

THIS NOTE AND THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED OR HYPOTHECATED UNLESS THERE IS AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT COVERING SUCH SECURITIES, THE SALE IS MADE IN ACCORDANCE WITH RULE 144 UNDER THE ACT, OR THE COMPANY RECEIVES AN OPINION OF COUNSEL FOR THE HOLDER OF THESE SECURITIES REASONABLY SATISFACTORY TO THE COMPANY STATING THAT SUCH SALE, TRANSFER, ASSIGNMENT OR HYPOTHECATION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF THE ACT.

_____, INC.

SECURED CONVERTIBLE PROMISSORY NOTE

\$ _____

Date of Issuance: _____, 2012

FOR VALUE RECEIVED, _____, Inc., a _____ corporation (the "Company"), promises to pay to the Office of the Governor (the "OOG"), or its registered assigns, the principal sum of \$ _____, or such lesser amount as shall then equal the outstanding principal amount hereof, together with compound interest from the date(s) of disbursement of such outstanding principal amount of this Secured Convertible Promissory Note (this "Note"), on the unpaid principal balance outstanding at a rate equal to 10% per annum. The interest rate shall be computed on the basis of the actual number of days elapsed and a year of 365 days. All unpaid principal outstanding, together with the balance of unpaid accrued interest, expenses and other amounts payable hereunder, unless earlier converted pursuant to the provisions of Section 4 below, shall be due and payable on demand at any time after the earliest of the following (such date, the "Maturity Date"): (i) the fifth (5th) anniversary of the date of issuance of this Note, (ii) upon the closing of a Qualifying Liquidation Event (as defined below), or (iii) when such amounts are declared due and payable by the OOG upon or after the occurrence of an Event of Default (as defined below). This Note has been issued by the Company in connection with that certain Texas Emerging Technology Fund Award and Security Agreement (the "Fund Agreement"), effective as of the date hereof (the "Effective Date"), by and between the Company and the State of Texas, acting by and through the OOG, together with its nominees or assigns, pursuant to which the Company is receiving from the OOG an award of funding under the Texas Emerging Technology Fund subject to conditions which could, upon satisfaction, require repayment of principal, unpaid accrued interest, expenses and any other amounts due hereunder. This Note is subject to all of the terms and provisions of the Fund Agreement including, but not limited to, the timing and requirements related to the disbursement of the Award (as defined in the Fund Agreement). This Note is secured by certain collateral more fully described in the Fund Agreement. To the extent that the terms of this Note conflict with the terms of the Fund Agreement, the terms of the Fund Agreement shall be deemed to control.

The following is a statement of the rights of the OOG and the conditions to which this Note is subject, and to which the OOG hereof, by the acceptance of this Note, agrees:

1. Events of Default. The occurrence of a Fund Agreement "Event of Default" as set forth in Section 7.01 therein shall constitute an "Event of Default" under this Note.

2. Rights of OOG Upon Default. Upon the occurrence or existence of any Event of Default and at any time thereafter during the continuance of such Event of Default, OOG may declare all outstanding principal, together with the balance of unpaid accrued interest, expenses and other amounts payable hereunder, to be immediately due and payable without presentment, demand, protest or any other notice

of any kind, all of which are hereby expressly waived. In the alternative, the OOG may elect to make a Voluntary Conversion. In addition to the foregoing remedies, upon the occurrence or existence of any Event of Default, OOG may exercise any other right, power or remedy granted to it or otherwise permitted to it by law, either by suit in equity or by action at law, or both.

3. Prepayment. This Note may be prepaid in whole (but not in part) by the Company with the written consent of the OOG at any time. The Company must provide at least thirty (30) days' prior written notice of its intent to prepay this Note in full and provide the OOG with (i) proof of its financial ability to pay this Note in full and (ii) the opportunity to elect to make a Voluntary Conversion in accordance with Section 4(b) below in lieu of prepayment. The OOG's election to make a Voluntary Conversion shall trump the Company's ability to prepay the Note. Any such prepayment will be applied first to the payment of expenses due under this Note, second to interest accrued on this Note and third, if the amount of prepayment exceeds the amount of all such expenses and accrued interest, to the payment of principal of this Note.

