

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549**

FORM 8-K

CURRENT REPORT

**PURSUANT TO SECTION 13 OR 15(D) OF THE
SECURITIES EXCHANGE ACT OF 1934**

Date of report (Date of earliest event reported) September 21, 2012

Nexus Lighting, Inc.

(Exact Name of Registrant as Specified in Its Charter)

Delaware

(State or Other Jurisdiction of Incorporation)

0-23590

(Commission File Number)

59-3046866

(IRS Employer Identification No.)

124 Floyd Smith Drive, Suite 300, Charlotte, North Carolina

(Address of Principal Executive Offices)

28262

(Zip Code)

(704) 405-0416

(Registrant's Telephone Number, Including Area Code)

N/A

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01 Entry into a Material Definitive Agreement.

As previously reported, on September 12, 2012, Nexxus Lighting, Inc. (“Nexxus” or the “Company”) entered into an Investment Agreement (the “Investment Agreement”) with RVL 1 LLC (the “Investor”), an affiliate of Aston Capital, LLC. On September 25, 2012, the Company and the Investor closed the transactions contemplated by the Investment Agreement (the “Closing”), and the Company issued to the Investor 600,000 shares of newly-created Series B Convertible Preferred Stock, \$.001 par value per share (the “Preferred Stock”) in consideration of a cash payment of \$6 million (the “Investment”). The Preferred Stock is convertible into shares of the Company’s common stock, \$.001 par value per share (the “Common Stock”) at a conversion price per share equal to \$0.13, subject to certain anti-dilution adjustments.

Also, in connection with the Closing, on September 25, 2012, the Company and the Investor entered into a Registration Rights Agreement, whereby the Company granted the Investor certain demand and tag-along registration rights with respect to the shares of Common Stock issuable upon conversion of the Preferred Stock. The Registration Rights Agreement is attached hereto as Exhibit 10.1, and incorporated herein by reference.

A portion of the proceeds from the Investment were used in connection with the settlement of a lawsuit brought against the Company by Koninklijke Philips Electronics N.V. and Philips Solid-State Lighting Solutions, Inc. (collectively, “Philips”) on March 26, 2012, alleging that the Company’s Array and certain other products infringe certain of Philips’ patents for LED lighting. On September 25, 2012, the Company and Philips entered into a Settlement and Patent License Agreement whereby the Company received a license to use certain Philips’ patents for LED lighting in consideration of royalty payments.

In addition, as previously reported, on September 25, 2012, the Company closed the transactions contemplated by the termination and exchange agreement (the “Exchange Agreement”), whereby approximately \$2.5 million in indebtedness represented by promissory notes maturing in June 2013 was extinguished and exchanged for a total of \$880,000 in cash and 1,000,000 newly-issued shares of the Company’s Common Stock (the “Exchange”).

The terms of the Preferred Stock and the agreements we entered into in connection with the Investment and the Exchange are summarized in the Current Report on Form 8-K we filed with the Securities and Exchange Commission on September 17, 2012 (the “September 17 8-K”). The foregoing description of the Investment Agreement, the Exchange Agreement and the transactions contemplated thereby does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Investment Agreement and the Exchange Agreement attached as Exhibits 10.1 and 10.2, respectively, to the September 17 8-K, and incorporated herein by reference.

Item 1.02 Termination of a Material Definitive Agreement.

The disclosure under Item 1.01 is incorporated by reference in its entirety in this Item 1.02. In connection with the closing the Exchange, approximately \$2.5 million in indebtedness represented by existing promissory notes of the Company maturing in June 2013 were terminated.

Item 3.02 Unregistered Sales of Equity Securities.

The disclosure under Item 1.01 is incorporated by reference in its entirety in this Item 3.02. The Company issued and sold its securities in the Investment and the Exchange pursuant to an exemption from registration under Section 4(2) of the Securities Act of 1933, as amended (the "Securities Act") and/or Regulation D promulgated under the Securities Act.

Item 3.03 Material Modification to Rights of Security Holders.

The disclosure under Item 1.01 is incorporated by reference in its entirety in this Item 3.03. Pursuant to the Investment Agreement, the Company issued 600,000 shares of Preferred Stock, the terms of which are more fully described in the Certificate of Designations with respect to the Preferred Stock (the "Certificate of Designations").

The Preferred Stock will have a liquidation preference of \$10 per share. The Preferred Stock also will share ratably on an as-converted basis with the Company's Common Stock in the payment of dividends and distributions. In addition, the Company will be prohibited from taking certain actions specified in the Certificate of Designations without the consent of the holders of at least a majority of the then outstanding shares of Preferred Stock.

Initially, the Investor will have the right to appoint four members to the Company's board of directors (the "Board"), with the size of the Board not to exceed seven members. The Investor's right to appoint four directors will decline proportionately to take into account subsequent material reductions in the Investor's Preferred Stock ownership position in the Company. In connection with the Closing, all of the current members of the Company's Board of Directors have resigned, and the following seven persons were appointed to the Company's Board: Robert V. LaPenta, James A. DePalma, Robert V. LaPenta, Jr., Robert A. Basil, Jr., Stephen G. Virtue, Bill Ingram and Dennis McCarthy. Stephen G. Virtue, Bill Ingram and Dennis McCarthy will qualify and serve as "Independent Directors" under applicable NASDAQ rules.

The description of the Certificate of Designations is qualified in its entirety by reference to the full text of the Certificate of Designations, a copy of which is attached hereto as Exhibit 3.1, and incorporated by reference herein.

Item 5.01 Change in Control of the Registrant.

At Closing, the Investor acquired 600,000 shares of Preferred Stock in consideration of a cash payment of \$6 million, funded from cash on hand at Aston Capital, LLC. As a result of the Investment, the Investor has acquired control of the Company. After giving effect to the conversion of the Preferred Stock and the other transactions contemplated by the Investment Agreement, the Investor would own 46,153,846 shares, or approximately 73% of the Company's outstanding Common Stock. The Preferred Stock represents approximately 73% of the outstanding voting stock of the Company on an as-converted basis. The Investor is entitled to vote the Preferred Stock on an as-converted basis with the Company's Common Stock.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

In connection with the Closing of the Investment, all of the current members of the Company's Board of Directors have resigned. On September 25, 2012, Robert V. LaPenta, James A. DePalma, Robert V. LaPenta, Jr., Robert A. Basil, Jr., Stephen G. Virtue, Bill Ingram and Dennis McCarthy were appointed to serve on our Board as the Investor's designees. Messrs. LaPenta, DePalma, LaPenta, Jr. and Basil are affiliated with Aston Capital, LLC, a private investment company specializing in investments in secure military communication companies and companies with green technologies. Stephen G. Virtue, Bill Ingram and Dennis McCarthy will qualify and serve as "Independent Directors" under applicable NASDAQ rules. Messrs. McCarthy, Virtue and Ingram, our Independent Directors, will serve on the Audit Committee of our Board. Messrs. LaPenta, DePalma and Ingram will serve on the Compensation Committee of our Board.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

The disclosure under Item 3.03 is incorporated by reference in its entirety in this Item 5.03. On September 21, 2012, the Company filed the Certificate of Designations with the Secretary of State of the State of Delaware establishing the rights, preferences, privileges and restrictions applicable to the Preferred Stock. The Certificate of Designations became effective upon filing.

Item 8.01 Other Events.

The press release announcing the Closing of the Investment and the Exchange is attached hereto as Exhibit 99.1.

The press release announcing the settlement and patent license agreement between the Company and Philips is attached hereto as Exhibit 99.2.

Item 9.01 Financial Statements and Exhibits.**(d) Exhibits**

<u>Exhibit No.</u>	<u>Description</u>
3.1	Certificate of Designations, Preferences and Rights of the Series B Convertible Preferred Stock of Nexxus Lighting, Inc.
10.1	Registration Rights Agreement dated September 25, 2012
10.2	Investment Agreement dated September 12, 2012 (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, as filed with the Securities and Exchange Commission on September 17, 2012)
10.3	Exchange Agreement dated September 12, 2012 (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K, as filed with the Securities and Exchange Commission on September 17, 2012)
99.1	Press Release dated September 25, 2012 announcing the closing of the Investment
99.2	Press Release dated September 25, 2012 announcing the settlement and patent license agreement between the Company and Philips

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

September 25, 2012

NEXXUS LIGHTING, INC.

/s/ Gary R. Langford

Name: Gary R. Langford

Title: Chief Financial Officer

EXHIBIT INDEX

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**CERTIFICATE OF DESIGNATIONS, PREFERENCES
AND RIGHTS OF THE
SERIES B CONVERTIBLE PREFERRED STOCK
OF
NEXXUS LIGHTING, INC.**

Pursuant to Section 151 of the
Delaware General Corporation Law

Nexus Lighting, Inc. (the “**Corporation**”), a corporation organized and existing under the laws of the State of Delaware, hereby certifies that pursuant to the provisions of Section 151 of the Delaware General Corporation Law, its Board of Directors adopted the following resolutions, which resolutions remain in full force and effect as of the date hereof:

WHEREAS, the Board of Directors of the Corporation is authorized to fix by resolution the designation of preferred stock and the powers, preferences and relative participating, optional or other special rights and qualifications, limitations or restrictions thereof; and

WHEREAS, it is the desire of the Board of Directors of the Corporation, pursuant to its authority as aforesaid, to authorize and fix the terms of the preferred stock to be designated the Series B Convertible Preferred Stock of the Corporation and the number of shares constituting such preferred stock;

NOW, THEREFORE, BE IT RESOLVED, that the Corporation be, and hereby is, authorized to issue a new series of its preferred stock, par value \$0.001 per share, on the following terms and with the following designations, power, preferences and rights:

1. CERTAIN DEFINITIONS. Unless the context otherwise requires, when used herein the following terms shall have the meaning indicated.

“**Affiliate**” shall mean, in respect of any Person, any other Person that is directly or indirectly controlling, controlled by, or under common control with such Person or any of its Subsidiaries, and the term “**control**” (including the terms “controlled by” and “under common control with”) means having, directly or indirectly, the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities or by contract or otherwise.

“**Board**” shall mean the Board of Directors of the Corporation.

“**Business Combination**” shall mean (i) any reorganization, consolidation, merger, share exchange or similar business combination transaction involving the Corporation (or any Subsidiary) with any Person or (ii) the sale, assignment, conveyance, transfer, lease or other disposition by the Corporation (or any Subsidiary) of all or substantially all of its assets.

“**Business Day**” shall mean any day other than a Saturday, Sunday or a day on which the banks in New York, New York are authorized by law or executive order to be closed.

“**Common Stock**” shall mean shares of common stock, par value \$0.001, of the Corporation.

“**Common Stock Authorization Amendment**” shall mean an amendment to the Corporation’s Restated Certificate of Incorporation providing for the increase in the authorized shares of Common Stock from 40,000,000 shares to 120,000,000.

