hereafter the "Technology."

Lopoco wishes to engage Inventergy to market the Technology for possible acquisition (of Lopoco as a company or its product line), with licensing and additional investment in Lopoco also being potential monetization options for Inventergy.

2. SUMMARY

This summary is provided as an aid to understanding this Agreement; in the event of any conflict or inconsistency with the terms set forth below, the terms which follow this summary are to predominate. Capitalized terms are generally defined in paragraph 3 of this Agreement.

Lopoco is engaging Inventergy to market the Technology with the goal of licensing such Technology and/or generating interest in the acquisition of and/or investment in Lopoco. Inventergy will represent Lopoco on an exclusive, worldwide basis, to this end; Lopoco will continue to conduct its business (i.e., manufacture and sale of Lopoco-branded servers & racks, and related support services).

Upon signing this Agreement and according to a predetermined schedule, Inventergy will pay to Lopoco a series of Advance Payments, which are to be used for Lopoco's business expansion and patenting expenses; these payments are advances against Lopoco's Revenue Share, meaning that they will be deducted from future amounts owed Lopoco (to the extent received) for deals consummated pursuant to this agreement. In addition, Inventergy will at its discretion spend additional amounts to assist Lopoco in identifying additional patenting and IP protection opportunities; generally speaking, Lopoco has little to no existing patent portfolio and Inventergy believes it will be important to develop a patent portfolio directed to those technical solutions which differentiate the Technology from competing solutions; this having been said, it will be Lopoco's responsibility to pay all patenting expenses and fees (including attorney fees, filing fees and maintenance fees) which will then be held in Lopoco's name (as part of its business).

Inventergy will use reasonable efforts to diligently promote the Technology during the Term, i.e., a series of renewable five-year periods. Gross Revenue other than from Lopoco's sale of its products and support services for those products will generally be: (i) Monetization Revenue, (ii) Investment Revenue or (iii) Asset Transfer Revenue; Monetization Expenses will be deducted from any Gross Revenue to form Net Revenue, and Net Revenue shall then be distributed to the Parties according to a Revenue Share split, as further defined below. Inventergy's Revenue Share represents its compensation for this Agreement (i.e., 50% of revenue involved in an acquisition, license, sale of a product line, transfer of IP, and 10% of investment revenue where such does not involve a Change In Control). The above will be further detailed below.

Once this Agreement is signed, Lopoco will not be able to terminate this Agreement except as specified in the paragraph dealing with Termination, below; that is, for example, Termination by Lopoco will be permitted only if Inventergy should materially breach its obligations to Lopoco, or at the end of the initial term or one of the renewal terms. Inventergy may Terminate this Agreement at any time for convenience, provided that it is obligated to pay to Lopoco any Advance Payments which accrue prior to Notice of Termination and Lopoco's Revenue Share attributable to deals substantially initiated prior to Termination (see paragraph 4.4, and provisions relating to Substantially Initiated Efforts, below); these payments, to the extent vested and payable, represent a walk-away obligation of Inventergy.

3. DEFINITIONS

- 3.1 "Advance Payments" means the individual payments specified below in paragraph 4.4.
- 3.2 "Asset Transfer Revenue" is defined below in paragraph 3.24.
- 3.3 "Change of Control Event" means that an event occurs where control over Lopoco's management is vested or becomes vested in a person or entity, which, prior to such event, did not control Lopoco's management; a change in management personnel does not in and of itself indicate a change of control.
- 3.4 "Confidential Information" is defined below in paragraph 7.1.
- 3.5 "Support Services" means services to be provided by Lopoco or a mutually agreed-upon entity to assist with the implementation of the IP by a Licensee following entry into an agreement for the license and/or other monetization of IP; such services may include, by way of non-limiting example, answering questions, explaining procedures, travel to the third party's site(s) or a designee's site(s), and/or assisting personnel of the third party or designee generally in the implementation of the IP for the benefit of the third party. As between the Parties hereto, Lopoco, as the developer of the Technology, is to be solely responsible for ensuring Licensees (should there be any) have what they need to practice the IP, or ensuring that adequate resources are otherwise made available to such Licensees to provide such support.
- 3.6 "CYQ" means a calendar year quarter, i.e., Jan. 1-March 31, April 1-June 30, July 1-September 30, October 1-December 31.