4. Conversion.

(a) Mandatory Conversion Upon a Qualified Financing.

(i) Except as described in Section 4(a)(ii), upon the sale and issuance by the Company of shares of its capital stock in a transaction, or series of transactions, resulting in (A) gross proceeds to the Company of at least \$ __,000,000 or any amount approved in writing by the OOG (excluding any consideration either (I) in the form of the cancellation of indebtedness from, among other things, the conversion of this Note or (II) amounts contributed by or raised from Company Affiliates or Company Associates (as defined below)), and (B) a liquidation preference of at least one time (1X) the original issue price of such capital stock, on or prior to the Maturity Date (a "Qualified Financing"), all of the outstanding principal and unpaid accrued interest thereon then outstanding on this Note shall automatically be converted into shares of the same series of capital stock issued by the Company in such Qualified Financing (the "New Shares"), however, the shares issued to OOG shall be a separate sub-series with certain unique rights, privileges and preferences as set forth in Section 5 below (the "OOG Shares"). A conversion of the outstanding principal and unpaid accrued interest thereon outstanding on this Note pursuant to this subsection (a) is referred to herein as a "Mandatory Conversion".

(ii) Notwithstanding Section 4(a)(i), if an Event of Default exists and is continuing at the time of any Qualified Financing then the Note shall not be automatically converted into OOG Shares and the Note shall remain outstanding and in full force and effect preserving all the OOG's rights and remedies under the Award Agreement and this Note unless and until such time as the OOG shall give the Company written notice of its intent to voluntarily convert into OOG Shares

(b) Voluntary Conversion. At any time following (i) the thirty (30) month anniversary of the Effective Date, (ii) notice of the prepayment in full of this Note as described in Section 3, or (iii) notice of a Qualifying Liquidation Event as described in Section 6, the OOG may elect, in its sole discretion, to voluntarily convert all of the outstanding principal and unpaid accrued interest thereon then outstanding under this Note into OOG Shares consisting of either (a) shares of common stock of the Company, \$ _____ par value per share, or (b) shares of any series of preferred stock authorized at the time of such conversion, however, the shares issued to OOG shall be a separate sub-series (or separate class, in the case of common stock) with certain unique rights, privileges and preferences as set forth in Section 5 (same as the rights, privileges and preferences of the OOG Shares described in Section 4(a)(i)). A conversion of the outstanding principal and unpaid accrued interest thereon outstanding on this Note pursuant to this subsection (b) is referred to herein as a "Voluntary Conversion" and any conversion

pursuant to subsection (a) or (b) is referred to herein as a “Conversion”). The OOG’s election to make a Voluntary Conversion shall be considered binding and fully enforceable against the Company.

(c) Conversion Price. Upon a Conversion, all principal and unpaid accrued interest, expenses and other amounts owing under this Note shall be converted into that amount of OOG Shares, as is determined by dividing the aggregate principal and unpaid accrued interest, expenses, and other amounts owing under this Note by the Note Conversion Price.

(d) “Note Conversion Price” shall mean:

(i) In the event of a Mandatory Conversion, the per share price that is the per share purchase price paid for the New Shares by investors in the Qualified Financing.

(ii) In the event of a Voluntary Conversion, the per share price is equal to the quotient of (a) \$ _____ and (b) the total number of outstanding shares immediately prior to Conversion.

(e) Notice of Mandatory Conversion. In the event of a Mandatory Conversion, at least fifteen (15) days prior to the closing of any Qualified Financing, written notice and a copy of the Qualified Financing transaction documents shall be delivered by the Company to the OOG, notifying the OOG of the terms and conditions of the Qualified Financing, the Note Conversion Price, the principal and unpaid accrued interest outstanding on the Note and the date on which the Conversion will occur, and calling upon such OOG, to surrender to the Company, in the manner and at the place designated, the Note. At least five (5) business days prior to the actual closing, the Company shall deliver Qualified Financing transaction documents in execution form to the OOG. The Company shall use its best efforts to provide the OOG all additional information requested related to the Qualified Financing in a timely manner. No later than five (5) business days following the actual closing, the Company shall deliver fully executed copies of all Qualified Financing transaction documents to the OOG.

