

SCIO DIAMOND TECHNOLOGY CORP

FORM 8-K (Current report filing)

Filed 08/08/12 for the Period Ending 08/03/12

Address	411 UNIVERSITY RIDGE, SUITE D GREENVILLE, SC 29601
Telephone	864.346.2733
CIK	0001488934
Symbol	SCIO
SIC Code	3290 - Abrasive, Asbestos, And Miscellaneous
Industry	Constr. - Supplies & Fixtures
Sector	Capital Goods
Fiscal Year	03/31

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): August 3, 2012

SCIO DIAMOND TECHNOLOGY CORPORATION
(Exact Name of Registrant As Specified in Its Charter)

N evada	000-54529	45-3849662
(State or Other Jurisdiction of Incorporation)	(Commission File Number)	(I.R.S. Employer Identification No.)

411 University Ridge, Suite D, Greenville, South Carolina 29601
(Address of Principal Executive Offices) (Zip Code)

(864) 751-4880
(Registrant's Telephone Number, Including Area Code)

Not Applicable
(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 (17CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

On August 3, 2012, Scio Diamond Technology Corporation, a Nevada corporation (the “Company”), entered into Amended and Restated Employment Agreements (collectively, the “Employment Agreements”) with certain of its executive officers, including Joseph D. Lancia, its Chief Executive Officer, Michael W. McMahon, its Chief Operating Officer, and Charles G. Nichols, its Chief Financial Officer (collectively, the “Executives”). Pursuant to the Employment Agreements, each of Messrs. Lancia, McMahon and Nichols is paid a base annual salary of \$225,000, \$150,000, and \$125,000, respectively, subject to potential increases in connection with an annual salary review by the Board of Directors. The Board of Directors, in its discretion, may award any of the Executives with an annual bonus. Each such Executive is entitled during their term of employment, to such vacation, medical and other employee benefits (including eligibility to participate in any 401(k) retirement plan that may be adopted and offered by the Company, subject to the terms and conditions thereof) as the Company may offer from time to time, subject to applicable eligibility requirements, and is entitled to 15 days paid vacation each calendar year. Mr. Lancia and Mr. McMahon are each entitled to one year of salary and reimbursement of their COBRA costs if they are terminated without cause, provided that they cease to receive these post-termination benefits if they become entitled to receive benefits under their respective Change in Control Agreements (as described below). The Employment Agreements contain one year non-compete agreements and two year customer and employee non-solicitation provisions.

Each Executive is entitled to receive stock options, which were granted on May 7, 2012, as described in our Form 8-K filed with the SEC on June 1, 2012. Each Executive is also eligible to participate in any stock option plan adopted by the Company, with the extent, terms and conditions of any options provided to an Executive to be determined by the Company’s Board of Directors or its Compensation Committee, if any, in its sole and unilateral discretion. Each Executive is subject to a proprietary information and inventions agreement. Each Executive is an employee-at-will.

On August 3, 2012, the Company entered into Change in Control Agreements (collectively, the “Change in Control Agreements”) with the Executives. Under the Change in Control Agreements, if an Executive’s employment is terminated pursuant to a “qualifying termination” during the four-month period before or the 12-month period after a “change in control” that implies a Company value of \$50 million or more, such Executive will be entitled to (i) a lump-sum cash payment equal to the sum of (a) 2.0 times the Executive’s annual base salary, plus (b) any base salary and/or bonus earned or accrued through the date of termination and not previously paid (including any amounts awarded for previous years but which were not yet vested), and (ii) payment of \$2,700 per month for 24 months, which payments are intended to offset potential medical, dental, and life insurance expenses of the Executive for a period of two years, but which payments shall be made regardless of whether such expenses are greater or less than such payments. In such event, such Executive will be subject to non-solicitation and non-compete obligations for a period of two years. Each Change in Control Agreement has an initial two-year term and the Change in Control Agreements automatically renew for subsequent one-year periods unless a termination notice is given at least 90 days prior to the end of the then current term.

A “change in control” is defined to mean a change in the ownership or effective control of the Company, or in the ownership of a substantial portion of the assets of the Company (in accordance with Treasury Regulation § 1.409A-3(i)(5) (as it may be amended and including any successor regulation). A qualifying termination is a termination by the executive for “good reason” or a termination of the Executive by the Company without “cause.” “Good reason” means “good reason” within the meaning of the safe harbor under Treasury Regulation § 1.409A-1(n)(2). A termination of an Executive by the Company is for “cause” if it is for any of the following reasons:

- the willful and continued failure of the Executive to perform substantially his or her duties with the Company (other than any such failure resulting from such Executive's incapacity due to physical or mental illness or any such failure subsequent to the Executive being delivered a notice of termination without cause by the Company or the Executive delivering a notice of termination for good reason to the Company) that is not remedied within 30 days after a written demand for substantial performance is delivered to the Executive by the Chairman of the Board of Directors or the Chairman of the Compensation Committee or, in the case of an executive other than the Chief Executive Officer, the Chief Executive Officer, which specifically identifies the manner in which the Executive has not substantially performed his or her duties; or
- the Executive's conviction by a court of law, admission in a legal proceeding that he is guilty or plea of nolo contendere, in each case, with respect to a felony.

For purposes of the definition of the term “cause,” no act or failure to act by an Executive will be considered “willful” unless it was done or omitted to be done by the Executive in bad faith and without reasonable belief that his or her action or omission was in, or not opposed to, our best interests.

Each Change in Control Agreement provides that such Executive agrees to reduce the aggregate amount of any payments or benefits that constitute “parachute payments” under Section 280G of the Code to the extent necessary so that such payments and benefits do not equal or exceed three times such Executive's “base amount” (and therefore are not subject to the excise tax imposed by Section 4999).

On August 3, 2012, the Company also entered into Qualified Stock Option Grant Agreements (collectively, the “Stock Option Grant Agreements”) with the Executives (the “Optionees”) pursuant to which such executive officers were granted options (collectively, the “Options”) to purchase shares of the Company’s common stock, par value \$0.001 per share (the “Common Stock”) under the terms of the SCIO Diamond Technology Corporation 2012 Share Incentive Plan (the “Plan”). Under the Stock Option Grant Agreements, the Company granted to Mr. Lancia an option to purchase up to 500,000 shares of Common Stock; to Mr. McMahon, an option to purchase up to 300,000 shares of Common Stock, and; to Mr. Nichols, an option to purchase up to 300,000 shares of Common Stock; and with each such option being subject to the achievement of certain production performance milestones by the Company. The Options are intended to qualify as incentive stock options within the meaning of Section 422A of the Internal Revenue Code. The exercise price for each Option is \$0.80 per share (the “Exercise Price”). The Options expire on the last business day preceding the three year anniversary of the grant date (the “Expiration Date”) unless fully exercised or terminated earlier.

