

## **MUTUAL NONDISCLOSURE AGREEMENT**

THIS MUTUAL NONDISCLOSURE AGREEMENT (this "Agreement") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Axxcelera Broadband Wireless, Inc., a Delaware corporation with its headquarters at 82 Coromar Drive, Santa Barbara, California 93117 and Neptuno Networks with its principal place of business at Metro Office Park, #18, Guaynabo, Puerto Rico, 00968 (each a "Party" and, collectively, the "Parties").

In consideration of the mutual promises and covenants contained in this Agreement, the Parties agree as follows:

1. "Confidential Information" as used in this Agreement means all nonpublic information and material disclosed since January 1, 2015 by or on behalf of one Party (the "Disclosing Party") to the other Party (the "Recipient") or its Representatives (as defined below) including:
  - (a) data or information that is competitively sensitive including, but not limited to, the following (all of which shall be deemed to be competitively sensitive): product information, marketing and sales plans and estimates, financial data, information relating to operations, prices, and customer relationships, product and business performance results, strategies, expertise of employees, consultants, customers and prospective customers;
  - (b) scientific or technical information including, but not limited to, designs, processes, procedures, formulas, inventions, know-how or improvements;
  - (c) proprietary information including, but not limited to, trade secrets, concepts, documents, reports, data, specifications, computer code, scripts, algorithms, flow charts and databases;
  - (d) drafts of agreements between the Parties;
  - (e) information (including, but not limited to, information concerning equipment, processes and products) available in premises of the Disclosing Party entered by representatives including directors, officers, employees, agents and advisors such as attorneys, accountants and investment bankers ("Representatives") of Recipient; and
  - (f) information communicated by the Disclosing Party in conversations and discussions between the Parties.
2. Notwithstanding the provisions of Section 1, the term "Confidential Information" as used in this Agreement shall not include:
  - (a) information that, at the time of disclosure to Recipient, is, or, after disclosure to Recipient, becomes generally known or available to the public through no wrongful act of Recipient or breach of this Agreement by Recipient;

- (b) information that was known to Recipient prior to disclosure of such information by the Disclosing Party or its Representatives;
  - (c) information disclosed on a non-confidential basis by a source other than the Disclosing Party or its Representatives to Recipient; provided that (i) such source is not, at the time of disclosure, under any obligation to the Disclosing Party or any of its Representatives (whether contractual, legal or fiduciary) to keep such information confidential and (ii) disclosure of such information by such source is not a consequence of any breach of this Agreement by Recipient or its Representatives;
  - (d) information that the Disclosing Party authorizes, in writing, for release in advance of disclosure of such information to Recipient or its Representatives; or
  - (e) information that is independently developed by Recipient without any use of or reference to any Confidential Information.
3. The Disclosing Party shall use commercially reasonable efforts to mark all documents or other material containing or embodying Confidential Information "Confidential" or "Proprietary"; provided, however, that in no event shall the failure of the Disclosing Party to make such a marking discharge Recipient from its obligations under Section 3 with respect to such Confidential Information.
4. Recipient acknowledges and agrees that unauthorized disclosure or use by Recipient, whether intentional or unintentional, of any of the Confidential Information shall be detrimental to the Disclosing Party. Accordingly, Recipient shall:
- (a) maintain in strict confidence the existence of this Agreement and the fact that discussions pertaining to the project associated with this Agreement involving the Parties (the "Project") have occurred or are occurring;
  - (b) use the Confidential Information solely in connection with the Project;
  - (c) maintain all of the Confidential Information in strict confidence and not to disclose any portion of the Confidential Information to any person or entity other than Representatives of Recipient who have a legitimate need to know the Confidential Information in connection with the Project;
  - (d) protect all of the Confidential Information from disclosure to any person or entity other than the Disclosing Party or its Representatives by using the same degree of care used by Recipient to protect its own nonpublic information and material of similar nature, but in no event using less than a reasonable degree of care;
  - (e) cause each of its Representatives who has or has had access to the Confidential Information to comply with the terms and provisions of this Agreement, and assume all liability arising from any failure by such Representative to so comply; and