- 3.7 "Disclosing Party" is defined below in paragraph 7.1.
- 3.8 "Dispute Resolution Process" is defined below in paragraph 10.1.
- 3.9 "Effective Date" is defined above in the first paragraph of this Agreement.
- 3.10 "Gross Revenue" is defined below in paragraph 5.3.
- 3.11 "Inventergy" is defined in the first paragraph of this Agreement.
- 3.12 "Investment Revenue" is defined below in paragraph 3.24.
- 3.13 "IP" means all Patents, all Technology Transfer, and all rights in the foregoing on a worldwide basis, including without limitation all rights in inventions, ideas, innovations, know-how, Confidential Information, trade secrets, author's rights, moral rights, processes, methodologies and names/marks of commerce, and formal rights for the same, including without limitation patents, copyrights, trade names, logos and/or marks and trade secrets.
- 3.14 "Licensee" means any third party individual or other third party entity that is to (a) receive Technology Transfer (including a third party entering into an agreement with Lopoco, as well as a beneficiary of such an agreements, such as an OEM or supplier of the third party who might receive Technology Transfer in order to manufacture for the third party), (b) receive a license to the IP (e.g., a patent license), (c) acquire ownership of or title or right in the IP, or any part thereof (e.g., a purchaser of a Patent); (d) purchase equipment from Lopoco for sale or distribution in association with any other trade name other than Lopoco; (e) obtain the right to control design and/or distribution of Lopoco Branded Servers, or (e) acquire Lopoco or its assets, or otherwise invest in Lopoco or its assets (e.g., a purchaser of a Lopoco product line).
- 3.15 "Lopoco" has the meaning set forth in the first paragraph of this Agreement.
- 3.16 "Lopoco Branded Servers" means servers or other network appliances capable of standalone use which bear the Lopoco brand, where the manufacture and distribution is exclusively controlled by Lopoco, and which are sold and distributed solely under the Lopoco brand. Lopoco's manufacture and sale of Lopoco Branded Servers are not governed by this Agreement, i.e., Lopoco shall exclusively be entitled revenue from the same; however, without limitation, and for avoidance of doubt, Lopoco Branded Servers do not encompass (a) sale and/or distribution of computer components which are not servers or network appliances adapted for end use by a customer in a computer rack, as standalone devices, (b) sale and/or distribution of equipment made by Lopoco and sold under another brand name (e.g., "HP"), even if jointly under a Lopoco brand, or (c) design services performed by Lopoco for a third party, and/or any Technology otherwise transferred by Lopoco to a third Party. In other words, the parties intend for only Lopoco's continued sale of its product lines in Lopoco's present form as a company to be exempt from the Revenue Share provisions of this agreement, e.g., any Change of

Control or other event whereby a third party obtains control or benefit from the design of Lopoco equipment for purposes of resale and/or manufacture and/or distribution is to be viewed as Asset Transfer Revenue, Monetization Revenue or Investment Revenue under this Agreement.

- 3.17 "Mixed Revenue" is defined below in paragraph 5.3(b).
- 3.18 "Monetization Expenses" are defined below in paragraph 5.3(a)(2).
- 3.19 "Monetization Revenue" is defined below in paragraph 3.24.
- 3.20 "Net Revenue" is defined below in paragraph 5.3.
- 3.21 "Notice" is defined below in paragraph 11.1.
- 3.22 "Patents" means each patent application and/or patent and/or invention disclosure conceived of or reduced to practice by any Lopoco personnel, including without limitation any employee or consultant to Lopoco, or which is otherwise owned or controlled during the Term of this Agreement, or over which Lopoco otherwise has the power to obtain or to grant licenses; it shall be Lopoco's job to ensure that anyone who does work for Lopoco makes a present assignment of all rights in work product to Lopoco, including without limitation all rights in inventions, ideas, trade secrets, know-how and other forms of IP, except to the extent such cannot be requested by law (e.g., pursuant to California Labor Code Section 2870 and similar statutes of other states, as applicable. Without limiting the foregoing, "Patents" includes all continuations, continuations-in-part, counterparts, divisions, reexaminations, reissues, utility conversions, foreign counterpart applications, PCT applications, renewals or other documents that claim priority to, or a common priority with or are otherwise derived from any of the foregoing, and all similar rights on a worldwide basis to the foregoing, including by way of example (but not limitation) any inventor's certificate, utility model, or registered invention.
- 3.23 "Receiving Party" is defined in paragraph 7.1, below.
- 3.24 "Revenue Share" means:
- (a) For any monies or other consideration received in association with any license, strategic partnership, sale of IP, or any other monetization income from any third party relating to ability to use any form of the IP, including any litigation settlement, but not including Investment Revenue or Asset Transfer Revenue, hereinafter "Monetization Revenue," in the case of Inventergy, fifty percent (50%) of Net Revenue for a CYQ, and in the case of Lopoco, fifty percent (50%) of Net Revenue for the CYQ;
 - (b) For any monies or other consideration received in association with any sale or transfer of Lopoco or any Lopoco product line or any tangible asset of Lopoco (including without limitation, any acquisition of Lopoco or Change of Control

Event, but not including know-how, Patents and intellectual property rights), hereafter "Asset Transfer Revenue," in the case of Inventergy, fifty percent (50%) of Net Revenue for a CYQ, and in the case of Lopoco, fifty percent (50%) of Net Revenue for the CYQ;. And

(c) For any monies or other consideration received in association with any investment in Lopoco which does not constitute a Change of Control Event and does not constitute Monetization Revenue, hereafter "Investment Revenue," in the case of Inventergy, ten percent (10%) of Net Revenue for a CYQ, and in the case of Lopoco, ninety percent (90%) of Net Revenue for the CYQ.

3.25 "Substantially Initiated Effort" means any deal that was proposed or negotiated to any substantial degree prior to the end of the Term or Termination, including without limitation, where a term sheet or agreement draft or bulleted list of terms is or was exchanged prior to the end of the Term or Termination; without limitation, the term "Substantially Initiated Effort" includes situations where (a) an agreement to license or to otherwise monetize the IP, or otherwise to transfer Lopoco or its assets or to invest in Lopoco, is executed either before or after Termination or the end of the Term, where the discussion and/or negotiation which lead to such license, transfer or investment proceeded to the point where an agreement draft, letter of intent, a terms sheet or other list of deal points was exchanged prior to the end of the Term or Termination, (b) such an agreement is actually signed prior to the end of the Term or Termination, or (c) a lawsuit is filed for infringement of any of the Patents or other IP usage prior to the end of Term or Termination. For avoidance of doubt, any *renewal* of such an agreement relating to a Substantially Initiated Effort, even if after Term or Termination, is to be considered a Substantially Initiated Effort.

3.26 "Technology" has the meaning set forth in Section 1 of this Agreement.