“**Common Stock Event**” shall mean at any time after the date of the original issuance of shares of Series B Preferred Stock, (i) the issue by the Corporation of additional shares of Common Stock as a dividend or other distribution on outstanding Common Stock, (ii) a subdivision of the outstanding shares of Common Stock into a greater number of shares of Common Stock, or (iii) a combination of the outstanding shares of Common Stock into a smaller number of shares of Common Stock.

“**Conversion Date**” has the meaning set forth in Section 7 hereof.

“**Conversion Price**” has the meaning set forth in Section 7 hereof.

“**Exchange Act**” shall mean the Securities Exchange Act of 1934, as amended, or any successor statute, and the rules and regulations promulgated thereunder.

“**Fair Market Value**” shall mean an amount equal to the per share closing price of the Common Stock on the NASDAQ (or if the Common Stock is not then traded on the NASDAQ, on a similar national securities exchange or national quotation system) for the relevant determination date or, if the relevant determination date is not a Trading Day, on the Trading Day immediately prior to the relevant determination date (as reported on the website of the NASDAQ, or, if not reported thereby, any other authoritative source).

“**Liquidation Preference**” has the meaning set forth in Section 5 hereof.

“**NASDAQ**” shall mean the NASDAQ Stock Market.

“**Parity Securities**” has the meaning set forth in Section 3 hereof.

“**Person**” shall mean an individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Exchange Act).

“**Rights or Options**” shall mean Convertible Securities, warrants, options or other rights to purchase or acquire shares of Common Stock or Convertible Securities.

“**Senior Securities**” has the meaning set forth in Section 3 hereof.

“**Series B Stated Value**” shall mean, with respect to each share of Series B Preferred Stock, Ten Dollars (\$10.00), which Series B Stated Value shall be subject to appropriate adjustment from time to time in the event of any stock dividend, stock split, reverse stock split, reclassification, stock combination or other recapitalization affecting the Series B Preferred Stock.

“**Subsidiary**” of a Person shall mean (i) a corporation, a majority of whose stock with voting power, under ordinary circumstances, to elect directors is at the time of determination, directly or indirectly, owned by such Person or by one or more Subsidiaries of such Person, or (ii) any other entity (other than a corporation) in which such Person or one or more Subsidiaries of such Person, directly or indirectly, at the date of determination thereof has at least a majority ownership interest.

“**Trading Day**” shall mean a day on which the NASDAQ, or if the Corporation’s shares of Common Stock cease to be quoted on the NASDAQ, the principal national securities exchange on which the Corporation’s securities are listed, is open for trading, and only includes those days that have a scheduled closing time of 4:00 p.m. (New York City time) or the then standard closing time for regular trading on the relevant exchange or trading system.

2. **NUMBER OF SHARES AND DESIGNATION.** One Million (1,000,000) shares of preferred stock of the Corporation shall constitute a series of preferred stock, par value \$0.001 per share, of the Corporation designated as Series B Convertible Preferred Stock (the “**Series B Preferred Stock**”). Each share of Series B Preferred Stock shall rank equally in all respects and shall be subject to the following provisions of this Certificate.

3. **RANK.** The Series B Preferred Stock shall, with respect to payment of dividends and rights (including as to the distribution of assets) upon liquidation, dissolution or winding up of the affairs of the Corporation (i) except to the extent otherwise provided herein rank on a parity with the Common Stock (the “**Parity Securities**”), and (ii) rank junior to each other class or series of equity securities of the Corporation, whether currently issued or issued in the future without violation of this Certificate, that by its terms ranks senior to the Series B Preferred Stock as to payment of dividends or rights upon liquidation, dissolution or winding up of the affairs of the Corporation (all of such equity securities are collectively referred to herein as the “**Senior Securities**”). The respective definitions of Parity Securities and Senior Securities shall also include any rights or options exercisable or exchangeable for or convertible into any of the Parity Securities or Senior Securities, as the case may be.

4. **DIVIDENDS.**

(a) Holders of shares of Series B Preferred Stock shall be entitled to participate equally and ratably with the holders of shares of Common Stock in all dividends and distributions paid (whether in the form of cash, securities, evidences of indebtedness, assets or otherwise, of the Corporation, any of its Subsidiaries or any other Person (or rights, options or warrants to subscribe for or acquire any of the foregoing)) on the shares of Common Stock as if immediately prior to each record date for the payment of dividends to the holders of shares of Common Stock, the shares of Series B Preferred Stock then outstanding were converted into shares of Common Stock (in the manner described in Section 7 below, but without regard to the limitations on conversion set forth in the third sentence of Section 7(b)(iii) below). Dividends or distributions payable pursuant to the preceding sentence shall be payable on the same date that such dividends or distributions are payable to holders of shares of Common Stock. Each such dividend or distribution shall be payable to the holders of record of shares of Series B Preferred Stock as they appear on the stock records of the Corporation at the close of business on the applicable record date, which shall be not more than sixty (60) days nor less than ten (10) days preceding the related dividend or distribution payment date, as shall be fixed by the Board.

(b) If there shall be any dividend or distribution, in which holders of Series B Preferred Stock shall be entitled to participate pursuant to this Certificate, which is in the form of Common Stock or rights, options or warrants to subscribe for or acquire Common Stock, then such dividend or distribution shall instead be made to such holder in the form of Series B Preferred Stock (with the number of shares of Series B Preferred Stock issuable in such dividend or distribution being equal to the number of shares of Series B Preferred Stock that would be convertible under Section 7 (but without regard to the limitations on conversion set forth in the third sentence of Section 7(b)(iii) below) into the number of shares of Common Stock that such holder would have received in such dividend or distribution, and, in the case of any such dividend or distribution that is in the form of rights, options or warrants to subscribe for or acquire Common Stock, a number of rights, options or warrants to subscribe for or acquire shares of Series B Preferred Stock (with (i) such number of shares of Series B Preferred Stock being equal to the number of shares of Series B Preferred Stock that would be convertible under Section 7 (but without regard to the limitations on conversion set forth in the third sentence of Section 7(b)(iii) below) into the number of shares of Common Stock that such rights, options or warrants would have covered had such rights, options or warrants been to subscribe for or acquire Common Stock and (ii) such other terms of the rights, options or warrants (including exercise price and other terms) being such that such rights, option or warrants have equivalent economic and other terms as the rights, options or warrants to subscribe for or acquire Common Stock).

5. **LIQUIDATION PREFERENCE.** In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Series B Preferred Stock then outstanding shall, with respect to each share of Series B Preferred Stock, be entitled to be paid in redemption of such share out of the assets of the Corporation available for distribution to its stockholders a liquidation preference equal to \$10.00 per share of Series B Preferred Stock, before any distribution is made to holders of shares of Common Stock (the “**Liquidation Preference**”). Neither a consolidation, merger, share exchange or similar transaction involving the Corporation and any other entity, nor a sale or transfer of all or any part of the Corporation’s assets for cash, securities or other property, shall be considered a liquidation, dissolution or winding up of the Corporation within the meaning of this Section 5.

6. **VOTING RIGHTS.**

(a) **Election of Directors.** For so long as the outstanding shares of Series B Preferred Stock, on an as-converted basis, represent the percentage (the “**Series B Preferred Stock Percentage**”) of the outstanding shares of Common Stock set forth below, after giving effect to the conversion into Common Stock of all outstanding shares of Series B Preferred Stock, the holders of record of the shares of Series B Preferred Stock, exclusively and as a separate class, shall be entitled to elect the number of directors of the Corporation (the “**Series B Directors**”) opposite such percentage.

<u>Series B Preferred Stock Percentage</u>	<u>Series B Director(s)</u>
Fifty percent (50%) or more	4
Thirty percent (30%) or more, but less than fifty percent (50%)	3
Twenty percent (20%) or more, but less than thirty percent (30%)	2
Five percent (5%) or more, but less than twenty percent (20%)	1

In the event that the size of the board of directors is increased in accordance with Section 6(b)(iii) below, the Corporation and the holders of record of the shares of Series B Preferred Stock shall adjust the Series B Preferred Stock Percentages and the corresponding number of Series B Directors as such parties shall determine to be appropriate. Any director elected as provided in the preceding sentence may be removed without cause by, and only by, the affirmative vote of the holders of record of the shares of Series B Preferred Stock, exclusively and as a separate class, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders. If the holders of shares of Series B Preferred Stock fail to elect a sufficient number of directors to fill all directorships for which they are entitled to elect directors, voting exclusively and as a separate class, pursuant to the first sentence of this Section 6(a), then any directorship not so filled shall remain vacant until such time as the holders of the Series B Preferred Stock elect a person to fill such directorship by vote or written consent in lieu of a meeting; and no such directorship may be filled by stockholders of the Corporation other than by the holders of record of the shares of Series B Preferred Stock, voting exclusively and as a separate class. The holders of record of the shares of Common Stock and of any other class or series of voting stock (including the Series B Preferred Stock), exclusively and voting together as a single class, shall be entitled to elect the balance of the total number of directors of the Corporation. At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the outstanding shares of the class or series entitled to elect such director shall constitute a quorum for the purpose of electing such director. Except as otherwise provided in this Section 6(a), a vacancy in any directorship filled by the holders of any class or series shall be filled only by vote or written consent in lieu of a meeting of the holders of such class or series or by any remaining director or directors elected by the holders of such class or series pursuant to this Section 6(a).

(b) Protective Provisions. Except as otherwise provided herein or as required by applicable law, the holders of Series B Preferred Stock shall be entitled to vote on all matters on which the holders of Common Stock shall be entitled to vote, in the same manner and with the same effect as the holders of Common Stock, voting together with the holders of Common Stock as a single class. For purposes of this Section 6, the holders of Series B Preferred Stock shall be given notice of any meeting of stockholders as to which the holders of Common Stock are given notice in accordance with the by-laws of the Corporation. As to any matter on which the holders of Series B Preferred Stock shall be entitled to vote in accordance with the first sentence of this Section 6(b), each holder of Series B Preferred Stock shall have a number of votes per share of Series B Preferred Stock held of record by such holder on the record date for the meeting of stockholders, if such matter is subject to a vote at a meeting of stockholders, or on the effective date of any written consent, if such matter is subject to a written consent of the stockholders without a meeting of stockholders, equal to the number of shares of Common Stock into which such share of Series B Preferred Stock is then convertible on such record date or effective date, as the case may be, in accordance with Section 7 hereof but without regard to the limitations on conversion set forth in the third sentence of Section 7(b)(iii) below.