(f) Notice of Voluntary Conversion. In the event of a Voluntary Conversion, OOG shall notify the Company in writing at least thirty (30) days prior to the intended date of such Conversion that it has elected to make such Conversion and providing the Note Conversion Price, the date by which the Conversion should occur, and the series of capital stock and rights, privileges and preferences of the OOG Shares to be issued. The Company shall use its best efforts to cooperate with the OOG to complete the Voluntary Conversion within the OOG’s time frame. Notwithstanding the foregoing, this notice requirement shall not be applicable to a Voluntary Conversion initiated pursuant to a Company notice of its desire to prepay this Note as described in Section 3 or a Qualifying Liquidation Event as described in Section 6.

(g) No Fractional Shares. No fractional shares of capital stock shall be issued upon any Conversion. Upon a Conversion, in lieu of the Company issuing any fractional shares to the OOG, the Company shall pay to the OOG the amount of outstanding principal that is not so converted.

(h) Delivery of Note and Share Certificates. Upon a Conversion, the OOG will deliver the original Note to the Company for cancellation, and will execute a standard form of stock purchase agreement and/or other agreements or instruments as are necessary to document the issuance of the shares of the Company’s capital stock upon the Conversion. No later than ten (10) days following such Conversion, the Company shall issue and deliver to the OOG a certificate or certificates for the number of full shares of the OOG Shares to which the OOG is entitled, and a check with respect to any fractional interest. The Company covenants that all shares of capital stock of the Company issued upon a

Conversion will, upon such issuance, be fully paid and non-assessable and free from all taxes, liens and charges caused or created by the Company.

(i) Shareholder Agreements. Upon the issuance of shares of capital stock to the OOG pursuant to a Mandatory Conversion, the OOG agrees, at the request of the Company, to execute, deliver and become party to, in a capacity similar to that of holders of the New Shares, such Company shareholder agreements as are entered into by such holders of the New Shares. These shareholder agreements shall provide rights in addition to the rights, privileges and preferences afforded the OOG Shares set forth in the Award Agreement and this Note. The Company covenants that these shareholder agreements shall not conflict with or otherwise dilute the rights, privileges and preferences of the OOG Shares and to the extent of any conflict, the Award Agreement and this Note shall control. In addition, the Company acknowledges that a violation of this covenant is an Event of Default, and pursuant to Section 4.2(a)(ii), this Note shall not automatically convert into OOG Shares upon a Qualified Financing.

(j) Additional Amount of Award. If, upon notification of either a Mandatory or Voluntary Conversion pursuant to this Note, the Additional Amount (as defined in the Fund Agreement) has not been disbursed, then the OOG may, in its sole discretion, elect to disburse the Additional Award to the Company prior to or at the time of the Conversion, subject to the terms of Section 3.04 of the Agreement, and such amount of the Additional Award shall be included in the outstanding principal and, together with any applicable unpaid accrued interest with respect to such amount, converted in the Conversion. If the OOG does not make the foregoing election, then, at the time such Additional Award is disbursed pursuant to and as set forth in the Fund Agreement, the Company shall issue to the OOG the amount of OOG Stock that is determined by dividing the Additional Amount by the Note Conversion Price.

(k) Most Favored Nations. If, at any time within six (6) months of the later of (i) the date of Conversion or (ii) the closing date of the Qualified Financing, the Company shall issue a new class or series of capital stock with more favorable terms than the terms of the OOG Shares (as determined by the OOG in its sole discretion) (the “Superior Securities”), the Company will give the OOG an opportunity to exchange the OOG Shares for the Superior Securities. The amount of Superior Securities issued shall be determined by dividing the aggregate principal owing under this Note and unpaid accrued interest, expenses and other amounts owing under this Note at the time of the Conversion by the Note Conversion Price at the time of the Conversion. The OOG shall be entitled to all the same rights and preferences with respect to each share of Superior Securities held by the OOG to which all other holders of shares of the same class and series of stock are entitled, however, the shares issued to OOG shall be a separate sub-class or sub-series, as applicable, with certain unique rights, privileges, and preferences as set forth in Section 5 below.