3.27 "Technology Transfer" means any and all processes, trade secrets, technical information, know-how and Technology in the possession of Lopoco or its suppliers which is necessary or otherwise useful in the making, using, selling, distributing or otherwise exploiting the Technology or the subject matter described in any of the Patents for any application or field; generally speaking, the term "Technology Transfer" encompasses all materials needed or reasonably requested by a Licensee to enable that Licensee to make and distribute such compounds for the Licensee's market of interest and/or any field specified by the pertinent license, monetization or other agreement.

3.28 "Technology Transfer Materials" means any materials (tangible or otherwise) which embody the Technology Transfer.

3.29 "Term" is defined below in paragraph 5.1.

3.30 "Termination," "Terminate" and "Terminated" have the meaning set forth below in paragraph 5.2.

4. LICENSING AND MONETIZATION OF IP

4.1 **The Parties' Responsibilities; Execution Of Technology Transfer Agreements And License Agreements.** Inventergy shall be the exclusive representative for license and/or monetization of the IP and/or obtaining investment in Lopoco and/or acquisition of Lopoco or its product designs on a worldwide basis during the Term. Inventergy shall be responsible for interacting with potential Licensees and otherwise preparing and negotiating agreements relating to monetization of the IP for review and execution by Lopoco (including agreements for Support Services); the Parties shall jointly or singly be responsible for preparing and negotiating agreements for investment in Lopoco or acquisition of Lopoco or its assets depending on circumstance. For agreements proposed and/or drafted by Inventergy, Inventergy shall attempt to negotiate agreements using generally accepted and/or industry-accepted royalty rates and provisions or other pertinent terms, and Lopoco shall have an obligation of good faith and fair dealing in terms of executing such agreements negotiated by Inventergy, with any disputes regarding which terms are or are not appropriate (including as to any terms relating to Lopoco's obligations to provide Support Services) resolved using the Dispute Resolution Process Specified below. Generally speaking, agreements relating to monetization of the IP will specify that all payments by the pertinent Licensee (i.e., whether for IP monetization or Support) will be made into an account controlled by Inventergy, with Inventergy then responsible to satisfying the Monetization Expenses from Gross Revenue and then distributing Net Revenue following the end of the pertinent CYQ in the form of the Parties' respective Revenue Shares (if any). Whether related to revenue collected by Inventergy for monetization of the IP, or by either Party relating to investment in Lopoco or the sale of Lopoco tangible assets, Gross Revenue shall first be used to reimburse Monetization Expenses as set forth by paragraph 5.3 below, with any Net Revenue then used to generate each Party's Revenue Share. Generally speaking, the Parties' respective expenses are expected to be paid for from their Revenue Share (excepting those limited expenses which constitute Monetization Expenses as set forth in paragraph 5.3, below, and which are therefore reimbursable). The Parties shall respectively be responsible for expenses as defined below:

- (a) Lopoco shall be responsible (1) for any and all expenses in the procurement of test equipment, production of demonstrations, proof of concept materials and similar demonstrative materials used to market the Technology, (2) for diligence expenses relating to qualified third parties who have expressed interest in the IP (e.g., explaining the Technology to such Parties and substantiating claims associated with the Technology Transfer), (3) for expenses associated with the transfer of any Technology Transfer Materials to such third parties who enter into agreements, (4) all patenting expenses including without limitation outside counsel fees, filing fees and maintenance fees, and (5) for out of pocket expenses paid to third parties (e.g., travel expenses) relating to provision of Support Services and otherwise in connection with satisfaction of the obligations owed to an acquirer of Lopoco or its tangible assets and/or any Lopoco investor.

(b) Inventergy shall be responsible for its marketing and legal expenses worldwide in promoting the IP and in negotiating and preparing such agreements, for collecting revenue related to such agreements and distributing proceeds to the Parties (e.g., in the form of Advance Payments and Revenue Share, as set forth below), for expert fees and reverse engineering/deconstruction expenses, and litigation fees, as necessary. For avoidance of doubt, Lopoco will have no right or obligation to dictate the manner of litigation expenses, including without limitation, choice of counsel or selection of jurisdiction, nor will it have the right to compel Inventergy to proceed with any filing or litigation, and Lopoco will have no right to reimbursement from Gross Revenues should it proceed with any of the mentioned expenses (except to the extent agreed in writing by Inventergy).

4.2 **Continuing Ownership By Lopoco; Copies Of Technology Transfer Materials.** Lopoco shall maintain all of the IP in its own name, in a manner recorded by the pertinent national patent office as applicable, except to the extent that assignment (e.g., to a holding company or acquirer) is agreed to in writing by Inventergy; as an example, any patent applications filed shall be recorded in Lopoco's name and held exclusively by Lopoco or such other entity specified by Inventergy (i.e., for tax or monetization purposes), and may not be assigned to or encumbered by any third party without Inventergy's express written consent. Notwithstanding the foregoing, Lopoco shall upon Inventergy's request cause a copy of all Technology Transfer Materials to be provided to Inventergy for archival purposes and for use in supporting activities under this Agreement, in whatever language and/or form such materials are prepared; it is expressly contemplated by the Parties that Inventergy, in its discretion, may share such materials in support of marketing the IP and in attempting to solicit and consummate agreements relating to the license and/or monetization of the IP as contemplated by this Agreement. Under no circumstance is any ownership of the IP to be transferred to any third party or without the knowledge and approval of Inventergy.