As long as shares of Series B Preferred Stock are outstanding, the Corporation shall not, without the affirmative vote or written consent of at least a majority of the then outstanding shares of Series B Preferred Stock, directly or indirectly, take (and shall not permit any Subsidiary to take) any of the following actions or agree to take any of the following actions:

(i) amend, alter or repeal any of the provisions of the Corporation's Restated Certificate of Incorporation or Bylaws or this Certificate of Designations, Preferences and Rights, or in any way change the preferences, privileges, rights or powers with respect to the Series B Preferred Stock or reclassify any class of stock, including, without limitation, by way of merger or consolidation;

(ii) authorize, create, designate, issue or sell any (A) class or series of capital stock (including shares of treasury stock), (B) rights, options, warrants or other securities convertible into or exercisable or exchangeable for capital stock or (C) any debt security which by its terms is convertible into or exchangeable for any capital stock or has any other equity feature or any security that is a combination of debt and equity, which capital stock, in each case, is senior to or pari passu with the Series B Preferred Stock;

(iii) increase the size of the board of directors to greater than seven (7) members;

(iv) increase or decrease the number of authorized shares of any class of capital stock of the Corporation;

(v) agree to any restriction on the Corporation's ability to satisfy its obligations hereunder to holders of Series B Preferred Stock or the Corporation's ability to honor the exercise of any rights of the holders of the Series B Preferred Stock;

(vi) directly or indirectly declare or pay any dividend or make any distribution (whether in cash, shares of capital stock of the Corporation, or other property) on shares of capital stock of the Corporation, or redeem, purchase or otherwise acquire for value (including through an exchange), or set apart money or other property for any mandatory purchase or analogous fund for the redemption, purchase or acquisition of any shares of capital stock of the Corporation (except with respect to the repurchase of shares of Common Stock held by employees, officers or directors of the Corporation, which has been approved by the Board);

(vii) consummate (A) a Business Combination which results in the stockholders of the Corporation (or any Subsidiary) owning less than fifty percent (50%) of the outstanding capital stock of the surviving entity; (B) the issuance and/or sale by the Corporation (or any Subsidiary) in one or a series of related transactions of shares of its common stock (or securities convertible or exchangeable into or exercisable for shares of its common stock) constituting a majority of the shares of common stock outstanding immediately following such issuance (treating all securities convertible or exchangeable into or exercisable for shares of common stock as having been fully converted, exchanged and exercised); and (C) any other form of acquisition or business combination where the Corporation (or any Subsidiary) is the target of such acquisition and where a change in control occurs such that the Person(s) seeking to acquire the Corporation (or any Subsidiary) has the power to elect a majority of its board of directors as a result of the transaction (each such event an "**Acquisition**") or enter into an agreement with respect to an Acquisition;

(viii) materially change the nature or scope of the business of the Corporation (or any Subsidiary);

(ix) consummate or agree to make any sale, transfer, assignment, pledge, lease, license or similar transaction by which the Corporation (or any Subsidiary) grants on an exclusive basis any rights to any of the Corporation's (or any Subsidiary's) intellectual property;

(x) create, incur, assume or suffer to exist, any lien, charge or other encumbrance on any of its (or any Subsidiary's) properties or assets, other than liens of carriers, warehousemen, artisans, bailees, mechanics and materialmen incurred in the ordinary course of business securing sums not overdue;

(xi) approve the annual budget of the Corporation and/or any Subsidiary or any changes thereto;

(xii) incur any indebtedness for borrowed money (whether directly or indirectly through an Affiliate or otherwise) in excess of twenty-five thousand dollars (\$25,000) in one or a series of related transactions other than trade payables incurred in the ordinary course of business or indebtedness provided for in and consistent with the approved current annual budget;

(xiii) increase the compensation or benefits payable or to become payable to its directors or executive officers other than pursuant to the terms of any agreement as in effect prior to the date hereof;

(xiv) make any loans to its directors, officers or shareholders;

(xv) assume, endorse or become liable for or guaranty the obligations of any Person; or

(xvi) cancel any liability or debt owed to it, except for consideration equal to or exceeding the outstanding balance of such liability or debt, and in any event, in the ordinary course of business.

As to any of the matters set forth in clauses (i) - (xvi) above, each holder of Series B Preferred Stock shall have one vote for each share of Series B Preferred Stock held of record by such holder on the record date for the meeting of stockholders, if such matter is subject to a vote at a meeting of stockholders, or on the effective date of any written consent, if such matter is subject to a written consent of the stockholders without a meeting of stockholders.

7. OPTIONAL CONVERSION.

(a) Conversion upon Transfer. Subject to the terms and conditions of this Section 7 (including without limitation Section 7(b)(iii)), the holder of any share or shares of Series B Preferred Stock shall have the right, at its option at any time, to convert any such shares of Series B Preferred Stock into such number of fully paid and nonassessable shares of Common Stock as is obtained by: (i) multiplying the number of shares of Series B Preferred Stock to be converted by the

Series B Stated Value; and (ii) dividing the result obtained pursuant to clause (i) above by the Series B Conversion Price then in effect. The date of such conversion (the “**Conversion Date**”) shall be the date that such holder delivers written notice to the transfer agent for the Series B Preferred Stock (or at the principal offices of the Corporation if the Corporation serves as its own transfer agent), that such holder elects to convert such number of shares as is set forth in such notice. The “**Series B Conversion Price**” shall initially be Thirteen Cents (\$0.13), and shall be subject to adjustment as described in Section 7(c) hereof.

(b) Mechanics of Conversion.

(i) On the Conversion Date: (A) the Person in whose name or names any certificate or certificates for shares of Common Stock shall be issuable upon conversion shall be deemed to have become the holder of record of the shares of Common Stock represented thereby at such time, and (B) the shares of Series B Preferred Stock so converted shall no longer be deemed to be outstanding, and all rights of a holder with respect to such shares shall immediately terminate except the right to receive the Common Stock and other amounts payable pursuant to this Section 7. All shares of Common Stock delivered upon conversion of the Series B Preferred Stock will, upon delivery, be duly and validly authorized and issued, fully paid and nonassessable, free from all preemptive rights and free from all taxes, liens, security interests and charges (other than liens or charges created by or imposed upon the holder or taxes in respect of any transfer occurring contemporaneously therewith).

(ii) Holders of shares of Series B Preferred Stock at the close of business on the record date for any payment of a dividend in which shares of Series B Preferred Stock are to participate pursuant to Section 4 hereof shall be entitled to receive the dividend payable on such shares on the corresponding dividend payment date notwithstanding the conversion thereof following such dividend payment record date and prior to such dividend payment date, and a holder of shares of Series B Preferred Stock on a dividend payment record date whose shares of Series B Preferred Stock have been converted pursuant to Section 7(a) into shares of Common Stock on such dividend payment date will receive the dividend payable by the Corporation on such shares of Series B Preferred Stock if and when paid, and the converting holder need not include payment of the amount of such dividend upon conversion of shares of Series B Preferred Stock pursuant to Section 7(a).

(iii) From the date of this Certificate and until the filing of the Common Stock Authorization Amendment with the Secretary of State of the State of Delaware in accordance with the Investment Agreement, the Corporation will at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued Common Stock, solely for the purpose of effecting conversions of the Series B Preferred Stock, Nineteen Million Three Hundred Seventy Seven Thousand Eighty Six (19,377,086) of its authorized but unissued shares of Common Stock (as appropriately adjusted for any stock dividend, stock split, reverse stock split, reclassification, stock combination or other recapitalization occurring after the date hereof). From and after the filing of the Common Stock Authorization Amendment with the Secretary of State of the State of Delaware in accordance with the Investment Agreement, the Corporation will at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued Common Stock, solely for the purpose of effecting conversions of the Series B Preferred Stock, the aggregate number of shares of Common Stock issuable upon conversion of the Series B Preferred Stock (as if all shares of Series B Preferred Stock are so convertible). From the date of this Certificate and until

the filing of the Common Stock Authorization Amendment with the Secretary of State of the State of Delaware in accordance with the Investment Agreement, the holder of any share or shares of Series B Preferred Stock shall be entitled to convert, in the aggregate, only such number of shares of Series B Preferred Stock as shall be convertible into Nineteen Million Three Hundred Seventy Seven Thousand Eighty Six (19,377,086) of its authorized but unissued shares of Common Stock (as appropriately adjusted for any stock dividend, stock split, reverse stock split, reclassification, stock combination or other recapitalization occurring after the date hereof). The foregoing limitation shall not apply from and after the filing of the Common Stock Authorization Amendment with the Secretary of State of the State of Delaware in accordance with the Investment Agreement. The Corporation will procure, at its sole expense, the listing of all shares of Common Stock issuable upon conversion of Series B Preferred Stock, subject to issuance or notice of issuance, on the principal domestic stock exchange on which the Common Stock is then listed or traded. The Corporation will take all action as may be necessary to ensure that all shares of Common Stock issuable upon conversion of Series B Preferred Stock will be issued without violation of any applicable law or regulation or of any requirement of any securities exchange on which the shares of Common Stock are listed or traded.

(iv) Issuances of certificates for shares of Common Stock upon conversion of the Series B Preferred Stock shall be made without charge to the holder of shares of Series B Preferred Stock or any of its transferees for any issue or transfer tax or other incidental expense in respect of the issuance of such certificates, all of which taxes and expenses shall be paid by the Corporation.

(v) In connection with the conversion of any shares of Series B Preferred Stock, no fractions of shares of Common Stock shall be issued, but in lieu thereof the Corporation shall pay cash in respect of such fractional interest in an amount equal to such fractional interest multiplied by the Fair Market Value per share of Common Stock on the applicable Conversion Date.

(vi) The Corporation shall procure that each share of Common Stock issued as a result of conversion of Series B Preferred Stock shall be accompanied by any rights associated generally with each other share of Common Stock outstanding as of the applicable Conversion Date.

(c) Adjustments to Conversion Price. From and after the date of this Certificate, the Conversion Price shall be adjusted from time to time as follows:

(i) Common Stock Event. Upon the occurrence of a Common Stock Event, the Conversion Price in effect at the time of the record date for such dividend or distribution or the effective date of such subdivision, combination or reclassification shall be adjusted to the number obtained by multiplying the Conversion Price theretofore in effect by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such action, and the denominator of which shall be the number of shares of Common Stock outstanding immediately following such action.

(ii) Adjustments for Other Dividends and Distributions. If at any time or from time to time after the date of the original issuance of shares of Series B Preferred Stock, the Corporation pays a dividend or makes another distribution to the holders of the Common Stock

payable in securities of the Corporation, other than an event constituting a Common Stock Event then, in each such event, provision shall be made so that the holders of the Series B Preferred Stock shall receive upon conversion thereof, in addition to the number of shares of Common Stock receivable upon conversion thereof, the amount of securities of the Corporation which they would have received had their Series B Preferred Stock been converted into Common Stock on the date of such event (or such record date, as applicable) and had they thereafter, during the period from the date of such event (or such record date, as applicable) to and including the conversion date, retained such securities receivable by them as aforesaid during such period, subject to all other adjustments called for during such period under this Section 7 with respect to the rights of the holders of the Series B Preferred Stock or with respect to such other securities by their terms.