5. Rights, Privileges and Preferences of the OOG Shares. The representations, warranties and covenants set forth in the Fund Agreement shall survive any Conversion pursuant to this Note for the term of the Agreement and after termination of the Agreement in accordance with the Agreement and the Note. Upon the notice of a Qualified Financing or within thirty (30) days of notice of a Voluntary Conversion, the Company’s [Amended and Restated Certificate of Formation] shall be [further] amended and restated (the “Restated Certificate”), and the Protective Covenants (as defined in the Fund Agreement) shall be incorporated into such Restated Certificate in the form attached hereto as Exhibit A. Further, while, if the Company is in compliance with the Protective Covenants at the time of such Qualified Financing and Mandatory Conversion or Voluntary Conversion, the OOG Shares shall have the same rights, privileges and preferences as the New Shares, the Restated Certificate shall provide that, upon any breach of the Protective Covenants (and following any cure period), the Company shall redeem, at the OOG’s election, the OOG Shares for an amount per share equal to the greater of: (i) three times (3X) the OOG Shares’ liquidation preference set forth in the Company’s Certificate of Formation, (ii) three times (3X) the per

share price of the last Company offer and sale of capital stock to a third party in a bona fide transaction, or (iii) three times (3X) the conversion price per share at which this Note is converted into OOG Shares pursuant to a Conversion. The Company shall adopt and incorporate into its Restated Certificate the redemption language in the form attached hereto as Exhibit A. This redemption shall occur no later than thirty (30) days following such breach of a Protective Covenant (and following any cure period). These provisions shall be automatic and shall not require any additional action on the part of the OOG other than delivery of the OOG Share certificates. The Company also acknowledges and agrees that the remedies set forth in this Section 5 are not exclusive for the Company's breach of a Protective Covenant and that the OOG may pursue any other remedy available at law or in equity upon any breach.

6. Qualifying Liquidation Event. The occurrence of any of the following shall constitute a "Qualifying Liquidation Event" under this Note: (a) the sale, conveyance, or other disposition of all or substantially all of the assets of the Company and its subsidiaries (taken as a whole) to Persons who are not then Company Associates or Company Affiliates, or (b) the sale of the Company's then-outstanding equity securities by the Company's stockholders, or the Company's merger into or consolidation with any other entity, in each such case, in which more than fifty percent (50%) of the voting power of the Company is transferred to Persons who are not then Company Associates or Company Affiliates. If the Company receives prior written approval from the OOG, (a) the sale, conveyance, or other disposition of all or substantially all of the assets of the Company and its subsidiaries (taken as a whole) to Persons who are Company Associates or Company Affiliates, or (b) the sale of the Company's then-outstanding equity securities by the Company's stockholders, or the Company's merger into or consolidation with any other entity, in each such case, in which more than fifty percent (50%) of the voting power of the Company is transferred to Persons who are then Company Associates or Company Affiliates may be considered a Qualifying Liquidation Event. For purposes of this definition:

(x) "Company Affiliate" means a Person who or that directly, or indirectly through one or more intermediaries, controls the Company or is controlled by, or is under common control with, such a Person; and

(y) "Company Associate" means, as of any particular date, a current shareholder of the Company (including a holder of common stock, preferred stock, or other capital stock of the Company), a current debtholder of the Company, or a current holder of convertible securities or holder of any right to purchase or acquire any capital stock of the Company.

The Company shall provide the OOG at least thirty (30) days prior written notice of any Qualifying Liquidation Event and the opportunity to elect a Voluntary Conversion and participate in such Qualifying Liquidation Event in lieu of the repayment of outstanding principal and accrued interest due under this Note, in the OOG's sole discretion. The Voluntary Conversion notice requirements set forth in Section 4(f) shall not be applicable for purposes of a Qualifying Liquidation Event.