4.3 **Technology Transfer Support By Lopoco.**

4.3.1 **Transfer Of Technology Transfer Materials And Support By Lopoco Of Technology Transfer.** Upon execution of an agreement relating to license and/or monetization of the IP, as may be required by such agreement, Lopoco shall cause the transfer of all necessary Technology Transfer Materials to the Licensee entering into such agreement, in a manner sufficient to comply with the requirements of the pertinent agreement. In addition, the Parties generally expect that license or Technology Transfer agreements in particular, should any such agreements be entered into, may specify provision of, or be entered into with under an expectation that, Support Services by Lopoco or a mutually agreed-upon entity will be provided to the Licensee to assist with the prompt implementation of the IP by the Licensee; depending on the pertinent agreement, such Support Services may be required without separate charge therefore. For avoidance of doubt, to the extent that any agreement to monetize IP specifies fees for Support Services, such are to be deemed part of Gross Revenue, with only Monetization Expenses being deducted therefrom,

e.g., fees for Lopoco's time in providing Support Services are to be deemed a part of Lopoco's Revenue Share.

- 4.4 **Advance Payments.** Inventergy shall pay Lopoco Advance Payments according to the following schedule assuming this Agreement is still in force as of the pertinent date and has not been subject of a Notice of Termination:
- (a) \$13,000 US upon execution of this Agreement;
 - (b) \$13,000 US by August 31, 2016;
 - (c) \$57,000 US by October 31, 2016;
 - (d) \$45,000 US by January 31, 2017; and
 - (c) \$11,000 US by April 30, 2017.

These payments are to be considered advances on Lopoco's current or future Revenue Share. The purpose of these payments is to assist Lopoco with business expansion and provisional patent filings already in planning or in preparation, and it is expected that Lopoco will apply these funds toward these ends. Lopoco shall be responsible for any taxes relating to the foregoing. Inventergy may request electronic transfer instructions so as to effectuate "paperless" payment of the above amounts.

- 4.5 **Nature Of Inventergy's Advance Payments.** For avoidance of doubt, the Parties stipulate to the following:

- (a) The amounts represented in paragraphs 4.4 shall be due and payable irrespective of whether any Gross Revenues are collected (or whether any Net Revenues are payable) as of the specified date; and
- (b) The pertinent amounts stated in paragraph 4.4 up through the point of providing any Notice of Termination represent a walk away position (i.e., limit of liability) for Inventergy, subject to any Royalty Share owed to Lopoco for royalties actually collected which are attributable to any Substantially Initiated Effort, and subject to the other provisions of the paragraph relating to Termination, below.

- Example - Inventergy elects to terminate on October 5, 2016 and provides Notice of Termination on this date; in this event, Inventergy would be obligated to pay Lopoco \$26,000 US to the extent not already paid (because the payments from paragraph 4.4(a)-(b) were owed prior to such Notice), but would not owe the other payments referenced above because it indicated intent to Terminate on a date before such payments were due; if a licensing deal was signed (or otherwise represented a Substantially Initiated Effort) prior to Termination, the Parties would continue to divide any associated Net Revenue whenever received for such Substantially Initiated Effort according to the Parties' respective Revenue Shares.

- 4.6 **Litigation To Enforce IP Rights.** Should the Parties identify anyone infringing rights in the IP (e.g., infringing a Patent), they shall meet and decide how to proceed. This Agreement shall not mandate any action, which (if agreeable to the Parties) will be the subject of separate agreement by the Parties. However, for avoidance of doubt, notwithstanding the foregoing, any Gross Revenue collected during the Term (including

from any settlement agreement) shall be subject to the Parties' respective Revenue Shares irrespective of whether a Party declines to participate in litigation, and even if the Parties do not meet pursuant to the terms of this paragraph, or otherwise cannot agree.

5. TERM AND AUTOMATIC RENEWAL, TERMINATION, COMPUTATION OF REVENUE SHARES

- 5.1 **Term And Automatic Renewal.** The Term of this Agreement is equal to an initial term of five (5) years from the Effective Date, plus any renewal terms, each of which shall also be five (5) years; this Agreement shall automatically renew for such a 5-year renewal term unless earlier terminated in accordance with its terms.
- 5.2 **Termination.** This Agreement may only be terminated ("Termination") pursuant to the provisions below.
- (a) **By Inventergy:** Inventergy can terminate this Agreement upon fifteen (15) days' Notice at any time, with or without cause, but no earlier than 60 days after the Effective Date (if without cause).
- (b) **By Lopoco:** Lopoco can terminate this Agreement for cause, upon fifteen (15) days' Notice, for material breach by Inventergy, provided that Lopoco provides Inventergy with Notice of such breach and affords Inventergy fifteen (15) days' opportunity to cure prior to issuing Notice of Termination. In the event that Lopoco provides Notice of Termination, Inventergy shall be entitled during such fifteen (15) day Notice period to initiate the Dispute Resolution Process (see below) and any such Termination shall be stayed pending completion of the Dispute Resolution Process. This Agreement shall not be terminated unless such Process results in a finding that Termination is indeed justified according to the terms provided above. Prior to the end of the initial term or any renewal term Lopoco can also at its election provide Notice of its intent not to renew this Agreement for an ensuing renewal term, in which case this Agreement shall not renew as provided in paragraph 5.1 above, but rather, the Term shall end at the conclusion of the current (initial or renewal) term.
- (c) **Effect of Termination:** In the event of Termination, (i) Inventergy shall pay to Lopoco the amounts as specified in paragraph 4.4 above, to the extent such amounts have not already been paid, as owed up through the date that the Notice of Termination is provided, to the extent not offset by Lopoco's Revenue Share; and (ii) each Party in receipt of any Gross Revenue shall deduct/reimburse Monetization Expenses (as specified elsewhere herein) from Gross Revenue and shall use any remaining Net Revenue to compute and distribute the other Party's Revenue Share as specified herein, to the extent revenue has actually been collected prior to Termination and not already been paid (see the Net Revenue provisions, below). Following Termination, should additional revenue or other income be received by either Inventergy or Lopoco which is attributable to any Substantially Initiated Effort, such additional amounts shall be treated as Gross Revenue (see below) by the Party receiving such revenue or other income, with the receiving Party performing reimbursement as indicated below and paying out to the other Party its

respective Revenue Share (although being offset against any Monetization Expenses according to the terms of paragraph 5.3 below); in other words, Termination shall not deprive a Party of a continuing right to its Revenue Share for transactions for Substantially Initiated Efforts at the time of Termination.