The Options vest incrementally upon the achievement of certain production performance milestones by the Company, as set forth below, and shall remain vested provided that each respective Optionee remains in the continuous employ of, or in a service relationship with, the Company from the grant date through the applicable vesting date. The vesting schedule is as follows:

<i>Percentage of Option Vested</i>	<i>Performance Milestone</i>
20%	Placement in service of equipment for cutting and polishing diamond material in support of the growers operating in South Carolina; lasers, polishers, and related infrastructure and control equipment must be operational and available for fabrication of 50% of all of the Company’s diamond production.
40%	Achievement of \$1 million EBITDA (cumulative from July 1, 2012 – forward)
40%	Achievement of \$5 million in revenue (cumulative from July 1, 2012 – forward)

The Options are generally exercisable, whether or not vested, in whole or in part at any time prior to the Expiration Date or earlier termination of the Options in accordance with the Plan or the Stock Option Grant Agreements. Notwithstanding the above, the Options may not be exercised at any time that the Company does not have in effect a registration statement under the Securities Act of 1933 (the “Securities Act”) relating to the offer of Common Stock to the Optionees under the Plan, unless the Company agrees to permit such exercise. Upon the issuance of any shares of Common Stock pursuant to the exercise of an Option, the Optionee must, upon the request of the Company, agree not to sell, pledge, or otherwise dispose of such shares unless (i) the Company is furnished with an opinion of counsel to the effect that registration of such shares pursuant to the Securities Act, or the rules and regulations thereunder, is not required; (ii) the SEC issues a no-action letter with respect to such disposition; or (iii) such registration or notification as is, in the opinion of the Company’s counsel, required for the lawful disposition of such shares has been filed with the SEC and has become effective (provided, however, that the Company is not obligated to file any such registration or notification). In addition, the shares issued upon the exercise of any Option are subject to the repurchase by the Company for an amount equal to the Exercise Price (i) upon the occurrence of “misconduct” by the Optionee; or (ii) if the Options were not vested when they were exercised, upon the occurrence of any event that would have resulted in the termination of those Options under the Plan and the Stock Option Grant Agreements if those Options had not been exercised. The Company may legend the certificates for the shares of Common Stock issued upon exercise of the Options accordingly.

If an Optionee ceases to be employed by, or in a service relationship with, the Company for any reason other than death, disability, or discharge for Cause (as defined in the Stock Option Grant Agreements), all unvested Options shall terminate immediately and all vested Options shall remain exercisable for 30 days following such cessation (but in no event later than the Expiration Date). If an Optionee dies prior to the expiration or termination of the Options, the unvested Options shall terminate immediately and all vested Options shall remain exercisable for one year following the Optionee's death (but in no event later than the Expiration Date) by the Optionee's executor, personal representative, or the person(s) to whom the Options are transferred by will or the laws of descent and distribution. If an Optionee ceases to be employed by, or in a service relationship with, the Company as result of Optionee's disability, the unvested Options shall terminate immediately and all vested Options shall remain exercisable for one year following such cessation (but in no event later than the Expiration Date). Notwithstanding anything to the contrary, the Options shall immediately terminate in their entirety, whether or not they have vested, upon Optionee's discharge of employment or other service relationship for Cause (as defined in the Stock Option Grant Agreements) or upon Optionee's commission of any of the following acts during any period following the cessation of Optionee's employment or other service relationship during which the Options otherwise would be exercisable: (i) fraud or misappropriation of funds or property of the Company, or (ii) breach by Optionee of any provision of any employment, non-disclosure, non-competition, non-solicitation, assignment of invention, or other similar agreement executed by Optionee for the benefit of the Company.

In the event of changes in the Common Stock of the Company by reason of any stock dividend, spin-off, split-up, reverse stock split, recapitalization, reclassification, merger, consolidation, liquidation, business combination or exchange of shares and the like, appropriate substitutions for or adjustments to the number, kind, and price of shares covered by the Options may be made. All unvested portions of the Options immediately vest upon a Change of Control Event (as defined in the Plan), except in the event that provision is made in connection with the Change of Control Event for the continuation or assumption of the Options by, or for the substitution of equivalent options with respect to, the surviving or successor entity or a parent thereof, and shall be exercisable in accordance with the Plan, unless the acceleration of vesting in connection with a Change of Control Event is otherwise limited under the Plan.

The Options are not transferable other than by will or the laws of descent and distribution, pursuant to qualified domestic relations order as defined in the Code, or as otherwise permitted by the Company. The Optionees do not have any rights of a stockholder of the Company with respect to the shares of Common Stock that may be issued upon the exercise of the Options until such shares of Common Stock have been issued upon the due exercise of the Options.

The Options are be subject to all the terms and conditions of the Plan as well as the Stock Option Grant Agreements. The Plan was adopted on May 7, 2012. A total of up to 5,000,000 shares (subject to adjustment) may be issued under the Plan. The Plan is an omnibus plan that allows for the issuance of stock options, stock appreciation rights, phantom stock, and other stock-based awards.

The foregoing descriptions of the Employment Agreements, Change in Control Agreements, and Stock Option Grant Agreements are qualified in their entirety by reference to the full text such agreements, copies of which are attached hereto as Exhibits 10.1 – 10.7 and incorporated herein by reference.

Item 5.05 Amendments to the Registrant's Code of Ethics, or Waiver of a Provision of the Code of Ethics

On August 3, 2012, the Company's Board of Directors adopted an amended and restated Code of Ethics and Business Conduct, which shall apply to all directors, officers, and employees of the Company. A copy of the Code of Ethics and Business Conduct is attached hereto as Exhibit 10.8 and incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

Exhibit 10.1	Amended and Restated Employment Agreement of Joseph D. Lancia
Exhibit 10.2	Amended and Restated Employment Agreement of Michael W. McMahon
Exhibit 10.3	Amended and Restated Employment Agreement of Charles G. Nichols
Exhibit 10.4	Change in Control Agreement of Joseph D. Lancia
Exhibit 10.5	Change in Control Agreement of Michael W. McMahon
Exhibit 10.6	Change in Control Agreement of Charles G. Nichols
Exhibit 10.7	Form of Stock Option Grant Agreement
Exhibit 10.8	Code of Ethics and Business Conduct

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.

SCIO DIAMOND TECHNOLOGY CORPORATION

By: /s/ Charles G. Nichols
Name: Charles G. Nichols
Title: Chief Financial Officer

Dated: August 8, 2012



Joseph D. Lancia
109 Thornblade Blvd
Greer, SC 29650

RE: AMENDED AND RESTATED OFFER OF EMPLOYMENT, EFFECTIVE AS OF NOVEMBER 29, 2011

Dear Joseph:

On behalf of Scio Diamond Technology Corporation (the "Company"), I am very pleased to offer you (sometimes referred to as "Executive") a full-time employment position with the Company. This offer letter (the "Letter Agreement") clarifies and confirms and memorializes the terms of your employment with the Company.

1. START DATE

Your employment will commence with the Company on or about December 16, 2011 (the "Start Date").

2. POSITION AND REPORTING

Your position with the Company will be President / Chief Executive Officer. At the discretion and direction of the Company's Chairman, you will report directly to the Company's Chairman.

3. SALARY

As of the Start Date, your starting salary will be \$225,000 annualized, payable bi-weekly in accordance with the Company's standard payroll practice and subject to applicable withholding taxes. Because your position is exempt from overtime pay, your salary will compensate you for all hours worked. The Chief Operating Officer, Board of Directors, or its Compensation Committee will review your salary annually. Any increases will be effective as of the date determined by the Board of Directors or its Compensation Committee.

4. ANNUAL DISCRETIONARY BONUS

The Board of Directors, in its sole and exclusive discretion, may vote to award you with an annual bonus. Said bonus, if awarded, will be payable during the first payroll period following the calendar year for which it was awarded.