7. Tag-Along Rights. In the event the Company's stockholders (or any of them) propose to make a sale of the less than all of the Company's capital stock in a transaction or series of transactions that would qualify as a Qualifying Liquidation Event, the OOG shall have the right to participate (a "Tag-Along Right") in such sale with respect to any OOG Shares (including shares issued upon a Voluntary Conversion or issuable upon the conversion of OOG Shares) held by them, on a pro rata basis (based on the ratio of the aggregate number of shares of common stock (or common stock equivalents) to be sold by the Company's stockholders to the aggregate number of shares of common stock beneficially owned by the Company's stockholders participating in such sale immediately prior to such sale) for the greatest consideration per share of capital stock and otherwise on the best terms by which any Company stockholder sells its shares of common stock (or common stock equivalent on an as-converted basis). The Company's failure to enforce the OOG's Tag-Along Right shall render the applicable Qualifying

Liquidation Event as null, void and unenforceable. OOG will decide whether it will participate in such sale within thirty (30) days from the OOG's receipt of full notice and information from the Company regarding such proposed sale. If the OOG does not respond within thirty (30) days from receipt of full notice and information, the proposed sale may continue without the OOG's participation.

8. Successors and Assigns. Subject to the restrictions on transfer described in Section 10 below, the rights and obligations of the Company and the OOG under this Note shall be binding upon and benefit the successors, assigns, heirs, administrators and transferees of the parties.

9. Waiver and Amendment. Any provision of this Note may be amended, waived or modified upon the written consent of the Company and OOG. Any amendment or waiver effected in accordance with this Section 9 shall be binding upon the Company, the OOG and each transferee of the Note.

10. Transfer of this Note. This Note may not be transferred in violation of any restrictive legend set forth hereon. Each new Note issued upon transfer of this Note shall bear a legend as to the applicable restrictions on transferability in order to ensure compliance with the Securities Act of 1933, as amended (the "Act"), unless in the opinion of counsel for the Company such legend is not required in order to ensure compliance with the Act. The Company may issue stop transfer instructions to its transfer agent in connection with such restrictions. Prior to presentation of this Note for registration of transfer, the Company shall treat the registered holder hereof as the owner and holder of this Note for the purpose of receiving all payments of principal and interest hereon and for all other purposes whatsoever, whether or not this Note shall be overdue and the Company shall not be affected by notice to the contrary.

11. Market Stand-off. The OOG hereby agrees that, during the period of duration specified by the Company and its underwriters, if any (not to exceed 180 days), following the effective date of a registration statement of the Company filed under the Act in connection with the Company's initial public offering, the OOG shall not, without the prior written consent of the underwriters and to the extent requested by the Company or any underwriter, directly or indirectly sell, offer to sell, contract to sell (including, without limitation, any short sale), grant any option to purchase, pledge, hypothecate or otherwise transfer or dispose of any securities of the Company held by it at any time during such period except those securities included in such registration. In order to enforce the foregoing covenant, the Company may impose stop-transfer instructions with respect to the securities of the OOG until the end of such period. The provisions of this Section 11 shall not be applicable unless all officers and directors and greater than 1% shareholders of the Company enter into similar agreements. Any release by the Company or an underwriter of any officer, director or greater than 1% shareholder of the Company from the above restrictions shall have no effect unless the OOG is released from such restrictions to the same extent.

12. Assignment by the Company. Neither this Note nor any of the rights, interests or obligations hereunder may be assigned, by operation of law or otherwise, in whole or in part, by the Company, without the prior written consent of the OOG.

13. Treatment of Note. To the extent permitted by generally accepted accounting principles, the Company will treat, account and report the Note as debt and not equity for accounting purposes and with respect to any returns filed with federal, state or local tax authorities.