- (f) the equipment/unit is only serviceable by professional designated technicians under a Non-Disclosure Agreement;
  - (g) the purchaser is prohibited from disclosing any proprietary information, including internal photos of the unit;
  - (h) the terms of the NDA extend to third party sales such that the final user of the device is subject to the NDA and
  - (i) immediately upon the termination or completion of the Project, or upon request by the Disclosing Party at any time, and in no event later than five (5) days from such termination, completion or request, (i) return to the Disclosing Party all Confidential Information in tangible form and all copies of Confidential Information in tangible form; (ii) destroy all notes, memoranda, summaries, analyses, studies, compilations or other writings reflecting Confidential Information in tangible form and provide the Disclosing Party with certification by a duly authorized officer of Recipient that Recipient has destroyed in a manner approved by the Disclosing Party all such tangible material; and (iii) permanently erase all notes, memoranda, summaries, analyses, studies, compilations or other writings reflecting Confidential Information in electronic and other nontangible form and provide the Disclosing Party with certification by a duly authorized officer of Recipient that Recipient has permanently erased all such electronic and other nontangible material.
5. In the event that Recipient or its Representatives receive a request, or is required, to disclose all or any part of the Confidential Information by judicial or governmental order or in a judicial or governmental proceeding, Recipient agrees to:
- (a) immediately and in any event prior to disclosure of any Confidential Information notify the Disclosing Party of the existence, terms and circumstances surrounding such a request;
  - (b) in the event that disclosure of such Confidential Information is required in the opinion of Recipient's legal counsel, cooperate with the Disclosing Party in the event the Disclosing Party elects to contest such disclosure or seek a protective order; and
  - (c) in any event, only disclose the exact Confidential Information or portion thereof specifically requested by such order or proceeding.
6. Recipient acknowledges and agrees that all Confidential Information is and shall remain the property of the Disclosing Party. Nothing in this Agreement shall be construed as granting or conferring any rights by license or otherwise, either express, implied or by estoppel, to any Confidential Information, or under any patent, copyright, trademark or trade secret of the Disclosing Party. The Disclosing Party provides Confidential Information "as is, with all faults." The Disclosing Party makes no representation or warranty, express or implied, regarding the accuracy, completeness, performance,

merchantability, fitness for use, non-infringement or other attributes of any Confidential Information. The Disclosing Party does not make any representation or warranty with respect to the non-infringement of third party patents, copyrights, trademarks or trade secrets with respect to its respective Confidential Information. The Disclosing Party shall not have any liability or responsibility for errors or omissions in, or any business decisions made by Recipient in reliance on, any Confidential Information disclosed under this Agreement.

7. Recipient shall not remove, export or re-export from the United States any Confidential Information, or any portion thereof, in violation of the export laws and regulations of the United States government.
8. Recipient acknowledges and agrees that money damages would not be a sufficient remedy for any breach of this Agreement by Recipient, that any such breach may allow Recipient or third parties to unfairly compete with the Disclosing Party resulting in irreparable harm to the Disclosing Party and that therefore the Disclosing Party shall be entitled to seek specific performance and injunctive or any other equitable relief as a remedy for any such breach ("Equitable Remedies"). Recipient further agrees (i) to waive any requirement for the securing or posting of any bond in connection with any Equitable Remedy; (ii) that Equitable Remedies shall not be deemed to be the exclusive remedies for breach of this Agreement by Recipient, but shall be in addition to all other remedies available at law to the Disclosing Party; and (iii) to indemnify the Disclosing Party from any loss or harm (including, but not limited to, attorneys' fees) in connection with any breach or enforcement of the obligations of Recipient under this Agreement or the unauthorized use or release of Confidential Information.
9. No failure or delay by either party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any right, power or privilege under this Agreement. No waiver of any provision of this Agreement shall constitute a waiver of any other provision(s) or of the same provision on another occasion.
10. This Agreement shall be governed by and construed in accordance with the internal laws of the State of California without giving effect to the conflicts of law principles of any jurisdiction. The Parties hereby waive all objections to and agree to submit to the jurisdiction of the state courts of the State of California in and for the County of Santa Barbara, or the United States District Court for the Central District of California if such court has subject matter jurisdiction, with respect to any and all disputes relating to this Agreement. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect. All obligations and rights of the Parties expressed in this Agreement shall be in addition to, and not in limitation of, those provided by applicable law. This Agreement may be modified or waived only by a separate writing by the Parties expressly so modifying or waiving such. This Agreement may be executed in any number of

counterparts, each of which shall be an original, but all of which together shall constitute one instrument. References to the Disclosing Party and Recipient shall be deemed to include each of their affiliates, if any.

11. This Agreement constitutes the entire agreement between the Parties with respect to the confidentiality, disclosure, use, return and ownership of the Confidential Information and supersedes any prior understanding and agreements between and among them with respect to such confidentiality.
12. Nothing in this Agreement shall be construed to require the Disclosing Party to disclose any Confidential Information to Recipient.
13. Recipient shall not assign or transfer this Agreement or any of its rights under this Agreement or delegate any of its obligations under this Agreement without the prior written consent of the Disclosing Party. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the Parties, their permitted successors and their permitted assigns.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed by its duly authorized representative.

AXXCELERA BROADBAND  
WIRELESS, INC.

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Company name

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Signature

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Signature

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