5. BENEFITS

You will also be entitled, during the term of your employment, to such vacation, medical and other employee benefits as the Company may offer from time to time, subject to applicable eligibility requirements. The Company does reserve the right to make any modifications in the benefits package that it deems appropriate. The Company hereby provides you with 15 days paid vacation each calendar year. You are also eligible to participate in any 401(k) retirement plan adopted and offered by the Company, subject to the terms and conditions thereof.



6. STOCK and STOCK OPTIONS

As we have discussed with you, the Company takes a long-term approach to investment, and its employees are its most important investments. Our compensation structure is weighted towards equity ownership because we believe we will create the most value for the Company and its shareholders over time by having employees think and act like, and therefore be, owners.

You will be eligible to participate in any stock option plan adopted and incorporated by the Company (the "Options"). The extent, terms and conditions of any Options provided to you will be determined by the Company's Board of Directors or its Compensation Committee, if any, in its sole and unilateral discretion. The strike price on any stock option grant provided to you will be determined by the Company's Board of Director's or its Compensation Committee's assessment of the fair market value per share of such stock on the date that the Board of Directors or Compensation Committee approved your grant .

The Shares and any Options granted to you will be adjusted pursuant to any forward or reverse stock splits that occur during the vesting or applicable option period.

7. EMPLOYMENT AT WILL

If you accept the Company's offer of employment, you will be an employee-at-will, meaning that either you or the Company may terminate our relationship at any time for any reason, with or without cause. Any statements to the contrary that may have been made to you or that may be made to you by the Company, its agents, or representatives are superseded by this Letter. Termination of your employment with the Company will be subject to the terms of the Proprietary Information and Inventions Agreement.

8. CONFIDENTIALITY, NON-COMPETITION AND INVENTION ASSIGNMENT AGREEMENT

As a condition of your employment pursuant to this Letter Agreement, we do require that you sign the accompanying Proprietary Information and Inventions Agreement, which is attached hereto and incorporated herein as Appendix A.

You should know that the Proprietary Information and Inventions Agreement significantly restrict your future flexibility in many ways. For example, you will be unable to seek or accept certain employment opportunities for a period of 12 months after you leave the employ of the Company.



9. PRIOR APOLLO PATENTS

You agree to cooperate with the Company to perfect any assignments of intellectual property formerly owned by Apollo Diamond, Inc. and/or Apollo Diamond Gemstone Corporation ("Apollo IP") to the Company.

10. SEVERANCE

In the event that the Company terminates your employment without Cause, then the Company will pay you an aggregate amount equal to your annual salary as in effect prior to your termination, with such aggregate amount paid through equal periodic payments, in accordance with the Company's payroll practices at the date of your termination, during the one (1) year following such termination, and the Company shall pay the full amount of your COBRA payments as of the monthly due date for such COBRA payments with respect to the first year following such termination; provided, that if your Change in Control Agreement with the Company ("Change in Control Agreement") is in effect, all payments under this Agreement shall cease, you will have no further entitlement to such payments, upon the occurrence of a Qualifying Change in Control, as provided in the Change in Control Agreement. To the extent required by law, COBRA payments will be reported as income to you.

"Cause" shall mean (A) the willful and continued failure of Executive to perform substantially his duties with the Company (other than any such failure resulting from Executive's incapacity due to physical or mental illness or condition or any such failure subsequent to Executive being delivered a Notice of Termination without Cause by the Company) that is not remedied within 30 days after a written demand for substantial performance is delivered to Executive by the Chairman of the Board or the Chairman of the Compensation Committee which specifically identifies the manner in which Executive has not substantially performed Executive's duties and that such failure if not remedied constitutes "Cause" under this Agreement, (B) Executive's conviction by a court of law, Executive's admission in a legal proceeding that he is guilty or Executive's plea of nolo contendere, in each case, with respect to a felony, (C) Disability, (D) death, or (E) Retirement or other voluntary termination of employment. For purposes of the definition of "Cause," no act or failure to act by Executive shall be considered "willful" unless done or omitted to be done by Executive in bad faith and without reasonable belief that Executive's action or omission was in, or not opposed to, the best interests of the Company. "Disability" means Executive's absence from Executive's duties with the Company on a full-time basis for at least one-hundred-eighty (180) consecutive days as a result of Executive's incapacity due to physical or mental illness, unless within 30 days after Notice of Termination is given to Executive following such absence Executive shall have returned to the full-time performance of Executive's duties. "Retirement" means Executive's termination of his employment on or after his attainment of age 65. "Notice of Termination" shall mean a written notice of Executive's termination by the Company, which written notice shall (i) indicate the specific Cause relied upon, (ii) to the extent applicable, set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of Executive's employment for such Cause, and (iii) specify the date of termination; provided that the failure by the Company to set forth in such notice any fact or circumstance which contributes to a showing of Cause shall not waive any right of the Company hereunder or preclude the Company from asserting such fact or circumstance in enforcing the Company's rights hereunder; and further provided that in the event of a termination for Disability the date of termination shall be 30 days after Notice of Termination is given (provided that Executive shall not have returned to the performance of Executive's duties on a full-time basis during such 30 day period). "Terminate," "terminated," "termination," or "termination of employment" shall mean "separation from service" as defined by Treasury Regulation § 1.409A-1(h).



(a) This Agreement is intended to be exempt from Section 409A of the Internal Revenue Code and any regulations and Treasury guidance promulgated thereunder (the "Code") to the maximum extent possible through the short term deferral exception of Treas. Reg. §1.409A-1(b)(4) and the separation pay plan exception of Treas. Reg. §1.409A-1(b)(9), and shall be interpreted and administered accordingly. Any payments exempt under the separation pay plan exception shall be paid no later than the last day of the second calendar year following the calendar year in which Executive's termination of employment occurs. For purposes of Code Section 409A, the Executive's right to receive any installment payments pursuant to this Agreement shall be treated as a right to receive a series of separate and distinct payments.

(b) The Company and Executive agree that they will execute any and all amendments to this Agreement as they mutually agree in good faith may be necessary to ensure exemption from, or as needed, compliance with, Section 409A of the Code.

(c) The Company makes no representation or warranty as to the tax effect of any of the preceding provisions, and the provisions of this Agreement shall not be construed as a guarantee by the Company of any particular tax effect to Executive under this Agreement. The Company shall not be liable to Executive or any other person for any payment made under this Agreement which is determined to result in the imposition of an excise tax, penalty or interest under Section 409A of the Code, nor for reporting in good faith any payment made under this Agreement as an amount includible in gross income under Section 409A of the Code.

(d) Notwithstanding the timing of any payments pursuant to Section 3 of this Agreement, if Executive is deemed on the date of termination to be a "specified employee" within the meaning of that term under Code Section 409A(a)(2)(B), then each of the following shall apply:

(i) With regard to any payment that is considered deferred compensation under Code Section 409A payable on account of a "separation from service," such payment shall be made on the date which is the earlier of (x) the expiration of the six (6)-month period measured from the date of such "separation from service" of the Employee, and (y) the date of the Employee's death (the "Delay Period") to the extent required under Code Section 409A. Upon the expiration of the Delay Period, all payments delayed pursuant to this Section (whether they would have otherwise been payable in a single sum or in installments in the absence of such delay) shall be paid to the Executive in a lump sum, and any remaining payments and benefits due under this Agreement shall be paid or provided in accordance with the normal payment dates specified for them herein; and



(ii) To the extent any benefits provided during the first six months after Executive's termination are considered deferred compensation under Code Section 409A provided on account of a "separation from service," and such benefits are not otherwise exempt from Code Section 409A, Executive shall pay the costs of such benefits during the first six months following termination and shall be reimbursed, to the extent such costs would otherwise have been paid by the Company or to the extent such benefits would otherwise have been provided by the Company at no cost to the Executive, the cost of such coverage six months after Executive's termination.