(iii) Adjustment for Reclassification, Exchange and Substitution. If at any time or from time to time after the date of the original issuance of shares of Series B Preferred Stock, the Common Stock issuable upon the conversion of the Series B Preferred Stock is changed into the same or a different number of shares of any class or classes of stock, whether by recapitalization, reclassification or otherwise (other than by a Common Stock Event or a Business Combination covered by Sections 7(c)(i) or 7(c)(iv) hereof), then in any such event each holder of Series B Preferred Stock shall have the right thereafter to receive the kind and amount of stock and other securities and property receivable upon such recapitalization, reclassification or other change by holders of the number of shares of Common Stock into which such shares of Series B Preferred Stock could have been converted (but without regard to the limitations on conversion set forth in the third sentence of Section 7(b)(iii) above) immediately prior to such recapitalization, reclassification or change, all subject to further adjustment as provided herein or with respect to such other securities or property by the terms thereof.

(iv) Business Combinations. In case of any Business Combination or reclassification of Common Stock (other than a reclassification of Common Stock covered by Section 7(c)(iii) hereof), lawful provision shall be made as part of the terms of such Business Combination or reclassification whereby the holder of each share of Series B Preferred Stock then outstanding shall have the right to convert into the kind and amount of securities, cash and other property receivable upon the Business Combination or reclassification by a holder of the number of shares of Common Stock of the Corporation into which a share of Series B Preferred Stock would have been convertible at the conversion rate described under this Section 7 immediately prior to the Business Combination or reclassification (but without regard to the limitations on conversion set forth in the third sentence of Section 7(b)(iii) above).

(d) Anti-Dilution Protection.

(i) No Adjustment of Conversion Price. No adjustment in the number of shares of Common Stock into which the shares of any Series B Preferred Stock is convertible shall be made with respect to such series, by adjustment in the applicable Conversion Price thereof, or by reason of issuance or deemed issuance of Additional Shares of Common Stock (as defined in Section 7(d)(iii)(A)): (A) unless the Effective Price of such Additional Shares (determined pursuant to Section 7(d)(iii)(E)) is less than the applicable Conversion Price in effect on the date of, and immediately prior to, the issue of such Additional Shares of Common Stock, or (B) if, prior to such issuance, the Corporation receives written consent from the holders of at least a majority of the then outstanding shares of such series agreeing that no such adjustment shall be made as the result of the issuance of Additional Shares of Common Stock.

(ii) Adjustment Formula. If at any time or from time to time after the date of the original issuance of shares of Series B Preferred Stock, the Corporation issues or sells, or is deemed by the provisions of this Section 7(d) to have issued or sold, Additional Shares of Common Stock, other than a Common Stock Event as provided in Section 7(c)(i), a dividend or distribution as provided in Section 7(c)(ii), a recapitalization, reclassification or other change as provided in Section 7(c)(iii), or a reorganization, merger or consolidation as provided in Section 7(c)(iv), for an Effective Price that is less than the Conversion Price in effect immediately prior to such issue or sale (or deemed issue or sale), then, and in each such case, the Conversion Price shall be reduced, as of the close of business on the date of such issue or sale to the price obtained by multiplying such Conversion Price by a fraction:

(A) The numerator of which shall be the sum of (1) the number of Common Stock Equivalents Outstanding (as defined in Section 7(d)(iii)(C)) immediately prior to such issue or sale of Additional Shares of Common Stock plus (2) the quotient obtained by dividing: (x) the Aggregate Consideration Received (as defined in Section 7(d)(iii)(B)) by the Corporation for the total number of Additional Shares of Common Stock so issued or sold (or deemed so issued and sold) by (y) the Conversion Price in effect immediately prior to such issue or sale; and

(B) The denominator of which shall be the sum of (1) the number of Common Stock Equivalents Outstanding immediately prior to such issue or sale plus (2) the number of Additional Shares of Common Stock so issued or sold (or deemed so issued and sold).

(iii) Certain Definitions. For the purpose of making any adjustment required under this Section 7(d):

(A) “**Additional Shares of Common Stock**” shall mean all shares of Common Stock issued by the Corporation, whether or not subsequently reacquired or retired by the Corporation, other than:

(1) shares of Common Stock issued or issuable upon conversion of the outstanding shares of the Series B Preferred Stock or as a dividend or distribution on the Series B Preferred Stock;

(2) any shares of Common Stock, or Rights or Options (as defined in clause (F) granted or issued hereafter to employees, officers or directors of, or contractors, consultants or advisers to, the Corporation or any Subsidiary pursuant to incentive agreements, stock purchase or stock option plans, stock bonuses or awards, warrants, contracts or other arrangements that are approved by the Board;

(3) any shares of the Corporation’s Common Stock or Preferred Stock, or Rights or Options issued, or issuable to parties that are (i) strategic partners investing in connection with a commercial relationship with the Corporation or (ii) providing the Corporation with equipment leases, real property leases, loans, credit lines, guaranties of indebtedness, cash price reductions or similar transactions, under arrangements, in each case, approved by the Board;

(4) shares of Common Stock or Preferred Stock issued

pursuant to the acquisition of another corporation or entity by the Corporation by consolidation, merger, purchase of all or substantially all of the assets, or other reorganization in which the Corporation acquires, in a single transaction or series of related transactions, all or substantially all of the assets of such other corporation or entity or fifty percent (50%) or more of the voting power of such other corporation or entity or fifty percent (50%) or more of the equity ownership of such other entity;

(5) shares of Common Stock or Preferred Stock issuable upon exercise of any options, warrants or rights to purchase any securities of the Corporation outstanding as of the date of filing of this Certificate of Designations, Preferences and Rights and any securities issuable upon the conversion thereof;

(6) any shares of Common Stock or Preferred Stock, or Rights or Options, issued or issuable hereafter that are (i) approved by the Board, and (ii) approved by the vote or written consent of the holders of a majority of the Series B Preferred Stock, as being excluded from the definition of "Additional Shares of Common Stock" under this Section 7(d)(iii)(A).

(B) The "**Aggregate Consideration Received**" by the Corporation for any issue or sale, or deemed issue or sale, of securities shall (1) to the extent it consists of cash, be computed at the gross amount of cash received by the Corporation before deduction of any underwriting or similar commissions, compensation or concessions paid or allowed by the Corporation in connection with such issue or sale and without deduction of any expenses payable by the Corporation; (2) to the extent it consists of property other than cash, be computed at the fair value of that property as determined in good faith by the Board; and (3) if Additional Shares of Common Stock, Convertible Securities or Rights or Options to purchase either Additional Shares of Common Stock or Convertible Securities are issued or sold together with other stock or securities or other assets of the Corporation for a consideration which covers both, be computed as the portion of the consideration so received that may be reasonably determined in good faith by the Board to be allocable to such Additional Shares of Common Stock, Convertible Securities or Rights or Options.

(C) The "**Common Stock Equivalents Outstanding**" shall mean the number of shares of Common Stock that is equal to the sum of (1) all shares of Common Stock of the Corporation that are issued and outstanding at the time in question, plus (2) all shares of Common Stock of the Corporation issuable upon conversion of all shares of Preferred Stock or other Convertible Securities that are issued and outstanding and may be converted at the time in question, plus (3) all shares of Common Stock of the Corporation that are issuable upon the exercise of Rights or Options that are outstanding and may be exercised at the time in question assuming the full conversion or exchange into Common Stock of all such Rights or Options that are Rights or Options to purchase or acquire Convertible Securities.

(D) The "**Convertible Securities**" shall mean stock or other securities convertible into or exchangeable for shares of Common Stock.

(E) The "**Effective Price**" of Additional Shares of Common Stock shall mean the quotient determined by dividing the total number of Additional Shares of Common Stock issued or sold, or deemed to have been issued or sold under this Section 7(d), by

the Corporation into the Aggregate Consideration Received, or deemed to have been received, by the Corporation under this Section 7(d), for the issue of such Additional Shares of Common Stock; and

(F) The “**Rights or Options**” shall mean warrants, options or other rights to purchase or acquire shares of Common Stock or Convertible Securities.

(iv) Deemed Issuances. For the purpose of making any adjustment to the Conversion Price of Series B Preferred Stock required under this Section 7(d), if the Corporation issues or sells any Rights or Options or Convertible Securities and if the Effective Price of the shares of Common Stock issuable upon exercise of such Rights or Options or the conversion or exchange of Convertible Securities (computed without reference to any additional or similar protective or antidilution clauses) is less than the Conversion Price then in effect for Series B Preferred Stock, then the Corporation shall be deemed to have issued, at the time of the issuance of such Rights, Options or Convertible Securities, that number of Additional Shares of Common Stock that is equal to the maximum number of shares of Common Stock issuable upon exercise or conversion of such Rights, Options or Convertible Securities upon their issuance and to have received, as the Aggregate Consideration Received for the issuance of such shares, an amount equal to the total amount of the consideration, if any, received by the Corporation for the issuance of such Rights or Options or Convertible Securities, plus, in the case of such Rights or Options, the minimum amounts of consideration, if any, payable to the Corporation upon the exercise in full of such Rights or Options, plus, in the case of Convertible Securities, the minimum amounts of consideration, if any, payable to the Corporation (other than by cancellation of liabilities or obligations evidenced by such Convertible Securities) upon the conversion or exchange thereof; provided that:

(A) if the minimum amounts of such consideration cannot be ascertained, but are a function of antidilution or similar protective clauses, then the Corporation shall be deemed to have received the minimum amounts of consideration without reference to such clauses;

(B) if the minimum amount of consideration payable to the Corporation upon the exercise of Rights or Options or the conversion or exchange of Convertible Securities is reduced over time or upon the occurrence or non-occurrence of specified events other than by reason of antidilution or similar protective adjustments, then the Effective Price shall be recalculated upon the occurrence or non-occurrence of such specified events using the figure to which such minimum amount of consideration is reduced; and

(C) if the minimum amount of consideration payable to the Corporation upon the exercise of such Rights or Options or the conversion or exchange of Convertible Securities is subsequently increased, then the Effective Price shall again be recalculated using the increased minimum amount of consideration payable to the Corporation upon the exercise of such Rights or Options or the conversion or exchange of such Convertible Securities.