5.3 **Handling Of Gross Revenue; Monetization Expenses; Computation Of Revenue Shares.**

(a) **Gross Revenue:** Income or other revenue attributable received by either Party during a CYQ which is attributable to a Substantially Initiated Effort (including any Support Services), but which does not result from the sale by Lopoco of Lopoco Branded Servers, hereinafter "Gross Revenue," shall be applied against Monetization Expenses associated with that income/revenue (to the extent reported and payable under the terms herein) to obtain Net Revenue, which shall then be used to determine each Party's Revenue Share, as set forth below.

(1) Gross Revenue shall be reported out by a Party receiving such revenue/income (i.e., generally Inventergy) to the other Party within 2 weeks after receiving the Gross Revenue, with an indication of whether the Gross Revenue is Asset Transfer Revenue, Monetization Revenue or Investment Revenue and additional detail regarding the source and nature of the Gross Revenue.

(2) Following close of the CYQ, Gross Revenue received for CYQ that has closed shall first be applied to reimburse Inventergy for cumulative Advance Payments, to the extent not already offset against Lopoco Revenue Share, and shall then be applied to reimburse Monetization Expenses.

(a) "Monetization Expenses" means (i) third party disbursements made to promote the IP to encourage or entice third parties to take a license to IP or to enter into an agreement for Technology Transfer, including any litigation settlement (i.e., not including expenses paid to a Party's employees), (ii) third party disbursements electively made *by Inventergy* to develop the IP (e.g., patent preparation fees, filing fees, maintenance fees, and similar expenses), and (iii) Lopoco third party travel costs that are approved by Inventergy (in support of either promotion-related activities or in support of Support Services); for example, Monetization Expenses include fees paid by Inventergy to a third party reverse engineering (RE) firm or a marketing firm or to outside counsel to prepare a claim chart, to third party experts or litigation counsel, or reasonable travel expenses relating to promoting the IP, as well as Lopoco's reasonable travel expenses, for travel requested by Inventergy to assist with consummation of an agreement or other marketing of the Lopoco Technology. Only a Party identified as responsible for the pertinent expenses, where such expenses are also Monetization Expenses, can claim reimbursement; for example, Lopoco's marketing expenses are not considered Monetization Expenses, and Lopoco's expenses relating to patenting are not considered Monetization Expenses. For

avoidance of doubt, expenses not directly incurred for monetizing the IP are non-reimbursable and are not to be deducted from Gross Revenues, but rather are to be paid for by the Party responsible for such expenses from that Party's Revenue Share, as provided earlier.

All Lopoco Monetization Expenses, in order to be deducted from Gross Revenue, must be actually paid-out by Lopoco and must be documented to Inventergy within four (4) calendar months in which such expense is paid out, and will then be applied to the CYQ in which such expenses are reported/received. Monetization Expenses applied against Gross Revenues, however, irrespective of source/Party submitting such Monetization Expenses, shall be capped at an aggregate of 50% of Gross Revenues received for the just-closed CYQ, with any excess Monetization Expenses carried over to the next CYQ on a prorata basis for each of the Parties.

- (3) Following allocation of Gross Revenue to reimbursement of Advance Payments and Monetization Expenses, remaining "Net Revenue" will then be paid out following close of the pertinent CYQ (e.g., on May 15 for Q1, August 15 for Q2, November 15 for Q3 and February 15 for Q4) to the Parties according to respective Revenue Share. The Party paying the Revenue Share to the other Party shall provide an accounting sufficient to determine how Net Revenue and each Party's Revenue Share was arrived at from Gross Income.
- (4) Any dispute regarding Monetization Expenses and/or Revenue Share shall be handled pursuant to the Dispute Resolution Process.

- (b) **Mixed Revenue:** Should income be received which is both attributable to (1) the IP, and (2) a sale, license or other monetization of other intellectual property not contributed by Lopoco (i.e., that is not IP as defined above), then the Parties will meet and agree to allocate a portion of such "Mixed Revenue" which is attributable to the Patents. If the Parties cannot agree upon allocation within thirty (30) days or the next CYQ end (whichever is longer), then either Party may initiate the Dispute Resolution Process (as provided below) in order to obtain an allocation of such Mixed Revenue to the IP.

6. MAINTENANCE OF THE IP; DUTY TO CONSULT.

- 6.1 **Handling Of Patents Generally.** The Parties generally recognize that having enforceable Patents with issued claims of interest to the pertinent technology applications will contribute to the monetization efforts. With this in mind, the Parties agree to use reasonable efforts to consult with one another regarding the presentation of claims, claim amendments, continuation practice, and foreign country selection as regards the Patents (including any applications filed after the Effective Date which otherwise are considered Patents pursuant to the definition above). Without limiting the foregoing principles, it is generally anticipated that Inventergy may provide feedback to Lopoco on countries of interest and claims of interest, whether or not currently supported by

existing patent applications; Lopoco agrees to reasonably consider such requests and suggestions of Inventergy. Lopoco also agrees that it will share with Inventergy, upon request, text or proposed text of patent applications and/or office action responses (i.e., whether or not the application is filed or published) in order that Inventergy may comment, if needed, on proposed drafts, for consideration by Lopoco.