11. ADDITIONAL PROVISIONS

Your employment pursuant to this letter is also contingent upon your submitting the legally required proof of your identity and authorization to work in the United States and the passing of a pre-employment drug test. Additionally you must complete the Scio Employee Application and Background Check form attached. Furthermore, as we are a "drug free" workplace and you will be required to submit to a pre-employment drug test.

This Letter Agreement and the agreements referenced herein and therein, contain the complete agreement between you and the Company with respect to the subject matter hereof and thereof, and supersede any prior understandings, agreements or representations by or between you and the Company, written or oral, which may have related to the subject matter hereof or thereof in any way, except for your Change in Control Agreement with the Company and the stock option agreements between you and the Company dated on or around May 7, 2012.

Neither you nor the Company may transfer or assign any rights or delegate any obligations hereunder, in whole or in part, whether voluntarily or by operation of law, without the prior written consent of the other party. Any purported transfer, assignment or delegation by either you or the Company will be null and void and of no force or effect. This Letter Agreement shall be binding upon and inure to the benefit of the parties' successors and lawful assigns.

Whenever possible, each provision of this Letter Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Letter Agreement is held to be prohibited by or unenforceable or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Letter Agreement.

This Letter Agreement may be executed in one or more counterparts, any one of which need not contain the signatures of more than one party, but all such counterparts taken together, when delivered, will constitute one and the same instrument.



The internal law, without regard to conflicts of laws principles, of the State of South Carolina will govern all questions concerning the construction, validity and interpretation of this Letter Agreement and the performance of the obligations imposed by this Letter Agreement. Any and every legal proceeding arising out of or in connection with this Letter Agreement shall be brought in the appropriate courts of the State of South Carolina, and each of the parties hereto consents to the exclusive jurisdiction of such courts .

No term or condition of this Letter Agreement shall be deemed to have been waived, nor shall there be any estoppel to enforce any provisions of this Letter Agreement, except by a statement in writing signed by the party against whom enforcement of the waiver or estoppel is sought . Any written waiver shall not be deemed a continuing waiver unless specifically stated, shall operate only as to the specific term or condition waived and shall not constitute a waiver of such term or condition for the future or as to any act other than that specifically waived .

Please review this Letter Agreement and the accompanying Proprietary Information and Inventions Agreement carefully and, if appropriate, have your attorney review these documents as well. We encourage you to consult legal counsel to advise you regarding your obligations under this Letter Agreement and the accompanying Proprietary Information and Inventions Agreement before you sign these documents. If you wish to accept employment with the Company, please indicate so by signing this Letter Agreement, the accompanying Proprietary Information and Inventions Agreement attached as Appendix A, and completing the Scio Employee Application and Background Check form attached hereto and made a part hereof and return the originals to me . You should retain copies of each agreement for your records.

We are very excited about our future relationship. I hope that you will accept this offer of employment, as I look forward to a productive and mutually beneficial working relationship. Please let me know if I can answer any questions for you about any of the matters outlined in this Letter Agreement and or any of its appendix or attachments referenced herein and made a part hereof .

Sincerely,

/s/ Edward S. Adams
Edward S. Adams
Chairman
Scio Diamond Technology Corporation

ACCEPTANCE

I accept employment with Scio Diamond Technology Corporation under the terms set forth in this Letter Agreement:

 /s/ Joseph D. Lancia
Joseph D. Lancia

Dated as of 8/6/12



PROPRIETARY INFORMATION AND INVENTIONS AGREEMENT

This Agreement is made between me, the undersigned employee (sometimes referred to as “Executive”), and Scio Diamond Technology Corporation (the “Company”), and is a material part of the consideration for my continued employment by the Company and further is entered into in consideration for a cash payment of \$100, the premises, mutual covenants and representations contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties:

1. No Conflict. I have not entered into, and I agree I will not enter into, any agreement either written or oral in conflict with this Agreement or my employment with the Company. I will not violate any agreement with or rights of any third party or, except as expressly authorized by the Company in writing hereafter, use or disclose my own or any third party’s confidential information or intellectual property when acting within the scope of my employment or otherwise on behalf of the Company. Further, I have not retained anything containing any confidential information of a prior employer or other third party, whether or not created by me.

2. Intellectual Property Assignment. The Company shall own all right, title and interest (including, but not limited to, patent rights, copyrights, trade secret rights, mask work rights, *sui generis* database rights and all other intellectual and industrial property rights of any sort throughout the world) relating to any and all inventions (whether or not patentable), works of authorship, mask works, designs, know-how, research, development, trade secrets, techniques, processes, procedures, plans, policies, discoveries, hardware, software, screens, specifications, designs, drawings, ideas and information made or conceived or reduced to practice, in whole or in part, by me or any other employee, independent contractor or agent of the Company during the term of my employment with Company (collectively, “Inventions”), and I will promptly disclose all Inventions to the Company. “Inventions” is to be broadly defined. By way of example and without limitation, Inventions include all items mentioned in the first sentence of this paragraph and any and all information concerning teaching techniques, processes, formulas, innovations, discoveries, improvements, research or development and test results, data, formats, marketing plans, business plans, strategies, forecasts, unpublished financial information, budgets, projections, and customer and supplier identities, characteristics and agreements.

I hereby make all assignments necessary to accomplish the foregoing. I shall further assist the Company, at the Company’s expense, to further evidence, record and perfect such assignments, and to perfect, obtain, maintain, enforce, and defend any rights specified to be so owned or assigned. I hereby irrevocably designate and appoint the Company and its agents as attorneys-in-fact to act for and in my behalf to execute and file any document and to do all other lawfully permitted acts to further the purposes of the foregoing with the same legal force and effect as if executed by me. If I wish to clarify that something created by me prior to my employment that relates to the Company’s actual or proposed business is not within the scope of this Agreement, I have listed it on Appendix A. If I use or (except pursuant to this paragraph 2) disclose my own or any third party’s confidential information or intellectual property when acting within the scope of my employment or otherwise on behalf of the Company, the Company will have and I hereby grant the Company a perpetual, irrevocable, worldwide, royalty-free, non-exclusive, sublicensable right and license to exploit and exercise all such confidential information and intellectual property rights.

3. Prior Apollo IP. I agree to cooperate with the company to perfect any assignments of intellectual property formerly owned by, or claimed to be owned by, Apollo Diamond, Inc. and/or Apollo Diamond Gemstone Corporation (“Apollo IP”) to the Company. To the extent I hold any existing rights in intellectual property that Apollo Diamond, Inc. and/or Apollo Diamond Gemstone Corporation claim to own, I hereby assign any and all such rights, without exception, to the Company. I shall further assist the Company, at the Company’s expense, to further evidence, record and perfect such assignments, and to perfect, obtain, maintain, enforce, and defend any rights specified to be so owned or assigned. I hereby irrevocably designate and appoint the Company and its agents as attorneys-in-fact to act for and in my behalf to execute and file any document(s) and to do all other lawfully permitted acts to further the purposes of the foregoing with the same legal force and effect as if executed by me.