No further adjustment of the Conversion Price, adjusted upon the issuance of such Rights or Options or Convertible Securities, shall be made as a result of the actual issuance of shares of Common Stock on the exercise of any such Rights or Options or the conversion or exchange of any such Convertible Securities. If any such Rights or Options or the conversion rights represented by

any such Convertible Securities shall expire without having been fully exercised, then the Conversion Price as adjusted upon the issuance of such Rights or Options or Convertible Securities shall be readjusted to the Conversion Price which would have been in effect had an adjustment been made on the basis that the only shares of Common Stock so issued were the shares of Common Stock, if any, that were actually issued or sold on the exercise of such Rights or Options or rights of conversion or exchange of such Convertible Securities, and such shares of Common Stock, if any, were issued or sold for the consideration actually received by the Corporation upon such exercise, plus the consideration, if any, actually received by the Corporation for the granting of all such Rights or Options, whether or not exercised, plus the consideration received for issuing or selling all such Convertible Securities actually converted or exchanged, plus the consideration, if any, actually received by the Corporation (other than by cancellation of liabilities or obligations evidenced by such Convertible Securities) on the conversion or exchange of such Convertible Securities, provided that such readjustment shall not apply to prior conversions of Series B Preferred Stock.

(e) Successive Adjustments. Successive adjustments in the Conversion Price shall be made, without duplication, whenever any event specified in Sections 7(c)(i), 7(c)(ii), 7(c)(iii), 7(c)(iv) or 7(d) hereof shall occur.

(f) Rounding of Calculations; Minimum Adjustments. All calculations under Section 7(c) or Section 7(d) shall be made to the nearest one-tenth (1/10th) of a cent. No adjustment in the Conversion Price is required if the amount of such adjustment would be less than \$0.01; provided, however, that any adjustments which by reason of this Section 7(f) are not required to be made will be carried forward and given effect in any subsequent adjustment.

(g) Adjustment for Unspecified Actions. If the Corporation takes any action affecting the Common Stock, other than an action described in Section 7(c) or Section 7(d), which in the opinion of the Board would materially adversely affect the conversion rights of the holders of shares of Series B Preferred Stock, the Conversion Price may be adjusted, to the extent permitted by law, in such manner and at such time, as the Board may determine in good faith to be equitable in the circumstances.

(h) Statement Regarding Adjustments. Whenever the Conversion Price shall be adjusted as provided in Section 7(c) or Section 7(d), the Corporation shall forthwith file, at the principal office of the Corporation, a statement showing in reasonable detail the facts requiring such adjustment and the Conversion Price that shall be in effect after such adjustment and the Corporation shall also cause a copy of such statement to be sent by mail, first class postage prepaid, to each holder of shares of Series B Preferred Stock at the address appearing in the Corporation's records.

(i) Notices. In the event that the Corporation shall give notice or make a public announcement to the holders of Common Stock of any action of the type described in Section 7(c) or Section 7(d) or in Section 4 or Section 5 hereof, the Corporation shall, at the time of such notice or announcement, and in the case of any action which would require the fixing of a record date, at least ten (10) days prior to such record date, give notice to the holders of shares of Series B Preferred Stock, in the manner set forth in Section 7(h), which notice shall specify the record date, if any, with respect to any such action and the approximate date on which such action is to take place. Such notice shall also set forth the facts with respect thereto as shall be reasonably necessary to indicate the effect on the Conversion Price and the number, kind or class of shares or other

securities or property which shall be deliverable upon conversion of the Series B Preferred Stock. All notices to the Corporation permitted hereunder shall be personally delivered or sent by first class mail, postage prepaid, addressed to its principal office located at 124 Floyd Smith Drive, Suite 300, Charlotte, North Carolina 28262, or to such other address at which its principal office is located and as to which notice thereof is similarly given to the holders of the Series B Preferred Stock at their addresses appearing on the books of the Corporation.

8. AMENDMENT. This Certificate of Designations, Preferences and Rights may only be amended with the prior written consent of at least a majority of the then outstanding shares of Series B Preferred Stock.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned has duly executed this Certificate on this 21st day of September, 2012.

NEXXUS LIGHTING, INC.

By: /s/ Michael A. Bauer

Michael A. Bauer, President

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REGISTRATION RIGHTS AGREEMENT

This Registration Rights Agreement (this “**Agreement**”) is made and entered into as of September 25, 2012, by and among Nexus Lighting, Inc. (the “**Company**”), a corporation organized under the laws of the State of Delaware, with its principal offices at 124 Floyd Smith Drive, Suite 300, Charlotte, North Carolina 28262, and RVL 1 LLC, a limited liability company organized under the laws of the state of Delaware, with its principal offices at 177 Broad Street, Stamford, Connecticut 06901 (“**RVL 1**” or the “**Purchaser**”). This Agreement is being entered into pursuant to the Investment Agreement dated as of September 12, 2012 between the Company and RVL 1 (the “**Investment Agreement**”).

The Company and the Purchaser hereby agree as follows:

1. Definitions.

Capitalized terms used and not otherwise defined herein shall have the meanings given such terms in the Investment Agreement. As used in this Agreement, the following terms shall have the following meanings:

“**Affiliate**” shall mean, in respect of any Person, any other Person that is directly or indirectly controlling, controlled by, or under common control with such Person, and the term “control” (including the terms “controlled by” and “under common control with”) means having, directly or indirectly, the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities or by contract or otherwise.

“**Board**” or “**Board of Directors**” shall mean the board of directors of the Company.

“**Business Day**” shall mean any day other than a Saturday, Sunday or a day on which the banks in New York, New York are authorized by law or executive order to be closed.

“**Closing Date**” shall mean the date of the closing of the purchase and sale of the Shares pursuant to the Investment Agreement.

“**Commission**” shall mean the Securities and Exchange Commission.

“**Common Stock**” shall mean the Company’s common stock, par value \$0.001 per share.

“**Company Indemnitees**” shall have the meaning set forth in Section 5(b).

“**Effective Date**” shall mean, with respect to the Registration Statement, the earlier of the date which is five (5) Business Days after the date on which the Commission informs the Company (i) that the Commission will not review the Registration Statement or (ii) that the Company is permitted by the Commission to accelerate the effectiveness of the Registration Statement.

“**Effective Period**” shall have the meaning set forth in Section 2(a).

“Exchange Act” shall mean the Securities Exchange Act of 1934, as amended, together with the rules and regulations promulgated thereunder.

“Excluded Registration” shall mean (i) a registration relating to the sale of securities to employees of the Company or a subsidiary thereof pursuant to a stock option, stock purchase, or similar plan; (ii) a registration relating to an SEC Rule 145 transaction; or (iii) a registration on Form S-8 or any similar successor form thereto.

“Filing Date” shall mean the 45th day following the receipt by the Company of the written request pursuant to Section 2(a).

“Holder” or **“Holders”** shall mean the holder or holders, as the case may be, from time to time of Registrable Securities.

“Holder Indemnitees” shall have the meaning set forth in Section 5(a).

“Indemnitees” shall have the meaning set forth in Section 5(c).

“Person” shall mean an individual or a corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or political subdivision thereof) or other entity of any kind.

“Proceeding” shall mean an action, claim, suit, investigation or proceeding (including, without limitation, an investigation or partial proceeding, such as a deposition), whether commenced or threatened.

“Prospectus” shall mean the prospectus included in the Registration Statement (including, without limitation, a prospectus that includes any information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A promulgated under the Securities Act), as amended or supplemented by any prospectus supplement, with respect to the terms of the offering of any portion of the Registrable Securities covered by the Registration Statement, and all other amendments and supplements to such prospectus, including post-effective amendments, and all material incorporated by reference in such prospectus.

“Registrable Securities” shall mean (i) the shares of Common Stock issuable or issued upon conversion of the Preferred Stock, and (ii) any other shares of Common Stock that Purchaser may hereafter acquire, provided, however, that such securities shall no longer be deemed Registrable Securities if (x) such shares have been resold or otherwise transferred pursuant to a Registration Statement that has been declared effective by the SEC; (y) such shares are sold in compliance with Rule 144, or (z) such shares have ceased to be outstanding (whether as a result of redemption, repurchase, cancellation or otherwise).

“Registration Request” shall have the meaning set forth in Section 2(a).

“Registration Statement” shall mean any registration statement contemplated by Section 2, including (in each case) the Prospectus, amendments and supplements to such registration statement or Prospectus, including pre- and post-effective amendments, all exhibits thereto, and all material incorporated by reference in such registration statement.

“**Rule 144**” shall mean Rule 144 promulgated by the Commission pursuant to the Securities Act, as such rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such rule.

“**Rule 415**” shall mean Rule 415 promulgated by the Commission pursuant to the Securities Act, as such rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such rule.

“**Securities Act**” shall mean the Securities Act of 1933, as amended, together with the rules and regulations promulgated thereunder.

“**Selling Expenses**” shall mean all underwriting discounts, selling commissions, and stock transfer taxes applicable to the sale of Registrable Securities, and fees and disbursements of counsel for any Holder, except for the fees and disbursements of the Selling Holder Counsel borne and paid by the Company as provided in Section 4.

“**Violation**” shall have the meaning set forth in Section 5(a).

2. Registration Rights.

(a) Request for Resale Registration. If the Company shall receive at any time after the date of this Agreement, a written request (“**Registration Request**”) from one or more Holders that the Company file a registration statement under the Securities Act with respect to Registrable Securities of such Holders having an anticipated aggregate offering price, net of Selling Expenses, of at least One Million Dollars (\$1,000,000), then the Company shall prepare and file with the Commission a Registration Statement covering the resale of such Registrable Securities as would permit or facilitate the sale and distribution of all such Registrable Securities in the manner reasonably requested by the Holders. The Registration Statement shall be on Form S-3 (except if the Company is not then eligible to register for resale the Registrable Securities on Form S-3, in which case such registration shall be on another appropriate form in accordance with the Securities Act and the rules promulgated thereunder). The Company shall (i) not permit any securities other than the Registrable Securities to be included in the Registration Statement and (ii) use its reasonable best efforts to cause the Registration Statement to be declared effective under the Securities Act as promptly as possible after the filing thereof, but in any event within 120 days after the date of the Registration Request (180 days if the Registration Statement is reviewed by the Commission with respect to the availability of Rule 415), and to keep such Registration Statement continuously effective under the Securities Act not exceeding the earlier of (x) one year from the Effective Date, (y) the date when all Registrable Securities covered by such Registration Statement have been sold, or (y) the date on which the Registrable Securities may be sold without any restriction pursuant to Rule 144(k) as determined by the counsel to the Company pursuant to a written opinion letter addressed to the Company’s transfer agent to such effect (the “**Effective Period**”).

(b) Company Registration. If the Company proposes to register (including, for this purpose, a registration effected by the Company for stockholders other than the Holders) any of

its Common Stock under the Securities Act in connection with the public offering of such securities solely for cash (other than in an Excluded Registration), the Company shall, at such time, promptly give each Holder notice of such registration. Upon the written request of each Holder given to the Company within twenty (20) days after such notice is given by the Company, the Company shall cause to be registered all of the Registrable Securities that each such Holder has requested to be included in such registration. The Company shall have the right to terminate or withdraw any registration initiated by it under this Section 2(b) before the effective date of such registration, whether or not any Holder has elected to include Registrable Securities in such registration. The expenses of such withdrawn registration shall be borne by the Company in accordance with Section 4.