- 6.2 **Duty To Maintain/Preserve Pendency/Entity Fees.** Lopoco shall pay all fees or tariffs for Patents worldwide and shall not allow any Patent (issued or otherwise) to (a) go abandoned, or (b) lapse, whether for failure to pay maintenance fees or otherwise, without first consulting with Inventergy and obtaining Inventergy's written consent. In the event that any application for Patent is granted or allowed, Lopoco shall preserve pendency by filing a "continuation" or "divisional" application, as appropriate, in the pertinent country, excepting where Lopoco has obtained Inventergy's written consent to let such pendency lapse (on a country specific basis). Lopoco shall also be responsible for ensuring that proper entity-size fees are paid when due and required, e.g., Lopoco shall be responsible for switching to payment of large entity fees when and as required by USPTO rules.
- 6.3 **Art Citation/Enforceability Of Patents.** Lopoco shall be responsible for ensuring compliance with all requirements of patent validity and enforceability on a worldwide basis, including as appropriate, by complying with any duty to cite material prior art as required by the laws or principles of practice associated with any national patent office pertinent to a pending patent application. Without limiting the foregoing, it is generally expected that during licensing/monetization efforts, prior art references will be brought to Inventergy's attention or otherwise be considered important for citation purposes for purposes of enhancing licensing/monetization efforts; Lopoco will use reasonable efforts to ensure that such art is cited as required by, or appropriate to, each pending patent application of interest.
- 6.4 **Reexamination and IPR.** Should any Patent be challenged in reexamination, or should a declaratory judgment action be filed with respect to such Patent, the Parties will promptly meet and confer and decide how to proceed. Should either Party receive notice or learn of a third party's intent to challenge any Patent, in any pertinent tribunal, that Party shall similarly promptly advise the other Party and the Parties shall meet and confer and determine how to proceed. This Agreement shall not be interpreted so as to require either Party to take any action to participate in or engage in any such action or proceeding.
- 6.5 **Inventergy Patenting Expenses.** For avoidance of doubt, any Inventergy disbursements or contributions to patenting, other than by way of the Advance Payments referenced above, are to be considered *elective* only on the part of Inventergy; nothing herein shall require Inventergy to reimburse Lopoco for or contribute any funds to any patenting expense of Lopoco.

7. CONFIDENTIAL INFORMATION

Inventergy/Lopoco, Page 12 of 18

Inventergy Initials: _____

Lopoco Initials: _____

- 7.1 **Confidential Information.** "Confidential Information" means information disclosed by one Party ("Disclosing Party") to the other Party ("Receiving Party") relating to the Disclosing Party's (or the Entity's) business and/or technology (including, without limitation, reports, emails, specifications, computer programs, technical drawings, designs, financials, proposals, and other forms or embodiments of data or information), PROVIDED that such information is (1) if disclosed in tangible form, is conspicuously marked "confidential," "proprietary" or the like, (2) if disclosed in non-tangible form, is both identified as confidential at the time of disclosure and confirmed in writing within thirty (30) days of the disclosure, or (3) of a nature where a reasonable person would have, under the circumstances, viewed the information in question as confidential or proprietary. Notwithstanding the foregoing, nothing will be considered "Confidential Information" to the extent such information (a) is already in the public domain, or becomes part of the public domain, through no fault of a Receiving Party or its personnel, (b) is rightfully received from a third party without any obligation of confidentiality or secrecy, or (c) is independently produced or developed by personnel of the Receiving Party having no direct or indirect access to Confidential Information.
- 7.2 **Obligations.** A Receiving Party agrees that it will use reasonable measures to safeguard received Confidential Information against unauthorized disclosure or use, in no event less than those measures it uses for its own information of a like nature. Further, each Receiving Party agrees that it will not share Confidential Information with anyone other than its own employees, consultants and agents having a need to know such information consistent with the purposes of this Agreement, and who are obligated to protect Confidential Information against unauthorized use or disclosure, to the full extent contemplated by this Agreement. A Receiving Party's obligations will endure for a period of three (3) years following the Term or Termination. A Receiving Party's breach of the aforementioned obligations will be excused to the limited extent that such was compelled by court or governmental order, provided that the Receiving Party informs the Disclosing Party of such order and affords the Disclosing Party (or entity) a reasonable opportunity to intervene, and provided that the Receiving Party uses reasonable efforts to obtain a protective order or other confidential treatment for the compelled information in absence of the Disclosing Party.
- 7.3 **Return of Information.** Immediately upon a request by the Disclosing Party at any time, and/or the end of the Term and/or at Termination of this Agreement, the Receiving Party will turn over to the Disclosing Party all Confidential Information of the Disclosing Party and all copies or extracts thereof, excepting copies retained for purely legal record-keeping or IT archival purposes.