14. Payment. Payment shall be made in lawful tender of the United States of America.

15. Expenses; Waivers. If action is instituted to collect this Note, the Company promises to pay all costs and expenses, including, without limitation, reasonable attorneys' fees and costs, incurred in connection with such action. The Company hereby waives notice of default, presentment or demand for

payment, protest or notice of nonpayment or dishonor and all other notices or demands relative to this instrument.

16. No Rights as Shareholder. This Note shall not entitle the OOG to any rights as a shareholder of the Company, except as otherwise specified herein.

17. Governing Law and Venue. This Note shall be governed by and construed in accordance with the laws of the State of Texas and the United States of America from time to time in effect, without regard to any otherwise applicable conflict of law rules or requirements. The Company and all endorsers, guarantors and sureties irrevocably agree that any action, claim, suit, litigation or other proceeding (collectively, "Litigation") arising out of or in any way relating to this Note, or the matters referred to therein, shall be commenced exclusively in the Travis County District Court or the United States District Court for the Western District of Texas, Austin Division, and hereby irrevocably and unconditionally consent to the exclusive jurisdiction of those courts for the purpose of prosecuting and/or defending such Litigation. The Company hereby waives and agrees not to assert by way of motion, as a defense, or otherwise, in any Litigation that (a) the Company is not personally subject to the jurisdiction of the above-named courts, (b) the Litigation is brought in an inconvenient forum or (c) the venue of the Litigation is improper.

18. Savings. No part of this Note, the Fund Agreement, or any agreement entered into in connection therewith, nor any charge or receipt by OOG, is supposed to permit OOG to impose interest or other amounts in excess of lawful amounts, and shall be automatically constrained by this provision. If an excess occurs, OOG will apply it as a credit or otherwise refund it and the rate or amount involved will automatically be reduced to the maximum lawful rate or amount. To the extent permitted by law, for purposes of determining OOG's compliance with law, OOG may calculate charges by amortizing, prorating, allocating and spreading. For purposes of determining maximum lawful rate under Texas law, the parties adopt the provisions applicable to commercial loans under Chapter 306 of the Texas Finance Code.

19. Separate Counsel. The Company acknowledges that it has been advised by the OOG to seek the advice of an attorney and an accountant in connection with this Note, the Fund Agreement, or any agreement entered into in connection therewith; and the Company has had the opportunity to seek the advice of an attorney and an accountant of its choice in connection with this Note, the Fund Agreement, and any agreement entered into in connection therewith.

20. Replacement. Upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Note and, in the case of any such loss, theft or destruction, upon delivery of an indemnity agreement reasonably satisfactory to the Company, or in the case of any such mutilation, upon surrender and cancellation of the mutilated Note, the Company shall execute and deliver, in lieu thereof, a new Note of like date and tenor.

21. Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall be a Saturday or a Sunday or a legal holiday in the State of Texas, then such action may be taken or such right may be exercised on the next succeeding day that is not such a day.

22. Proceeds. This Note, the securities issuable upon exercise of any Conversion, and all amounts of cash or other benefits earned or received by the OOG hereunder or by sale hereof, are held for and on behalf of the State of Texas. Any and all cash received by the OOG under or by sale of this Note or the securities issuable under any Conversion shall be deposited into the Texas Emerging Technology Fund in accordance with Chapter 490 of the Texas Government Code.

23. Severability. If any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions hereof shall not be in any way impaired, unless the provisions held invalid, illegal or unenforceable shall substantially impair the benefits of the remaining provisions hereof.

24. Further Assurances. The Company and the OOG shall execute such documents and perform such further acts (including, without limitation, obtaining any consents, exemptions, authorizations or other actions by, or giving any notices to, or making any filings with, any governmental authority or any other Person, and otherwise fulfilling, or causing the fulfillment of, the various obligations made herein), as may be reasonably required or desirable to carry out or to perform the provisions of this Note and to consummate and make effective as promptly as possible the transactions contemplated by this Note.

25. Survival. The warranties, representations and covenants contained in or made pursuant to this Note shall survive the execution and delivery of this Note and shall survive any breach, expiration or termination of the Fund Agreement. Specifically, the covenants set forth in Sections 4(i), 4(j), 4(k), 5 and 7 shall survive any Conversion of this Note.