3. Registration Procedures. In connection with the Company's registration obligations hereunder:

(a) With respect to a Registration Request pursuant to Section 2(a), the Company shall prepare and file with the Commission on or prior to the Filing Date with respect to a Registration Request under Section 2(a), a Registration Statement on Form S-3 (or if the Company is not then eligible to register for resale the Registrable Securities on Form S-3 such registration shall be on another appropriate form in accordance with the Securities Act and the rules and regulations promulgated thereunder) covering the resale to the public of the Registrable Securities, and use its reasonable best efforts to cause the Registration Statement to become effective and remain effective as provided herein.

(b) The Company shall prepare and file with the Commission such amendments, including post-effective amendments, to the Registration Statement as may be necessary to keep the Registration Statement continuously effective as to the applicable Registrable Securities for the Effective Period and prepare and file with the Commission such additional Registration Statements, if necessary, in order to register for resale under the Securities Act all of the Registrable Securities; (i) cause the related Prospectus to be amended or supplemented by any required Prospectus supplement, and as so supplemented or amended to be filed pursuant to Rule 424 (or any similar provisions then in force) promulgated under the Securities Act; (ii) respond promptly to any comments received from the Commission with respect to the Registration Statement or any amendment thereto and promptly provide the Holders true and complete copies of all correspondence from and to the Commission relating to the Registration Statement; and (iii) comply in all material respects with the provisions of the Securities Act and the Exchange Act with respect to the disposition of all Registrable Securities covered by the Registration Statement during the applicable period in accordance with the intended methods of disposition by the Holders thereof set forth in the Registration Statement as so amended or in such Prospectus as so supplemented.

(c) The Company shall promptly notify the Holders of Registrable Securities (i)(A) when a Prospectus or any Prospectus supplement or post-effective amendment to the Registration Statement is filed; (B) when the Commission notifies the Company whether there will be a "review" of such Registration Statement and whenever the Commission comments in writing on such Registration Statement and (C) with respect to the Registration Statement or any post-effective amendment, when the same has become effective; (ii) of any request by the Commission or any other Federal or state governmental authority for amendments or

supplements to the Registration Statement or Prospectus or for additional information; (iii) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement covering any or all of the Registrable Securities or the initiation of any Proceedings for that purpose; (iv) of the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Registrable Securities for sale in any jurisdiction, or the initiation or threatening of any Proceeding for such purpose; and (v) of the occurrence of any event of which the Company becomes aware that makes any statement made in the Registration Statement or Prospectus or any document incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires any revisions to the Registration Statement, Prospectus or other documents so that, in the case of the Registration Statement or the Prospectus, as the case may be, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(d) The Company shall use its reasonable best efforts to avoid the issuance of, or, if issued, obtain the withdrawal of, (i) any order suspending the effectiveness of the Registration Statement or (ii) any suspension of the qualification (or exemption from qualification) of any of the Registrable Securities for sale in any United States jurisdiction, at the earliest practicable moment.

(e) If requested by the Holders of a majority of the Registrable Securities, the Company shall (i) promptly incorporate in a Prospectus supplement or post-effective amendment to the Registration Statement such information as the Company reasonably agrees should be included therein and (ii) make all required filings of such Prospectus supplement or such post-effective amendment as soon as reasonably practicable after the Company has received notification of the matters to be incorporated in such Prospectus supplement or post-effective amendment.

(f) The Company shall furnish to each Holder, without charge and upon request, at least one conformed copy of each Registration Statement and each amendment thereto, including financial statements and schedules, and, to the extent requested by such Person, all documents incorporated or deemed to be incorporated therein by reference, and all exhibits (including those previously furnished or incorporated by reference) promptly after the filing of such documents with the Commission.

(g) The Company shall promptly deliver to each Holder, without charge, as many copies of the Prospectus or Prospectuses (including each form of prospectus) and each amendment or supplement thereto as such Persons may reasonably request; and the Company hereby consents to the use of such Prospectus and each amendment or supplement thereto by each of the selling Holders in connection with the offering and sale of the Registrable Securities covered by such Prospectus and any amendment or supplement thereto.

(h) Prior to any public offering of Registrable Securities, the Company shall use its reasonable best efforts to register or qualify or cooperate with the selling Holders in connection with the registration or qualification (or exemption from such registration or qualification) of such Registrable Securities for offer and sale under the securities or blue sky laws of such

jurisdictions within the United States as any Holder reasonably requests in writing, to keep each such registration or qualification (or exemption therefrom) effective during the Effective Period and to do any and all other acts or things necessary or advisable to enable the disposition in such jurisdictions of the Registrable Securities covered by a Registration Statement; provided, however, the Company shall in no event be required to (x) qualify to do business in any state where it is not then qualified or (y) take any action that would subject it to tax or to the general service of process in any such state where it is not then subject.

(i) The Company shall, in the case of an underwritten offering, furnish, at the request of any Holder requesting registration of Registrable Securities pursuant to Section 2, on the date that such shares of Registrable Securities are delivered to the underwriters for sale pursuant to such registration (1) an opinion, dated such date, of the independent counsel representing the Company for the purposes of such registration, addressed to the underwriters, in customary form and covering matters of the type customarily covered in such legal opinions; and (2) a comfort letter dated such date, from the independent certified public accountants of Company, addressed to the underwriters, in a customary form and covering matters of the type customarily covered by such comfort letters and as the underwriters shall reasonably request;

(j) The Company shall enter into customary agreements (including an underwriting agreement in customary form) and take such other actions as are reasonably required in order to expedite or facilitate the disposition of such Registrable Securities; and

(k) The Company shall cooperate with the Holders to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold pursuant to a Registration Statement, and to enable such Registrable Securities to be in such denominations and registered in such names as any Holder may reasonably request.

(l) Upon the occurrence of any event contemplated by Section 3(c)(v), the Company shall promptly prepare a supplement or amendment, including a post-effective amendment, to the Registration Statement or a supplement to the related Prospectus or any document incorporated or deemed to be incorporated therein by reference, and file any other required document so that, as thereafter delivered, neither the Registration Statement nor such Prospectus will contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(m) The Company shall use its reasonable best efforts to cause all Registrable Securities relating to the Registration Statement to be listed on the NASDAQ Stock Market or any other securities exchange, quotation system or market, if any, on which similar securities issued by the Company are then listed or traded as and when required pursuant to the Investment Agreement.

(n) The Company may require each selling Holder to furnish to the Company information regarding such Holder and the distribution of such Registrable Securities as is required by law to be disclosed in the Registration Statement, and the Company may exclude from such registration the Registrable Securities of any such Holder who fails to furnish such information within fifteen (15) days after receiving a written request from the Company for such information.

(o) Each Holder covenants and agrees that (i) it will not sell any Registrable Securities under the Registration Statement until it has received copies of the Prospectus as then amended or supplemented as contemplated in Section 3(g) and notice from the Company that such Registration Statement and any post-effective amendments thereto have become effective as contemplated by Section 3(c) and (ii) it and its officers, directors or Affiliates, if any, will comply with the prospectus delivery requirements of the Securities Act as applicable to them in connection with sales of Registrable Securities pursuant to the Registration Statement.

(p) Each Holder agrees by its acquisition of such Registrable Securities that, upon receipt of a notice from the Company of the occurrence of any event of the kind described in Section 3(c)(ii), 3(c)(iii), 3(c)(iv), 3(c)(v) or 3(q), such Holder will forthwith discontinue disposition of such Registrable Securities under the Registration Statement until such Holder's receipt of the copies of the supplemented Prospectus and/or amended Registration Statement contemplated by Section 3(l), or until it is advised in writing by the Company that the use of the applicable Prospectus may be resumed, and, in either case, has received copies of any additional or supplemental filings that are incorporated or deemed to be incorporated by reference in such Prospectus or Registration Statement.

(q) If (i) there is material non-public information regarding the Company which the Board reasonably and in good faith determines not to be in the Company's best interest to disclose and which the Company is not otherwise required to disclose, or (ii) there is a significant business opportunity (including, but not limited to, the acquisition or disposition of assets (other than in the ordinary course of business) or any merger, consolidation, tender offer or other similar transaction) available to the Company which the Board reasonably determines not to be in the Company's best interest to disclose, then the Company may postpone or suspend filing or effectiveness of a Registration Statement for a period not to exceed ninety (90) consecutive days, provided that the Company may not postpone or suspend its obligation under this Section 3(q) for more than one hundred and twenty (120) days in the aggregate during any twelve month period.

4. Registration Expenses. All reasonable fees and expenses incident to the performance of or compliance with this Agreement by the Company (excluding underwriters' discounts and commissions), except as and to the extent specified in this Section 4, shall be borne by the Company whether or not the Registration Statement is filed or becomes effective and whether or not any Registrable Securities are sold pursuant to the Registration Statement. The fees and expenses referred to in the foregoing sentence shall include, without limitation, (i) all registration and filing fees (including, without limitation, fees and expenses (A) with respect to filings required to be made with the OTC Bulletin Board and each other securities exchange or market on which Registrable Securities are required hereunder to be listed, (B) with respect to filings required to be made with the National Association of Securities Dealers, Inc. and the NASD Regulation, Inc. and (C) in compliance with state securities or blue sky laws), (ii) printing expenses (including, without limitation, expenses of printing certificates for Registrable Securities and of printing prospectuses if the printing of prospectuses is requested by the holders of a majority of the Registrable Securities included in the Registration Statement), (iii)

messenger, telephone and delivery expenses, (iv) fees and disbursements of counsel for the Company, (v) reasonable fees and disbursements of one counsel for the selling Holders (“**Selling Holder Counsel**”), (vi) Securities Act liability insurance, if the Company so desires such insurance, and (vii) fees and expenses of all other Persons retained by the Company in connection with the consummation of the transactions contemplated by this Agreement, including, without limitation, the Company’s independent public accountants. In addition, the Company shall be responsible for all of its internal expenses incurred in connection with the consummation of the transactions contemplated by this Agreement (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), the expense of any annual audit, the fees and expenses incurred in connection with the listing of the Registrable Securities on any securities exchange as required hereunder. All Selling Expenses relating to Registrable Securities registered pursuant to Section 2 shall be borne and paid by the Holders pro rata on the basis of the number of Registrable Securities registered on their behalf.