4. Moral Rights. To the extent allowed by law, paragraph 2 includes all rights of paternity, integrity, disclosure and withdrawal and any other rights that may be known as or referred to as “moral rights,” “artist’s rights,” “droit moral,” or the like (collectively “Moral Rights”). To the extent I retain any such Moral Rights under applicable law, I hereby ratify and consent to any action that may be taken with respect to such Moral Rights by or authorized by the Company and agree not to assert any Moral Rights with respect thereto. I will confirm any such ratifications, consents and agreements from time to time as requested by the Company.

5. Confidential Information. I agree that all Inventions and all other business, technical and financial information (including, without limitation, the identity of and information relating to customers, potential customers, suppliers, strategic partners, service providers, employees, agents or shareholders of the Company) I develop, learn or obtain during the term of my employment that relate to the Company or the business or demonstrably anticipated business of the Company or that are received by or for the Company in confidence, constitute “Proprietary Information.” Proprietary Information includes not only information disclosed by the Company or its clients to me in the course of my employment, but also information developed or learned by me during the course of my employment with the Company, such as Inventions (as defined above). Proprietary Information is to be broadly defined. Proprietary Information includes all information that has or could have commercial value or other utility in the business in which the Company or clients are engaged or contemplate engaging, which also includes all information of which the unauthorized disclosure could be detrimental to the interests of the Company or clients, whether or not such information is identified as Proprietary Information by the Company or clients, which does not rise to the level of a Trade Secret. By example and without limitation, Proprietary Information includes any and all information concerning teaching techniques, processes, innovations, inventions, discoveries, improvements, research or development and test results, specifications, data, know-how, formats, marketing plans, business plans, strategies, forecasts, unpublished financial information, budgets, projections, and customer and supplier identities, characteristics, and agreements which does not rise to the level of a Trade Secret. The term Trade Secret(s), as such term is used herein, means information, without regard to form, including, but not limited to, technical or nontechnical data, a formula, a pattern, a compilation, a program, a device, a method, a technique, a drawing, a process, financial data, financial plans, product plans, or a list of actual or potential customers or suppliers which is not commonly known by or available to the public and which information (i) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. During the term of my employment and until the fifth anniversary of the conclusion of my employment with Company, I will hold in confidence and not divulge, disclose or otherwise use any Proprietary Information except within the scope of my employment by the Company. I further covenant and agree that during the term of my employment and at all times thereafter, I will hold in confidence and not divulge, disclose or otherwise use any Trade Secrets of the Company except within the scope of my employment by the Company. However, I shall not be obligated under this paragraph with respect to information I can document is or becomes readily publicly available without restriction through no fault of mine. I acknowledge that all Proprietary Information, in any form or medium, including copies thereof is the sole and exclusive property of the Company. Upon termination of my employment, I will promptly return to the Company any and all items containing or embodying Proprietary Information in any form or medium (including all copies), except that I may keep a single personal copy of (i) my compensation records, (ii) materials distributed to shareholders generally and (iii) this Agreement. I also recognize and agree that I have no expectation of privacy with respect to the Company’s telecommunications, networking or information processing systems (including, without limitation, stored computer files, email messages and voice messages) and that my activity and any files or messages on or using any of those systems may be monitored at any time without notice.

6. Non-Solicitation. I agree that during the term of my employment and until the second anniversary of the conclusion of my employment with the Company, I will not encourage or solicit any employee or consultant of the Company to leave the Company for any reason (except for the bona fide firing of Company personnel within the scope of my employment). I also agree that during the term of my employment (whether or not during business hours) and until the second anniversary of the conclusion of my employment with the Company, I will not solicit business from, divert business from, or attempt to convert to other methods of using or offering the same or similar products or services as provided by the Company or its affiliates to any person or entity that is or was a client or prospective client of the Company or its affiliates at any time during the 24 months prior to the date of termination of my employment and with whom I have had material contact.

7. Non-Compete. During Executive's employment with the Company and for a period of 12 months thereafter, Executive shall not (without the prior written consent of the Company) compete with the Company or any of its Affiliates by, directly or indirectly, forming, serving as an organizer, director or officer of, or consultant to, or acquiring or maintaining more than a 5% investment in, a Competing Business located in the Territory. "Affiliate" shall mean any business entity controlled by, controlling or under common control with the Company. "Business" shall mean the production of cultured diamonds, and any other related business engaged in by the Company or any of its Affiliates as of the date of termination. "Competing Business" shall mean any business that, in whole or in part, is the same or substantially the same as the Business. "Territory" shall mean any state in the continental United States of America and the States of Alaska and Hawaii into which the Company has sold products during the 60 day period ending of the date of the Executive's termination.

8. Survival. I agree that my obligations under paragraphs 2, 3, 4, 5, 6 and 7 of this Agreement shall continue in effect after termination of my employment, regardless of the reason or reasons for termination, and whether such termination is voluntary or involuntary on my part, and that the Company is entitled to communicate my obligations under this Agreement to any future employer or potential employer of mine. My obligations under paragraphs 2, 4 and 5 also shall be binding upon my heirs, executors, assigns, and administrators and shall inure to the benefit of the Company, its subsidiaries, successors and assigns.

9. Governing Law; Choice of Forum. Any dispute in the meaning, effect or validity of this Agreement shall be resolved in accordance with the laws of the State of South Carolina without regard to the conflict of laws provisions thereof. I further agree that if one or more provisions of this Agreement are held to be illegal or unenforceable under applicable South Carolina law, such illegal or unenforceable portion(s) shall be limited or excluded from this Agreement to the minimum extent required so that this Agreement shall otherwise remain in full force and effect and enforceable in accordance with its terms. I also agree that if any restriction in this Agreement shall be determined to be invalid and unenforceable, it shall automatically be modified, or may be modified by a court of competent jurisdiction, to the extent necessary to make it valid and enforceable. I also understand that any breach of this Agreement will cause irreparable harm to the Company for which damages would not be an adequate remedy, and, therefore, the Company will be entitled to injunctive relief with respect thereto in addition to any other remedies. I hereby waive any requirement that the Company post a bond or similar security or instrument in connection with any action the Company may commence in an effort to enforce this Agreement.

10. Miscellaneous. Except for my employment agreement with the Company and my Change in Control Agreement with the Company, this Agreement supersedes all prior agreements and understandings between the parties—whether communicated in writing, orally or otherwise—and the representations, covenants and agreements herein shall be binding and in full force against the parties effective from the commencement of my employment with the Company. I may not assign this Agreement or any rights or obligations hereunder. This Agreement shall bind and inure to the benefit of each party and its respective successors, heirs and assigns. Any references to the “Company” in this Agreement shall include any subsidiary, affiliate, strategic partner, assign and/or successor of the Company or any similarly situated party.

I HAVE READ THIS AGREEMENT CAREFULLY AND I UNDERSTAND AND ACCEPT THE OBLIGATIONS WHICH IT IMPOSES UPON ME WITHOUT RESERVATION. I SIGN THIS AGREEMENT VOLUNTARILY AND FREELY, IN DUPLICATE, WITH THE UNDERSTANDING THAT ONE COUNTERPART WILL BE RETAINED BY COMPANY AND THE OTHER COUNTERPART WILL BE RETAINED BY ME.