26. No Impairment. So long as this Note is outstanding, the Company shall not, by amendment of its certificate of formation (or other formation document) or bylaws or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Company, but shall at all times in good faith assist in the carrying out of all the provisions of this Note and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the OOG hereunder against impairment.

27. Defined Terms. Any capitalized terms used but not defined herein shall have the meaning assigned to them in the Fund Agreement.

28. Waiver. Neither the failure by the Company or the OOG, in any one or more instances, to insist upon the complete and total observance or performance of any term or provision of this Note or the Fund Agreement, nor the failure of the Company or the OOG to exercise any right, privilege, or remedy conferred under this Note or the Fund Agreement or afforded by law, shall be construed as waiving any breach of such term, provision, or the right to exercise such right, privilege, or remedy thereafter. In addition, no delay on the part of either the Company or the OOG in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude other or further exercise thereof or the exercise of any other right or remedy.

29. Notice. All notices, requests, demands, and other communications shall be in writing and shall be deemed given and received (A) on the date of delivery when delivered by hand, (B) on the following business day when sent by confirmed simultaneous telecopy, (C) on the following business day when sent by receipted overnight courier, or (D) three (3) business days after deposit in the United States Mail when mailed by registered or certified mail, return receipt requested, first class postage prepaid. Notice shall conclusively be deemed to have been given when received. The current addresses for notice are as follows:

To OOG: Compliance and Oversight
ETF Compliance
Office of the Governor
P.O. Box 12878
Austin, TX 78711-2878

1100 San Jacinto
Austin, TX 78701

Fax: 512-936-0255

with a concurrent copy to:

ATTN: Emerging Technology Fund Award Program
General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

1100 San Jacinto
Austin, TX 78701

Fax: 512-463-1932

To the Company:

Attn: _____

Fax:

provided, however, that if any party shall have designated a different address by written notice to the other party, then to the last address so designated. The Company must provide notices to OOG via one of the above (A) – (D) listed methods. In addition, the OOG may provide written notice to the Company via any of the above (A) – (D) methods or via any Company electronic mail address of the Company’s Chief Executive Officer, President, Chief Financial Officer, any Vice President or other Company employee with the actual or apparent authority to transact business with the OOG.

Signature Page Follows.

IN WITNESS WHEREOF, the Company has caused this Note to be issued as of the date first written above.

_____, INC.

By: _____

Printed Name: _____

Title: _____

DRAFT

Exhibit A

Preferred Stock/Common Stock Redemption Provisions to be added to Company's Restated Certificate

1. Protective Covenants. The Company is a recipient of an award of money from the State of Texas Emerging Technology Fund (the "Award"), and in partial consideration therefor, agrees to strictly comply with the following covenants:

1.1 Guarantee of Commercialization in Texas. Except as set forth in Schedule 6.02 of the Award and Security Agreement or as approved in writing by the Office of the Governor, the Company agrees that any new or expanded commercialization or manufacturing of any real or intellectual product resulting from the Award shall be established in the State of Texas. New or expanded commercialization may include, but shall not be limited to, the occurrence of the following in the State of Texas: employment, capital expenditures, intellectual property development, manufacturing production, business expansion, development of supplier relationships, and university collaboration. In addition to the foregoing, at least eighty-five percent (85%) of the Company's employees and eighty-five percent (85%) of the Company's independent contractors shall be Persons whose principal place of residence is located in the State of Texas. Each calculation shall be made based on dollars spent on salary, bonuses, benefits and other amounts paid to, or on behalf of, employees or independent contractors, as the case may be. In addition, each determination shall be made on a per annum basis using an August 31st fiscal year end.

1.2 Principal Place of Business and Executive Headquarters in Texas. The Company agrees that it shall maintain its principal place of business and its principal executive offices headquartered in the State of Texas.