8. **WARRANTIES**

- 8.1 **By Lopoco.** Lopoco represents and warrants as follows:
- (a) Lopoco is the sole owner of and has not assigned any of its rights, title or interest in or to the IP, including without limitation the Technology Transfer Materials and the Patents; Lopoco has received and currently holds valid and effective *present* assignments of all such inventors' rights to the inventions

covered by the Patents, and to all rights in the IP, technology or patents that will be conceived of or developed by individuals working under Lopoco's control going forward under this Agreement; Lopoco has recorded and/or will record as soon as possible all such assignments with the USPTO and/or other pertinent governmental entity in connection with any issued Patent or pending patent application; and no other entity including without limitation any prior employer of Lopoco's personnel or any other third party may claim rights to such IP or Patents;

- (b) No Patent is the subject of any interference, opposition, reexamination, cancellation, protest, challenge or other challenge or adversarial proceeding;
- (c) Lopoco has neither assigned nor granted any license or other rights to any of the Patents and is under no obligation to grant any such license or rights to any third party;
- (d) Lopoco, to the best of its knowledge and the knowledge of its representatives, is not aware of any uncited prior art, prior sale or use, or other defect which would render any of the Patents invalid or unenforceable, and Lopoco and its representatives have complied and will comply going forward with any applicable duty to disclose material prior art;
- (e) There are no outstanding liens, encumbrances, third party rights, agreements or understandings of any kind, whether written, oral or implied, regarding the IP or which are otherwise in conflict with any provision of this Agreement;
- (f) Lopoco will not, without the express, advance written consent of Inventergy, grant any other third person other entity any right, title or interest in or to the IP nor transfer the IP in any manner, including without limitation, as regards any Patent; this pledge and covenant is material inducement for Inventergy to enter into this Agreement;
- (g) USPTO fees have been properly paid and will be properly paid at all times based on entity size, and that none of the Patents is invalid and/or unenforceable based on the conduct of Lopoco or its representatives; and
- (h) Lopoco shall not market or attempt to license or otherwise transfer any of the IP, excepting for such license/monetization efforts that involve Inventergy; without limiting the generality of the foregoing, Lopoco shall not compete nor aid any third person in competing with Inventergy in the marketing and/or promotion of the IP.

8.2 **By Both Parties.** Each Party warrants that it is a duly organized, valid entity, in good standing, and there it is capable of entering into this Agreement.

9. INDEMNIFICATION; DISCLAIMER OF INDIRECT DAMAGES; LIMIT OF LIABILITY

9.1 **Indemnification.** Lopoco agrees that it will defend, indemnify and hold Inventergy harmless against (a) any assertion that the IP or one or more of the Patents has an unlisted third party inventor or other owner, or that any royalty or other share of Gross Revenue is otherwise due or owed to any third party, (b) any assertion that Lopoco does not have the power to transfer the license the IP and/or any Patent, and/or that Lopoco does not have the right to proceed with any acquisition or tangible or intangible

asset transfer, (c) any assertion that Lopoco fails or has failed to exchange Technology Transfer Materials with any agreement relating to monetization of the IP, that Lopoco has not complied with a requirement of an agreement to provide Support Services to any third party in a manner required by an agreement relating to monetization, and/or that Lopoco has failed to perform obligations required of it in connection with any acquisition of Lopoco or investment therein, and/or (d) any other assertion relating to or otherwise associated with the IP, including without limitation, any allegation that the IP is dangerous or otherwise cause harm to the health of living beings, or that the IP cannot be practiced without infringing the rights of a third party. Without limiting this obligation, to the extent that Lopoco does not provide such defense or indemnification as required by this provision, Inventergy shall be entitled to reimburse itself for any outside counsel fees or awarded damages from any Revenue Share payable to Lopoco, in addition to any other remedies it may have. Lopoco shall pay all attorneys' fees and/or costs associated with any such assertion including any action or proceeding.

9.2 **Disclaimer of Indirect Damages.** OTHER THAN TO THE INDEMNIFICATION OBLIGATION SET FORTH ABOVE, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT, OR FOR LOSS OF PROFITS, LOSS OF DATA, OR ANY OTHER ECONOMIC LOSS, HOWEVER IT ARISES AND ON ANY THEORY OF LIABILITY, WHETHER IN AN ACTION FOR CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, WHETHER OR NOT EITHER PARTY OR THEIR AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.

9.3 **Limitation of Liability.** OTHER THAN FOR A PARTY'S INDEMNIFICATION OBLIGATIONS HEREIN, NEITHER PARTY SHALL BE LIABLE FOR ANY DAMAGES, RELATING TO THIS AGREEMENT AND THE RELATED AGREEMENTS, IN THE AGGREGATE, IN EXCESS OF THE SUMS SPECIFIED TO BE PAID OR PAYABLE PURSUANT TO THIS AGREEMENT. WITHOUT LIMITING THE FOREGOING, IN NO EVENT WILL INVENTERGY BE LIABLE FOR ANY DAMAGES IN EXCESS OF THE SUM OF (A) THE PAYMENT SPECIFIED BY PARAGRAPHS 4.4 TO THE EXTENT VESTED PRIOR TO PROVIDING NOTICE OF TERMINATION, WITH (B) LOPOCO'S REVENUE SHARE FOR GROSS REVENUE ACTUALLY COLLECTED BY INVENTERGY.

10. DISPUTE RESOLUTION PROCESS; EQUITABLE RELIEF; GOVERNING LAW AND JURISDICTION

10.1 **Dispute Resolution Process.** In the event of a dispute hereunder, each Party agrees to use the following "Dispute Resolution Process." The Dispute Resolution Process comprises a process where each Party will initially appoint a representative who will attempt to resolve the dispute; generally speaking, such representatives are not necessarily limited to employees of the respective Parties, and it is generally anticipated that each Party may elect to appoint subject matter experts (e.g., patent licensing experts) in order to resolve disputes between them.

(a) The aggrieved Party will provide written Notice to the other Party which (i) details the aggrieved Party's issue, (ii) explains in detail why the aggrieved Party

believes the other Party is acting unreasonably or otherwise out of conformance with the terms of this Agreement, (iii) identifies the resolution proposed by the aggrieved Party, (iv) formally requests initiation of the Dispute Resolution Process, and (v) designates a representative who will participate in the Dispute Resolution Process.