EXECUTIVE

/s/ Joseph D. Lancia
Joseph D. Lancia

Address:
109 Thornblade Blvd.
Greer, SC 29650

Date of Commencement of Employment
December 16, 2011

8/3/12
Date Signed

Accepted and Agreed to:
Scio Diamond Technology Corporation

/s/ Edward S. Adams
Edward S. Adams
Chairman



APPENDIX A
PRIOR MATTER

Exhibit 10.1 - Page - 12



Michael W. McMahon
5 St. Helaine Place
Greer, SC 29650

RE: AMENDED AND RESTATED OFFER OF EMPLOYMENT, EFFECTIVE AS OF NOVEMBER 29, 2011

Dear Michael:

On behalf of Scio Diamond Technology Corporation (the "Company"), I am very pleased to offer you (sometimes referred to as "Executive") a full-time employment position with the Company. This offer letter (the "Letter Agreement") clarifies and confirms and memorializes the terms of your employment with the Company.

1. START DATE

Your employment will commence with the Company on or about December 16, 2011 (the "Start Date").

2. POSITION AND REPORTING

Your position with the Company will be Chief Operating Officer. At the discretion and direction of the Company's Chairman, you will report directly to the Company's President and Chief Executive Officer.

3. SALARY

As of the Start Date your starting salary will be \$150,000 annualized, payable bi-weekly in accordance with the Company's standard payroll practice and subject to applicable withholding taxes. Because your position is exempt from overtime pay, your salary will compensate you for all hours worked. The Chief Operating Officer, Board of Directors, or its Compensation Committee will review your salary annually. Any increases will be effective as of the date determined by the Board of Directors or its Compensation Committee.

4. ANNUAL DISCRETIONARY BONUS

The Board of Directors, in its sole and exclusive discretion, may vote to award you with an annual bonus. Said bonus, if awarded, will be payable during the first payroll period following the calendar year for which it was awarded.



5. BENEFITS

You will also be entitled, during the term of your employment, to such vacation, medical and other employee benefits as the Company may offer from time to time, subject to applicable eligibility requirements. The Company does reserve the right to make any modifications in the benefits package that it deems appropriate. The Company hereby provides you with 15 days paid vacation each calendar year. You are also eligible to participate in any 401(k) retirement plan adopted and offered by the Company, subject to the terms and conditions thereof.

6. STOCK and STOCK OPTIONS

As we have discussed with you, the Company takes a long-term approach to investment, and its employees are its most important investments. Our compensation structure is weighted towards equity ownership because we believe we will create the most value for the Company and its shareholders over time by having employees think and act like, and therefore be, owners.

You will be eligible to participate in any stock option plan adopted and incorporated by the Company (the "Options"). The extent, terms and conditions of any Options provided to you will be determined by the Company's Board of Directors or its Compensation Committee, if any, in its sole and unilateral discretion. The strike price on any stock option grant provided to you will be determined by the Company's Board of Director's or its Compensation Committee's assessment of the fair market value per share of such stock on the date that the Board of Directors or Compensation Committee approved your grant.

The Shares and any Options granted to you will be adjusted pursuant to any forward or reverse stock splits that occur during the vesting or applicable option period.

7. EMPLOYMENT AT WILL

If you accept the Company's offer of employment, you will be an employee-at-will, meaning that either you or the Company may terminate our relationship at any time for any reason, with or without cause. Any statements to the contrary that may have been made to you or that may be made to you by the Company, its agents, or representatives are superseded by this Letter. Termination of your employment with the Company will be subject to the terms of the Proprietary Information and Inventions Agreement.

8. CONFIDENTIALITY, NON-COMPETITION AND INVENTION ASSIGNMENT AGREEMENT

As a condition of your employment pursuant to this Letter Agreement, we do require that you sign the accompanying Proprietary Information and Inventions Agreement, which is attached hereto and incorporated herein as Appendix A.



You should know that the Proprietary Information and Inventions Agreement significantly restrict your future flexibility in many ways. For example, you will be unable to seek or accept certain employment opportunities for a period of 12 months after you leave the employ of the Company.

9. PRIOR APOLLO PATENTS

You agree to cooperate with the Company to perfect any assignments of intellectual property formerly owned by Apollo Diamond, Inc. and/or Apollo Diamond Gemstone Corporation ("Apollo IP") to the Company.

10. SEVERANCE

In the event that the Company terminates your employment without Cause, then the Company will pay you an aggregate amount equal to your annual salary as in effect prior to your termination, with such aggregate amount paid through equal periodic payments, in accordance with the Company's payroll practices at the date of your termination, during the one (1) year following such termination, and the Company shall pay the full amount of your COBRA payments as of the monthly due date for such COBRA payments with respect to the first year following such termination; provided, that if your Change in Control Agreement with the Company ("Change in Control Agreement") is in effect, all payments under this Agreement shall cease, you will have no further entitlement to such payments, upon the occurrence of a Qualifying Change in Control, as provided in the Change in Control Agreement. To the extent required by law, COBRA payments will be reported as income to you.

"Cause" shall mean (A) the willful and continued failure of Executive to perform substantially his duties with the Company (other than any such failure resulting from Executive's incapacity due to physical or mental illness or condition or any such failure subsequent to Executive being delivered a Notice of Termination without Cause by the Company) that is not remedied within 30 days after a written demand for substantial performance is delivered to Executive by the Chairman of the Board or the Chairman of the Compensation Committee which specifically identifies the manner in which Executive has not substantially performed Executive's duties and that such failure if not remedied constitutes "Cause" under this Agreement, (B) Executive's conviction by a court of law, Executive's admission in a legal proceeding that he is guilty or Executive's plea of nolo contendere, in each case, with respect to a felony, (C) Disability, (D) death, or (E) Retirement or other voluntary termination of employment. For purposes of the definition of "Cause," no act or failure to act by Executive shall be considered "willful" unless done or omitted to be done by Executive in bad faith and without reasonable belief that Executive's action or omission was in, or not opposed to, the best interests of the Company. "Disability" means Executive's absence from Executive's duties with the Company on a full-time basis for at least one-hundred-eighty (180) consecutive days as a result of Executive's incapacity due to physical or mental illness, unless within 30 days after Notice of Termination is given to Executive following such absence Executive shall have returned to the full-time performance of Executive's duties. "Retirement" means Executive's termination of his employment on or after his attainment of age 65. "Notice of Termination" shall mean a written notice of Executive's termination by the Company, which written notice shall (i) indicate the specific Cause relied upon, (ii) to the extent applicable, set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of Executive's employment for such Cause, and (iii) specify the date of termination; provided that the failure by the Company to set forth in such notice any fact or circumstance which contributes to a showing of Cause shall not waive any right of the Company hereunder or preclude the Company from asserting such fact or circumstance in enforcing the Company's rights hereunder; and further provided that in the event of a termination for Disability the date of termination shall be 30 days after Notice of Termination is given (provided that Executive shall not have returned to the performance of Executive's duties on a full-time basis during such 30 day period). "Terminate," "terminated," "termination," or "termination of employment" shall mean "separation from service" as defined by Treasury Regulation § 1.409A-1(h).



(a) This Agreement is intended to be exempt from Section 409A of the Internal Revenue Code and any regulations and Treasury guidance promulgated thereunder (the "Code") to the maximum extent possible through the short term deferral exception of Treas. Reg. §1.409A-1(b)(4) and the separation pay plan exception of Treas. Reg. §1.409A-1(b)(9), and shall be interpreted and administered accordingly. Any payments exempt under the separation pay plan exception shall be paid no later than the last day of the second calendar year following the calendar year in which Executive's termination of employment occurs. For purposes of Code Section 409A, the Executive's right to receive any installment payments pursuant to this Agreement shall be treated as a right to receive a series of separate and distinct payments.