1.3 Use and Retention of Texas Suppliers. Except as set forth in Schedule 6.02 of the Award and Security Agreement or as approved in writing by the Office of the Governor, at least eighty-five percent (85%) (measured by dollars spent by the Company on a per annum basis) of the Company's suppliers and contractors shall be Persons whose principal place of business is in Texas.

1.4 Term of Protective Covenants. The Protective Covenants within 1.1 and 1.3 shall terminate on the earlier of the fifth anniversary of the Texas Emerging Technology Fund Award and Security Agreement ("Agreement") or upon the termination of the Agreement. The Protective Covenant within 1.2 shall remain in full effect as long as the Office of the Governor, on behalf of the State of Texas, owns any shares of the Company capital stock.

2. [Series ___-2] Redemption.

2.1 General. Following the Company's breach of a protective covenant set forth in ARTICLE [___], shares of Series [___-2] Preferred Stock¹ shall be redeemed by the Company at a price equal to the greater of (A) three times (3X) the Series [___-2] [Liquidation Preference] per share, plus all declared but unpaid dividends thereon, (B) three times (3X) the Fair Market Value (determined in the manner set forth below) of a single share of Series [___-2] Preferred Stock as of the date of the Company's receipt of the Redemption Request, or (C) three times (3X) the conversion price per share at which the Convertible Promissory Note issued by the Company in consideration for the Award was converted into Series [___-2] Preferred Stock (the "**Redemption Price**"), in a single payment occurring not more than thirty (30) days after receipt by the Company from the OOG, of written notice requesting redemption of

¹ Provisions should be adjusted accordingly if the OOG converts into the Company's Common Stock.

all shares of Series [__-2] Preferred Stock (the “**Redemption Request**”). Upon receipt of a Redemption Request, the Company shall apply all of its assets to any such redemption, and to no other corporate purpose, except to the extent prohibited by [Texas] law governing distributions to stockholders. For purposes of this Section []1, the Fair Market Value of a single share of Series [__-2] Preferred Stock shall be the per share price of the last Company offer and sale of preferred stock to a third party in a bona fide transaction. The date of such payment shall be referred to as the “**Redemption Date**”. If on the Redemption Date [Texas] law governing distributions to stockholders prevents the Company from redeeming all shares of Series [__-2] Preferred Stock to be redeemed, the Company shall ratably redeem the maximum number of shares that it may redeem consistent with such law, and shall redeem the remaining shares as soon as it may lawfully do so under such law.

2.2 Surrender of Certificates; Payment. On or before the applicable Redemption Date, the OOG shall surrender the certificate or certificates representing such shares (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit) to the Company, and thereupon the Redemption Price for such shares shall be payable to the order of the OOG. In the event less than all of the shares of Series [__-2] Preferred Stock represented by a certificate are redeemed, a new certificate representing the unredeemed shares of Series [__-2] Preferred Stock shall promptly be issued to the OOG.

2.3 Rights Subsequent to Redemption. If on the Redemption Date, the Redemption Price payable upon redemption of the shares of Series [__-2] Preferred Stock to be redeemed on the Redemption Date is paid or tendered for payment or deposited with an independent payment agent so as to be available therefor in a timely manner, then notwithstanding that the certificates evidencing any of the shares of Series [__-2] Preferred Stock so called for redemption shall not have been surrendered, dividends with respect to such shares of Series [__-2] Preferred Stock shall cease to accrue after such Redemption Date and all rights with respect to such shares shall forthwith after the Redemption Date terminate, except only the right of the OOG to receive the Redemption Price without interest upon surrender of its certificate or certificates therefor.

2.4 Superior to Other Redemption Rights. Following the breach of a Covenant in ARTICLE __, neither the Company nor any other stockholder may exercise any redemption or put rights, whether set forth in this Certificate or in another contractual arrangement, until such time as the OOG has been fully redeemed pursuant to this ARTICLE __, or alternatively, the OOG has waived its right of redemption in writing.

2.5 Additional Redemption Rights. The redemption rights set forth in this ARTICLE __ are in addition to (and not to the exclusion of) any other redemption rights set forth in this Certificate.