5. Indemnification.

(a) The Company shall indemnify and hold harmless each selling Holder, the officers, directors, partners, agents and employees of each selling Holder, any underwriter (as defined in the Securities Act) for such Holder and each Person, if any, who controls such selling Holder or underwriter within the meaning of the Securities Act or the Exchange Act and their respective agents (collectively, the “**Holder Indemnitees**”), against any losses, claims, damages or liabilities (joint or several) to which they or any of them may become subject under the Securities Act, the Exchange Act or any other federal or state law, rule or regulation, including any amount paid in settlement of any litigation, commenced or threatened, and to reimburse them for any reasonable legal or other expenses incurred by them in connection therewith, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon (A) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto; (B) any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading; or (C) any violation or alleged violation by the Company of the Securities Act, the Exchange Act, any state securities law or any rule or regulation promulgated under the Securities Act, the Exchange Act or any state securities law in connection with any matter relating to the Registration Statement (each, a “**Violation**”); provided, however, the indemnity agreement contained in this Section 5(a) shall not (i) apply to any loss, claim, damage, liability or action arising out of, or based upon, a Violation which occurs in reliance upon and in conformity with written information furnished by any Holder expressly for use in connection with such registration; or (ii) in the case of a sale directly by a Holder (including a sale of such Registrable Securities through any underwriter retained by such Holder engaging in a distribution solely on behalf of such Holder), inure to the benefit of any Holder Indemnitee to the extent that any such loss, claim, damage, liability or action results from or is based upon an untrue statement or alleged untrue statement or omission or alleged omission that was contained in a preliminary prospectus and corrected in a final or amended prospectus, and such Holder, having previously been provided with copies of such final or amended prospectus by Company, failed to deliver a copy of the final or amended prospectus at or prior to the confirmation of the sale of the Registrable Securities to the Person asserting any such loss, claim, damage or liability in any case in which such delivery is required by the Securities Act.

(b) Each Holder shall indemnify and hold harmless the Company, each of its directors, each of its officers who has signed the Registration Statement, each Person, if any, who controls the Company within the meaning of the Securities Act or the Exchange Act, each agent and any underwriter for the Company, and any other selling Holder or other stockholder selling securities in such Registration Statement or any of its directors, officers, partners, agents or employees or any Person who controls such selling Holder or such other stockholder or such underwriter (collectively, the “**Company Indemnitees**”) against any losses, claims, damages or liabilities (joint or several) to which any Company Indemnitee may become subject under the Securities Act, the Exchange Act or other federal or state law or regulation, including any amount paid in settlement of any litigation, commenced or threatened, and to reimburse them for any reasonable legal or other expenses incurred by them in connection therewith, insofar as such losses, claims, damages or liabilities (or actions in respect thereto) arise out of or are based upon any Violation, in each case to the extent (and only to the extent) that (i) such Violation occurs in reliance upon and in conformity with written information furnished by or on behalf of such selling Holder expressly for use in connection with such registration and (ii) only in an amount not exceeding the net proceeds received by such Holder with respect to securities sold pursuant to such Registration Statement; provided, however, that the indemnity agreement contained in this Section 5(b) shall not, in the case of a sale directly by the Company of its securities (including a sale of such securities through any underwriter retained by the Company to engage in a distribution solely on behalf of the Company), inure to the benefit of any Person to the extent that any such loss, claim, damage, liability or action results from an untrue statement or alleged untrue statement or omission or alleged omission that was contained in a preliminary prospectus and corrected in a final or amended prospectus, and the Company failed to deliver a copy of the final or amended prospectus at or prior to the confirmation of the sale of the securities to the Person asserting any such loss, claim, damage or liability in any case in which such delivery is required by the Securities Act.

(c) Promptly after receipt by any Company Indemnitee or Holder Indemnitee (collectively, the “**Indemnitees**”) under this Section 5 of notice of the commencement of any action (including any governmental action), such Indemnitee will, if a claim in respect thereof is to be made against any indemnifying party under this Section 5, deliver to the indemnifying party a written notice of the commencement thereof and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume and control the defense thereof with counsel mutually satisfactory to the parties; provided, however, that such Indemnitee shall have the right to retain its own counsel, with the fees and expenses to be paid by the indemnifying party, if representation of such Indemnitee by the counsel retained by the indemnifying party would be inappropriate due to actual or potential differing interests, as reasonably determined by either party, between such Indemnitee and any other party represented by such counsel in such proceeding. In no event shall the Indemnitees be entitled to more than one firm of counsel at the expense of the indemnifying party. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action, if materially prejudicial to its ability to defend such action, shall relieve such indemnifying party of any liability to the Indemnitee under this Section 5 to the extent of such prejudice, but the omission to so deliver

written notice to the indemnifying party will not relieve it of any liability that it may have to such Indemnitee otherwise than under this Section 5. If the indemnifying party advises an Indemnitee that it will contest a claim for indemnification hereunder, or fails, within thirty (30) days of receipt of any indemnification notice to notify, in writing, such Indemnitee of its election to defend, settle or compromise, at its sole cost and expense, any action, proceeding or claim (or discontinues its defense at any time after it commences such defense), then the Indemnitee may, at its option, defend, settle or otherwise compromise or pay such action or claim in each case at the indemnifying party's expense. In any event, unless and until the indemnifying party elects in writing to assume and does so assume the defense of any such claim, proceeding or action, the Indemnitee's reasonable costs and expenses arising out of the defense, settlement or compromise of any such action, claim or proceeding shall be losses subject to indemnification hereunder. The Indemnitee shall cooperate fully with the indemnifying party in connection with any negotiation or defense of any such action or claim by the indemnifying party and shall furnish to the indemnifying party all information reasonably available to the Indemnitee that relates to such action or claim. The indemnifying party shall keep the Indemnitee fully informed at all times as to the status of the defense or any settlement negotiations with respect thereto. If the indemnifying party elects not to defend any such action or claim, the Indemnitee party shall keep the indemnifying party informed at all times as to the status of the defense; provided, however, that the failure to keep the indemnifying party so informed shall not affect the obligations of the indemnifying party hereunder. No indemnifying party shall be liable for any settlement of any action, claim or proceeding effected without its written consent; provided, however, that the indemnifying party shall not unreasonably withhold, delay or condition its consent. No indemnifying party shall, without the written consent of the Indemnitee, consent to entry of any judgment or enter into any settlement that (i) does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnitee of a general written release from all liability with respect to such claim or litigation or (ii) contains an admission of guilt on the part of the Indemnitee.

(d) The obligations of the Company and the Holders under this Section 5 shall survive the completion of any offering of Registrable Securities in a Registration Statement whether under Section 2 or otherwise.

(e) If the indemnification provided for in this Section 5 is unavailable to a party that would have been an Indemnitee under this Section 5 in respect of any losses, claims, damages or liabilities (or actions or proceedings in respect thereof) referred to herein, then each party that would have been an indemnifying party hereunder shall, in lieu of indemnifying such Indemnitee, contribute to the amount paid or payable by such Indemnitee as a result of such losses, claims, damages or liabilities (or actions or proceedings in respect thereof) in such proportion as is appropriate to reflect the relative fault of such indemnifying party, on the one hand, and such Indemnitee, on the other hand, in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions or proceedings in respect thereof). The relative fault shall be determined by reference to, among other things, whether the Violation relates to information supplied by such indemnifying party or such Indemnitee and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such Violation. The parties agree that it would not be just and equitable if contribution pursuant to this Section 5(e) were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to in the preceding sentence.

The amount paid or payable by a contributing party as a result of the losses, claims, damages or liabilities (or actions or proceedings in respect thereof) referred to above in this Section 5(e) shall include any legal or other expenses reasonably incurred by such Indemnitee in connection with investigating or defending any such action or claim. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation.

(f) The indemnity and contribution agreements contained herein shall be in addition to (i) any cause of action or similar right of an Indemnitee against an indemnifying party or others and (ii) any liabilities the indemnifying party may be subject to pursuant to applicable law.

6. Rule 144 and Rule 144A. With a view to making available to the Holders the benefits of Rule 144, Rule 144A and any other rule or regulation of the SEC that may at any time permit a Holder to sell securities of the Company without registration, the Company shall:

(a) file with the SEC in a timely manner all reports and other documents required of the Company under the Exchange Act and the rules and regulations promulgated thereunder;

(b) if not required to file such reports and documents referred to in subsection (a) above, keep publicly available certain information regarding the Company, as contemplated by Rule 144(c)(2) of the Securities Act;

(c) take all other actions reasonably necessary to enable a Holder to sell the Registrable Securities without registration under the Securities Act within the limitation of the exemptions provided by Rule 144 and Rule 144A; and

(d) furnish to any Holder, so long as the Holder owns any Registrable Securities, forthwith upon request (i) to the extent accurate, a written statement by the Company that it has complied with the reporting requirements of SEC Rule 144, the Securities Act, and the Exchange Act, or that it qualifies as a registrant whose securities may be resold pursuant to Form S-3; and (iii) such other information as may be reasonably requested in availing any Holder of any rule or regulation of the SEC that permits the selling of any such securities without registration or pursuant to Form S-3.

7. Miscellaneous.

(a) Remedies. In the event of a breach by the Company or by a Holder, of any of their obligations under this Agreement, each Holder or the Company, as the case may be, in addition to being entitled to exercise all rights granted by law and under this Agreement, including recovery of damages, will be entitled to specific performance of its rights under this Agreement. The Company and each Holder agree that monetary damages would not provide adequate compensation for any losses incurred by reason of a breach by it of any of the provisions of this Agreement and hereby further agrees that, in the event of any action for specific performance in respect of such breach, it shall waive the defense that a remedy at law would be adequate.

(b) Entire Agreement; Amendment. This Agreement and the Investment Agreement contain the entire understanding and agreement of the parties with respect to the matters covered

hereby and, except as specifically set forth herein or in the Investment Agreement, neither the Company nor the Purchaser makes any representation, warranty, covenant or undertaking with respect to such matters, and they supersede all prior understandings and agreements with respect to said subject matter, all of which are merged herein. No provision of this Agreement may be waived or amended other than by a written instrument signed by the Company and the Holders of at least a majority of all Registrable Securities then outstanding; provided that any waiver or amendment that adversely affects a Holder without adversely affecting other Holders in a similar manner must be approved in writing by such Holder. Any amendment or waiver effected in accordance with this Section 7(b) shall be binding upon each Holder (and their permitted assigns) and the Company.

(c) Notices. All notices, requests, consents and other communications hereunder shall be in writing, shall be mailed by first-class registered or certified airmail, facsimile (with receipt confirmed by telephone) or nationally recognized overnight express courier postage prepaid, and shall be deemed given when so mailed and shall be delivered as addressed as follows:

If to the Company:

Nexus Lighting, Inc.
124 Floyd Smith Drive, Suite 300
Charlotte, North Carolina 28262
Attention: President and CEO

with copies to:

[].
[]
[]
Attention: []

If to the Purchaser:

RVL 1 LLC
177 Broad Street
Stamford, CT 06901
Attention: Robert V. LaPenta

with a copy to:

Lowenstein Sandler PC
1251 Avenue of the Americas
New York, NY 10020
Attention: Marita A. Makinen, Esq.

or at such other address as may have been furnished to the Company in writing.