(b) The Company and Executive agree that they will execute any and all amendments to this Agreement as they mutually agree in good faith may be necessary to ensure exemption from, or as needed, compliance with, Section 409A of the Code.

(c) The Company makes no representation or warranty as to the tax effect of any of the preceding provisions, and the provisions of this Agreement shall not be construed as a guarantee by the Company of any particular tax effect to Executive under this Agreement. The Company shall not be liable to Executive or any other person for any payment made under this Agreement which is determined to result in the imposition of an excise tax, penalty or interest under Section 409A of the Code, nor for reporting in good faith any payment made under this Agreement as an amount includible in gross income under Section 409A of the Code.

(d) Notwithstanding the timing of any payments pursuant to Section 3 of this Agreement, if Executive is deemed on the date of termination to be a "specified employee" within the meaning of that term under Code Section 409A(a)(2)(B), then each of the following shall apply:

(i) With regard to any payment that is considered deferred compensation under Code Section 409A payable on account of a "separation from service," such payment shall be made on the date which is the earlier of (x) the expiration of the six (6)-month period measured from the date of such "separation from service" of the Employee, and (y) the date of the Employee's death (the "Delay Period") to the extent required under Code Section 409A. Upon the expiration of the Delay Period, all payments delayed pursuant to this Section (whether they would have otherwise been payable in a single sum or in installments in the absence of such delay) shall be paid to the Executive in a lump sum, and any remaining payments and benefits due under this Agreement shall be paid or provided in accordance with the normal payment dates specified for them herein; and



(ii) To the extent any benefits provided during the first six months after Executive's termination are considered deferred compensation under Code Section 409A provided on account of a "separation from service," and such benefits are not otherwise exempt from Code Section 409A, Executive shall pay the costs of such benefits during the first six months following termination and shall be reimbursed, to the extent such costs would otherwise have been paid by the Company or to the extent such benefits would otherwise have been provided by the Company at no cost to the Executive, the cost of such coverage six months after Executive's termination.

11. ADDITIONAL PROVISIONS

Your employment pursuant to this letter is also contingent upon your submitting the legally required proof of your identity and authorization to work in the United States and the passing of a pre-employment drug test. Additionally you must complete the Scio Employee Application and Background Check form attached. Furthermore, as we are a "drug free" workplace and you will be required to submit to a pre-employment drug test.

This Letter Agreement and the agreements referenced herein and therein, contain the complete agreement between you and the Company with respect to the subject matter hereof and thereof, and supersede any prior understandings, agreements or representations by or between you and the Company, written or oral, which may have related to the subject matter hereof or thereof in any way, except for your Change in Control Agreement with the Company and the stock option agreements between you and the Company dated on or around May 7, 2012.

Neither you nor the Company may transfer or assign any rights or delegate any obligations hereunder, in whole or in part, whether voluntarily or by operation of law, without the prior written consent of the other party. Any purported transfer, assignment or delegation by either you or the Company will be null and void and of no force or effect. This Letter Agreement shall be binding upon and inure to the benefit of the parties' successors and lawful assigns.

Whenever possible, each provision of this Letter Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Letter Agreement is held to be prohibited by or unenforceable or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Letter Agreement.



This Letter Agreement may be executed in one or more counterparts, any one of which need not contain the signatures of more than one party, but all such counterparts taken together, when delivered, will constitute one and the same instrument.

The internal law, without regard to conflicts of laws principles, of the State of South Carolina will govern all questions concerning the construction, validity and interpretation of this Letter Agreement and the performance of the obligations imposed by this Letter Agreement. Any and every legal proceeding arising out of or in connection with this Letter Agreement shall be brought in the appropriate courts of the State of South Carolina, and each of the parties hereto consents to the exclusive jurisdiction of such courts.

No term or condition of this Letter Agreement shall be deemed to have been waived, nor shall there be any estoppel to enforce any provisions of this Letter Agreement, except by a statement in writing signed by the party against whom enforcement of the waiver or estoppel is sought. Any written waiver shall not be deemed a continuing waiver unless specifically stated, shall operate only as to the specific term or condition waived and shall not constitute a waiver of such term or condition for the future or as to any act other than that specifically waived.

Please review this Letter Agreement and the accompanying Proprietary Information and Inventions Agreement carefully and, if appropriate, have your attorney review these documents as well. We encourage you to consult legal counsel to advise you regarding your obligations under this Letter Agreement and the accompanying Proprietary Information and Inventions Agreement before you sign these documents. If you wish to accept employment with the Company, please indicate so by signing this Letter Agreement, the accompanying Proprietary Information and Inventions Agreement attached as Appendix A, and completing the Scio Employee Application and Background Check form attached hereto and made a part hereof and return the originals to me. You should retain copies of each agreement for your records.

We are very excited about our future relationship. I hope that you will accept this offer of employment, as I look forward to a productive and mutually beneficial working relationship. Please let me know if I can answer any questions for you about any of the matters outlined in this Letter Agreement and or any of its appendix or attachments referenced herein and made a part hereof.

Sincerely,

/s/ Edward S. Adams
Edward S. Adams
Chairman
Scio Diamond Technology Corporation

ACCEPTANCE

I accept employment with Scio Diamond Technology Corporation under the terms set forth in this Letter Agreement:

/s/ Michael W. McMahon
Michael W. McMahon

Dated as of August 3, 2012



PROPRIETARY INFORMATION AND INVENTIONS AGREEMENT

This Agreement is made between me, the undersigned employee (sometimes referred to as "Executive"), and Scio Diamond Technology Corporation (the "Company"), and is a material part of the consideration for my continued employment by the Company and further is entered into in consideration for a cash payment of \$100, the premises, mutual covenants and representations contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties:

1. No Conflict. I have not entered into, and I agree I will not enter into, any agreement either written or oral in conflict with this Agreement or my employment with the Company. I will not violate any agreement with or rights of any third party or, except as expressly authorized by the Company in writing hereafter, use or disclose my own or any third party's confidential information or intellectual property when acting within the scope of my employment or otherwise on behalf of the Company. Further, I have not retained anything containing any confidential information of a prior employer or other third party, whether or not created by me.

2. Intellectual Property Assignment. The Company shall own all right, title and interest (including, but not limited to, patent rights, copyrights, trade secret rights, mask work rights, *sui generis* database rights and all other intellectual and industrial property rights of any sort throughout the world) relating to any and all inventions (whether or not patentable), works of authorship, mask works, designs, know-how, research, development, trade secrets, techniques, processes, procedures, plans, policies, discoveries, hardware, software, screens, specifications, designs, drawings, ideas and information made or conceived or reduced to practice, in whole or in part, by me or any other employee, independent contractor or agent of the Company during the term of my employment with Company (collectively, "Inventions"), and I will promptly disclose all Inventions to the Company. "Inventions" is to be broadly defined. By way of example and without limitation, Inventions include all items mentioned in the first sentence of this paragraph and any and all information concerning teaching techniques, processes, formulas, innovations, discoveries, improvements, research or development and test results, data, formats, marketing plans, business plans, strategies, forecasts, unpublished financial information, budgets, projections, and customer and supplier identities, characteristics and agreements.

