



EMPOWER
RF SYSTEMS, INC.

**CONFIDENTIALITY AND
NON-DISCLOSURE AGREEMENT**

This AGREEMENT made as of December 20, 2004 by and between Empower RF Systems Inc., a California corporation with its principal executive offices at 316 W. Florence Ave., Inglewood, CA 90301 ("FIRST PARTY"), and Nemko Canada with its principal offices in 303 River Road, Ottawa, Ontario K1V 1H2 CANADA. ("SECOND PARTY").

WITNESSETH THAT:

WHEREAS, the Parties hereto desire to consider a certain business transaction between them and in connection therewith will be required to provide each other with their confidential information; and

WHEREAS, the Parties hereto are willing to provide such information to the other for such purpose in accordance with the terms hereof;

NOW, THEREFORE, FIRST PARTY and SECOND PARTY do hereby mutually agree as follows:

1. "Confidential Information" shall mean all confidential or proprietary written, recorded or oral information or data (including without limitation, financial, business plans, research, developmental, engineering, manufacturing, technical, operating, performance, cost, and process information or data, know-how and plans) disclosed by one PARTY ("Disclosing Party") to the other PARTY ("Receiving Party") which is (a) disclosed by the Disclosing Party in writing and is marked **CONFIDENTIAL-DO NOT DISCLOSE** at the time of first disclosure to the Receiving Party, or which is disclosed (b) in any other manner and is identified as confidential and not to be disclosed at the time of first disclosure to the Receiving Party and is also summarized and designated **CONFIDENTIAL-DO NOT DISCLOSE** in a written memorandum delivered by the Disclosing Party to the Receiving Party within 30 days of such first disclosure.

2. Confidentiality and Non-Use. In consideration of a Disclosing Party's providing Confidential Information to a Receiving Party, Receiving Party agrees that it shall:

- a. Use Confidential Information only for the purpose of considering and completing the proposed business transaction or a similar transaction; and
- b. Protect Confidential Information by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use, dissemination or publication of the Confidential Information as Receiving Party uses to protect its own confidential information of a like nature.

3. Exceptions to the Confidentiality and Non-Use Obligations. The obligations imposed by Section 2 hereof shall not apply, or shall cease to apply, to any Confidential Information if or when, and to the extent that, such Confidential Information:

- a. Was known to Receiving Party or its parents, subsidiaries or affiliates prior to the receipt of the Confidential Information from Disclosing Party; or
- b. Was, or becomes through no breach of Receiving Party's obligations hereunder, known to the public; or

- c. Becomes known to Receiving Party or its parents, subsidiaries or affiliates from sources other than Disclosing Party under circumstances not involving any breach of any confidentiality obligation between such source and Disclosing Party; or
- d. Is independently developed by Receiving Party or its parents, subsidiaries or affiliates; or
- e. Is required to be disclosed by law, statute, rule, regulation, Court order or other legal process, or order of any government agency.

4. No Creation or Transfer of Rights in Confidential Information or Intellectual Property Hereunder. Nothing in this Agreement shall give either Party or any parents, subsidiaries or affiliates thereof any rights, title, license or interest whatsoever in or to the Confidential Information of the other Party (which shall remain at all times the property of the other Party) except for the purpose set out in this Agreement.

5. No Further Agreements Hereunder. Neither SECOND PARTY nor FIRST PARTY or any parent, subsidiary or affiliate thereof, shall be under any obligation to enter into any further agreements with the other signatory hereto or its parents, subsidiaries or affiliates of any nature whatsoever as a result of this Agreement. Each party hereto reserves the right, in its sole discretion, to decline to make, to retract or to reject at any time any proposal which has not yet become legally binding by execution of a written agreement between the parties with respect thereto with respect to any further agreements or business arrangements with the other party hereto, its parents, subsidiaries or affiliates and to terminate all further discussions and negotiations.

6. Employees. Independent of any other obligation hereunder, for a period during the term of this Agreement and ending one year after its termination as provided in 8. below, without the consent of the other party, neither party hereto shall hire, employ, or engage any person who, at the time of initial contact with such person, or agent or representative thereof regarding employment, hiring or engagement or possible employment, hiring or engagement, was an employee of the other party.

7. Effective Date. This Agreement shall be effective as of the date first above indicated, upon the completion of all signatures below, unless agreed otherwise by the parties in writing.

8. Termination; Duration of Obligations. This Agreement may be terminated by either party on 30 days prior written notice with respect to new disclosures and, unless sooner terminated by the parties hereto, shall terminate 1 year from the date hereof, provided, however, that the obligations not to use or disclose, and to return on request or destroy, Confidential Information already disclosed at the time of termination shall continue for 2 years thereafter, provided that at any time and from time to time prior to such termination, Disclosing Party may designate any of the Confidential Information provided hereunder by such Party as "trade secret" or "know-how" in nature, in which event the confidentiality and non-use obligations hereunder shall continue indefinitely until such time as Section 3 applies thereto.

9. Entire Agreement. This Agreement represents the entire understanding and agreement of the parties and supersedes all prior communications, agreements and understandings between the parties relating to the subject matter hereof.

10. Waivers; Amendments; Assignments; Counterparts. This Agreement may not be modified, amended or waived except by a written instrument duly executed by both parties. This Agreement may not be assigned by either party without the prior written consent of the other and shall be binding on, and inure to the benefit of, the respective successors of the parties thereto. This Agreement may be signed in duplicate originals, each of which shall constitute an original document.

11. Governing Law; Disputes. This Agreement is made subject to and shall be construed under the laws of the State of California. The parties agree that the state and federal courts situated in Los Angeles County in the State of California shall have exclusive jurisdiction to resolve any disputes with respect to this Agreement, with each party irrevocably consenting to the jurisdiction thereof for any actions, suits or proceedings arising out of or relating to this Agreement and each party irrevocably waiving its rights to jury trials with respect thereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their fully authorized representatives.

	NEMKO Canada		Empower RF Systems
By:	Sim Jagpal	By:	Christy Strahan
Signature:		Signature:	
Title:	General Manager	Title:	Inside Sales Manager
Date:	January 11, 2005	Date:	December 20, 2004