Any party hereto may from time to time change its address for notices by giving written notice of such changed address to the other party hereto.

(d) Waivers. No waiver by either party of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right accruing to it thereafter.

(e) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns and shall inure to the benefit of each Holder and its successors and assigns. The Company may not assign this Agreement or any of its rights or obligations hereunder without the prior written consent of each Holder. The Purchaser may assign its rights hereunder in the manner and to the Persons as permitted herein and under the Investment Agreement.

(f) Assignment of Registration Rights. The rights of each Holder hereunder, including the right to have the Company register for resale Registrable Securities in accordance with the terms of this Agreement, shall be assignable by each Holder of all or a portion of the Registrable Securities if: (i) the Holder agrees in writing with the transferee or assignee to assign such rights, and a copy of such agreement is furnished to the Company within a reasonable time after such assignment, (ii) the Company is, within a reasonable time after such transfer or assignment, furnished with written notice of (a) the name and address of such transferee or assignee, and (b) the securities with respect to which such registration rights are being transferred or assigned, (iii) following such transfer or assignment the further disposition of such securities by the transferee or assignee is restricted under the Securities Act and applicable state securities laws, (iv) at or before the time the Company receives the written notice contemplated by clause (ii) of this Section, the transferee or assignee agrees in writing with the Company to be bound by all of the provisions of this Agreement, and (v) such transfer shall have been made in accordance with the applicable requirements of the Investment Agreement. The rights to assignment shall apply to the Holders (and to subsequent) successors and assigns.

(g) Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and, all of which taken together shall constitute one and the same Agreement. In the event that any signature is delivered by facsimile transmission, such signature shall create a valid binding obligation of the party executing (or on whose behalf such signature is executed) the same with the same force and effect as if such facsimile signature were the original thereof.

(h) Termination. This Agreement shall terminate on the earlier of (i) the date on which all remaining Registrable Securities may be sold without restriction pursuant to Rule 144(k) of the Securities Act, or (ii) the date when all Registrable Securities have been sold.

(i) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware (with respect to matters of corporation law) and the laws of the State of New York (with respect to all other matters), without regard to principles of conflicts of law thereof.

(j) Severability. The provisions of this Agreement are severable and, in the event that any court of competent jurisdiction shall determine that any one or more of the provisions or part of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision or part of a provision of this Agreement and this Agreement shall be reformed and construed as if such invalid or illegal or unenforceable provision, or part of such provision, had never been contained herein, so that such provisions would be valid, legal and enforceable to the maximum extent possible.

(k) Headings. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

(l) Submission to Jurisdiction; Waiver of Jury Trial. Each of the parties (a) submits to the jurisdiction of any state or federal court sitting in the State of New York in any action or proceeding arising out of or relating to this Agreement, (b) agrees that all claims in respect of such action or proceeding may be heard and determined in any such court, and (c) agrees not to bring any action or proceeding arising out of or relating to this Agreement in any other court. Each of the parties waives any defense of inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety or other security that might be required of any other party with respect thereto. Any party may make service on another party by sending or delivering a copy of the process to the party to be served at the address and in the manner provided for the giving of notices in Section 7(c). Nothing in this Section 7(l), however, shall affect the right of any party to serve legal process in any other manner permitted by law. IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THE TRANSACTIONS CONTEMPLATED HEREBY, THE PARTIES HERETO IRREVOCABLY CONSENT TO TRIAL WITHOUT A JURY.

[Reminder of page intentionally left blank]

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

COMPANY:

NEXXUS LIGHTING, INC.

By: /s/ Michael Bauer

Name: Michael Bauer

Title: Chief Executive Officer

PURCHASER:

RVL 1 LLC

By: /s/ Robert V. LaPenta

Name: Robert V. LaPenta

Title: Chief Executive Officer

[Signature Page to Registration Rights Agreement]

PRESS RELEASE

For more information:

Gary Langford, Chief Financial Officer, Nexxus Lighting, Inc.
704-405-0416

Nexxus Lighting Closes \$6 Million Investment by Aston Capital

Debt Extinguished, Patent Litigation Settled

CHARLOTTE, NC, September 25, 2012 – Nexxus Lighting, Inc. (NASDAQ Capital Market: NEXS) today announced that it has completed the previously announced \$6 million equity investment by Aston Capital, LLC, a private investment company specializing in investments in secure military communication companies and companies with green technologies.

“This investment evidences our belief that the market for LED lighting which provides significant savings in energy consumption and operating costs is an exciting market that is expected to grow rapidly. According to market research, the market for LED lighting products will grow at 30% CAGR reaching approximately \$80 billion dollars by 2020. Nexxus Lighting is our initial platform in this space. Our plans include providing Nexxus with a revolutionary and complementary product line that will enable the company to address a broader and much larger market opportunity in commercial, industrial and municipal lighting. We also plan to invest in new technology and assisting the company in channel expansion in order to drive large scale adoption,” stated Robert LaPenta, Chairman and CEO of Aston Capital. “With great products, unique customer programs and excellent service, we believe that Nexxus has the potential to be a major force in this lighting revolution.” The company intends to provide additional details in the coming weeks regarding the new products.

The Company has issued 600,000 shares of newly-created Series B Convertible Preferred Stock to an affiliate of Aston Capital. The preferred stock is convertible into 46,153,846 shares of the Company’s common stock, or approximately 73% of the Company’s outstanding common stock on an as-converted basis, at a conversion price per share equal to \$0.13, subject to certain anti-dilution adjustments. The conversion price was the closing price of the Company’s common stock on August 2, 2012, the date the Company entered into the letter of intent with respect to the transaction. The preferred stock represents approximately 73% of the outstanding voting stock of the Company on an as-converted basis.

The proceeds from the transaction were used to extinguish approximately \$2.5 million of existing short term debt at a discount, to fund the settlement payment in connection with the settlement of the previously announced patent litigation brought by Royal Philips Electronics, to pay the fees and expenses in connection with the transaction and for working capital purposes. With respect to the extinguished debt, approximately \$2.5 million in indebtedness represented by promissory notes maturing in June 2013 was cancelled and exchanged for a total of \$880,000 in cash and 1,000,000 newly-issued shares of the Company’s common stock.

In connection with the investment by Aston Capital, the Company has accepted the resignations of existing Board members Michael Bauer, Edgar Protiva, Chris Richardson and William Yager. Aston has the right to appoint a majority of the directors to the Company's Board.

Aston Capital, LLC leadership has been involved in growing successful enterprises in both the high tech military and commercial arena. Aston is expected to provide strategic, operational and financial expertise with the goal of enabling the Company's strategic growth and expansion. Aston's investment philosophy combines sound fundamental operating principles with the ability to identify macroeconomic trends and provide strategic and operational support to management teams with the objective of accelerating global growth and building market leaders and shareholder value over the course of the partnership. Aston believes significant value can be built through its partnership with Nexxus by acquiring complementary assets, and through operational and financial improvements, product line enhancements and expansion of global reach and brand awareness. Aston believes that the LED lighting market is a large and growing nascent market with diverse end-users with avenues to create value. Aston's goal is to build a dynamic market leader who will be able to address the significant global demand for this critical technology.

For copies of the definitive agreements relating to the transaction, as well as information on related developments, please review our current and future reports on file with the Securities and Exchange Commission and available at www.sec.gov.

Nexxus Lighting, Inc. Life's Brighter!TM

For more information, please visit the new Nexxus Lighting web site at www.nexuslighting.com

Certain of the above statements contained in this press release are forward-looking statements that involve a number of risks and uncertainties. Such forward-looking statements are within the meaning of that term in Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Reference is made to Nexxus Lighting's filings under the Securities Exchange Act for factors that could cause actual results to differ materially. Nexxus Lighting undertakes no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events, or otherwise. Readers are cautioned that any such forward-looking statements are not guarantees of future performance and involve risks and uncertainties, and that actual results may differ materially from those indicated in the forward-looking statements as a result of various factors. Readers are cautioned not to place undue reliance on these forward-looking statements.

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NEXXUS LIGHTING AND PHILIPS SETTLE PATENT LITIGATION

Charlotte, NC – September 25, 2012 – Nexus Lighting, Inc. (NASDAQ: NEXS), a market leading manufacturer of LED light bulbs and lighting systems, today announced a settlement agreement ending the pending patent litigation brought by Royal Philips Electronics (NYSE:PHG, AEX: PHI), a world leader in LED lighting technology.

In connection with the settlement and patent license agreement:

- Philips will grant Nexus Lighting an ongoing, royalty-bearing license to the comprehensive portfolio of patented LED technologies and solutions offered under Philips' LED luminaire and retrofit bulb licensing program. The license allows Nexus to continue the manufacture and sale of LED-based lighting products, including the Array® brand of LED replacement light bulbs.
- Nexus will also pay Philips a one-time, lump-sum royalty fee to address past sales.
- Both parties will dismiss the lawsuit Philips initiated and presently pending in Massachusetts federal court.

“The opportunity for creating, developing and selling creative new LED lighting systems is expanding rapidly and we believe that combining access to the Philips portfolio of intellectual property with our own patented technology will give Nexus Lighting a tremendous platform from which to penetrate the growing lighting market,” stated Mike Bauer, President and CEO of Nexus Lighting. “We are pleased we could come to mutually agreeable terms and can now refocus our business on the large growth opportunities we see for LED lighting.”

About Nexus Lighting, Inc.

Nexus is a leader in high performance LED replacement light bulbs and LED linear lighting solutions sold under its Array® Lighting and Lumifluent product lines. The company holds 43 issued U.S. and foreign patents and has 30 patent applications pending. Nexus is committed to leading edge design and introducing LED products that set the standard in the industry in terms of performance and reliability. *For more information, please visit the new Nexus Lighting web site at www.nexuslighting.com*

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All other trademarks mentioned are the property of their respective owners.

“Safe Harbor” Statement under the Private Securities Litigation Reform Act of 1995: Statements in this press release regarding Royal Philips Electronics or Nexus Lighting, Inc. businesses that are not historical facts are “forward-looking statements” within the meaning

of the Private Securities Litigation Reform Act of 1995. Readers are cautioned that these statements involve risks and uncertainties, are only predictions and may differ materially from actual future events and results. For a discussion of such risks and uncertainties, see “Risk Factors” in the companies’ Annual Reports on Form 10-K for the twelve months ended December 31, 2011, and most recent Form 10-Qs, each as filed with the Securities and Exchange Commission.