- (b) The other Party will, within two business days after receipt of the aggrieved Party's written Notice, contact the aggrieved Party to (1) designate a representative who will meet with the aggrieved Party's representative, and (2) arrange for a time within one week for the Party's representatives to meet to discuss resolution of the aggrieved Party's issue.
- (c) At and following such meeting, the two representatives shall attempt to reach mutual written agreement on resolution of the issue; such mutual written agreement shall be binding on the Parties.
- (d) If the Parties are unable to arrive at such a mutual written agreement within two weeks of the aggrieved Party's written Notice, then the issue shall be escalated to Inventergy's CEO and Lopoco, who shall meet telephonically.
- (e) If the issue still cannot be resolved within two weeks of the aggrieved Party's written Notice, then the Aggrieved Party may submit its dispute to binding arbitration according to the rules of the AAA, with such arbitration to be before a panel of three arbitrators and held in the County of Santa Clara, California. The arbitration remedy shall not be invocable by any third party, including without limitation any licensee of the Patents.

10.2 **Equitable Relief Not Prohibited.** The provisions of paragraph 10.1 above shall not prohibit either Party from seeking equitable relief as necessary to prevent irreparable harm that cannot be adequately monetarily compensated.

10.3 **Choice of Law and Jurisdiction.** This Agreement shall be governed in all respects by the laws of the State of California applied to contracts made between residents of that State. All disputes arising out of this Agreement shall be subject to the exclusive jurisdiction and venue in the state of California, and the parties consent to the personal and exclusive jurisdiction and venue in the state of California.

11. OTHER

11.1 **Notice.** Any notice or other communication required to be given hereunder by a Party shall be in writing and shall (a) be delivered to the other Party in person, or (b) transmitted to the other Party by email, facsimile or similar means of electronic communication, or (c) sent to the other Party by registered mail, charges prepaid; as appropriate, such notice or communication shall be addressed to the pertinent signatory indicated below, at the address indicated in the first paragraph of this Agreement, or to a confirmed email address or facsimile number for such signatory and for such Party. Any such notice or other communication shall be deemed to have been given and received on the day on which such was delivered in person or electronically communicated or on the third business day thereafter if sent by registered mail. Either Party may change its address for service at any time by giving notice to the other Party in accordance with this paragraph.

11.2 **Headings.** The paragraph and other headings of this Agreement are included for purposes of convenience only, and shall not affect the construction or interpretation of any of its provisions.

11.3 **No Assignment; Limited Exceptions.** No Party may transfer, convey, assign or delegate any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without express prior written consent of the other Party; as limited exceptions to the foregoing, the Parties contemplate the following:

- (a) The Parties may mutually agree that Lopoco may assign the IP to a holding company owned by one or both of the Parties, in order to facilitate transactions contemplated by this Agreement; generally speaking, Lopoco will remain responsible for its obligations under this Agreement (including satisfaction of all warranties);
- (b) The Party may mutually agree to set up an entity controlled by one or both of the Parties which shall be responsible for providing Support Services in support of Technology Transfer as specified above; for example, the Parties may agree to establish a consulting company under which Lopoco and/or others will provide assistance to Licensees in implementing the Technology Transfer;
- (c) Inventergy may set up a subsidiary relating to its relationship with Lopoco and may transfer this agreement to such subsidiary, provided that the subsidiary is fully responsible for all rights and liabilities of Inventergy under this agreement.

Any such mutual agreements will be set forth in a writing executed by both Parties.

Without limiting the foregoing provisions, this Agreement shall be binding on and shall inure to the benefit of the Parties and their respective legal representatives, heirs, successors and assigns.

11.4 **Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law; should any provision of this Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Agreement.

11.5 **Waiver.** No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party hereto making such waiver.

11.6 **Entire Agreement; Modification.** This Agreement (including each Exhibit hereto) constitutes the entire agreement between the Parties relating to the subject matter hereof. This Agreement supersedes all written or oral, prior and contemporaneous agreements, representations, warranties and understandings of the Parties with respect

thereto. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the Parties.

- 11.7 **Survival.** All provisions of this Agreement survive end of Term or Termination excepting as to exclusive representation going forward from end of Term or Termination by Inventergy with respect to the IP and Confidential Information first disclosed between the Parties after end of Term or Termination; without limiting the foregoing, each Party's obligations to protect Confidential Information first disclosed prior to end of Term or Termination shall endure following end of Term or Termination. Similarly, without limiting the foregoing, the provisions of paragraph 5.3 relating to handling of Gross Revenue received for Substantially Initiated Efforts shall survive end of Term or Termination.
- 11.8 **Parts and Counterparts.** This Agreement may be executed as one document or, alternatively, in two or more identical counterparts; in the latter case, each counterpart shall be deemed to be an original and all of which taken together shall be deemed to constitute the Agreement when a duly authorized representative of each Party has signed a counterpart. The Parties may deliver this signed Agreement by electronic (including email or facsimile) transmission, including by way of non-limiting example, as a PDF attachment. Each Party agrees that such electronic transmission shall have the same force and effect as delivery of original signatures and that each Party may use such electronically-transmitted copies as evidence of the execution and delivery of the Agreement by all Parties to the same extent that an original signature could be used.

IT IS SO AGREED, as of the Effective Date set forth above.

By and on behalf of Inventergy:

Signature: _____
Name: Joe Beyers
Title: CEO, Inventergy Innovations, LLC

By and on behalf of Lopoco:

Signature: _____
Name: Andrew Sharp
Title: CEO, The Low Power Company, Inc.