I hereby make all assignments necessary to accomplish the foregoing. I shall further assist the Company, at the Company's expense, to further evidence, record and perfect such assignments, and to perfect, obtain, maintain, enforce, and defend any rights specified to be so owned or assigned. I hereby irrevocably designate and appoint the Company and its agents as attorneys-in-fact to act for and in my behalf to execute and file any document and to do all other lawfully permitted acts to further the purposes of the foregoing with the same legal force and effect as if executed by me. If I wish to clarify that something created by me prior to my employment that relates to the Company's actual or proposed business is not within the scope of this Agreement, I have listed it on Appendix A. If I use or (except pursuant to this paragraph 2) disclose my own or any third party's confidential information or intellectual property when acting within the scope of my employment or otherwise on behalf of the Company, the Company will have and I hereby grant the Company a perpetual, irrevocable, worldwide, royalty-free, non-exclusive, sublicensable right and license to exploit and exercise all such confidential information and intellectual property rights.

3. Prior Apollo IP. I agree to cooperate with the company to perfect any assignments of intellectual property formerly owned by, or claimed to be owned by, Apollo Diamond, Inc. and/or Apollo Diamond Gemstone Corporation (“Apollo IP”) to the Company. To the extent I hold any existing rights in intellectual property that Apollo Diamond, Inc. and/or Apollo Diamond Gemstone Corporation claim to own, I hereby assign any and all such rights, without exception, to the Company. I shall further assist the Company, at the Company’s expense, to further evidence, record and perfect such assignments, and to perfect, obtain, maintain, enforce, and defend any rights specified to be so owned or assigned. I hereby irrevocably designate and appoint the Company and its agents as attorneys-in-fact to act for and in my behalf to execute and file any document(s) and to do all other lawfully permitted acts to further the purposes of the foregoing with the same legal force and effect as if executed by me.

4. Moral Rights. To the extent allowed by law, paragraph 2 includes all rights of paternity, integrity, disclosure and withdrawal and any other rights that may be known as or referred to as “moral rights,” “artist’s rights,” “droit moral,” or the like (collectively “Moral Rights”). To the extent I retain any such Moral Rights under applicable law, I hereby ratify and consent to any action that may be taken with respect to such Moral Rights by or authorized by the Company and agree not to assert any Moral Rights with respect thereto. I will confirm any such ratifications, consents and agreements from time to time as requested by the Company.

5. Confidential Information. I agree that all Inventions and all other business, technical and financial information (including, without limitation, the identity of and information relating to customers, potential customers, suppliers, strategic partners, service providers, employees, agents or shareholders of the Company) I develop, learn or obtain during the term of my employment that relate to the Company or the business or demonstrably anticipated business of the Company or that are received by or for the Company in confidence, constitute “Proprietary Information.” Proprietary Information includes not only information disclosed by the Company or its clients to me in the course of my employment, but also information developed or learned by me during the course of my employment with the Company, such as Inventions (as defined above). Proprietary Information is to be broadly defined. Proprietary Information includes all information that has or could have commercial value or other utility in the business in which the Company or clients are engaged or contemplate engaging, which also includes all information of which the unauthorized disclosure could be detrimental to the interests of the Company or clients, whether or not such information is identified as Proprietary Information by the Company or clients, which does not rise to the level of a Trade Secret. By example and without limitation, Proprietary Information includes any and all information concerning teaching techniques, processes, innovations, inventions, discoveries, improvements, research or development and test results, specifications, data, know-how, formats, marketing plans, business plans, strategies, forecasts, unpublished financial information, budgets, projections, and customer and supplier identities, characteristics, and agreements which does not rise to the level of a Trade Secret. The term Trade Secret(s), as such term is used herein, means information, without regard to form, including, but not limited to, technical or nontechnical data, a formula, a pattern, a compilation, a program, a device, a method, a technique, a drawing, a process, financial data, financial plans, product plans, or a list of actual or potential customers or suppliers which is not commonly known by or available to the public and which information (i) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. During the term of my employment and until the fifth anniversary of the conclusion of my employment with Company, I will hold in confidence and not divulge, disclose or otherwise use any Proprietary Information except within the scope of my employment by the Company. I further covenant and agree that during the term of my employment and at all times thereafter, I will hold in confidence and not divulge, disclose or otherwise use any Trade Secrets of the Company except within the scope of my employment by the Company. However, I shall not be obligated under this paragraph with respect to information I can document is or becomes readily publicly available without restriction through no fault of mine. I acknowledge that all Proprietary Information, in any form or medium, including copies thereof is the sole and exclusive property of the Company. Upon termination of my employment, I will promptly return to the Company any and all items containing or embodying Proprietary Information in any form or medium (including all copies), except that I may keep a single personal copy of (i) my compensation records, (ii) materials distributed to shareholders generally and (iii) this Agreement. I also recognize and agree that I have no expectation of privacy with respect to the Company’s telecommunications, networking or information processing systems (including, without limitation, stored computer files, email messages and voice messages) and that my activity and any files or messages on or using any of those systems may be monitored at any time without notice.

6. Non-Solicitation. I agree that during the term of my employment and until the second anniversary of the conclusion of my employment with the Company, I will not encourage or solicit any employee or consultant of the Company to leave the Company for any reason (except for the bona fide firing of Company personnel within the scope of my employment). I also agree that during the term of my employment (whether or not during business hours) and until the second anniversary of the conclusion of my employment with the Company, I will not solicit business from, divert business from, or attempt to convert to other methods of using or offering the same or similar products or services as provided by the Company or its affiliates to any person or entity that is or was a client or prospective client of the Company or its affiliates at any time during the 24 months prior to the date of termination of my employment and with whom I have had material contact.

7. Non-Compete. During Executive's employment with the Company and for a period of 12 months thereafter, Executive shall not (without the prior written consent of the Company) compete with the Company or any of its Affiliates by, directly or indirectly, forming, serving as an organizer, director or officer of, or consultant to, or acquiring or maintaining more than a 5% investment in, a Competing Business located in the Territory. "Affiliate" shall mean any business entity controlled by, controlling or under common control with the Company. "Business" shall mean the production of cultured diamonds, and any other related business engaged in by the Company or any of its Affiliates as of the date of termination. "Competing Business" shall mean any business that, in whole or in part, is the same or substantially the same as the Business. "Territory" shall mean any state in the continental United States of America and the States of Alaska and Hawaii into which the Company has sold products during the 60 day period ending of the date of the Executive's termination.

8. Survival. I agree that my obligations under paragraphs 2, 3, 4, 5, 6 and 7 of this Agreement shall continue in effect after termination of my employment, regardless of the reason or reasons for termination, and whether such termination is voluntary or involuntary on my part, and that the Company is entitled to communicate my obligations under this Agreement to any future employer or potential employer of mine. My obligations under paragraphs 2, 4 and 5 also shall be binding upon my heirs, executors, assigns, and administrators and shall inure to the benefit of the Company, its subsidiaries, successors and assigns.

9. Governing Law; Choice of Forum. Any dispute in the meaning, effect or validity of this Agreement shall be resolved in accordance with the laws of the State of South Carolina without regard to the conflict of laws provisions thereof. I further agree that if one or more provisions of this Agreement are held to be illegal or unenforceable under applicable South Carolina law, such illegal or unenforceable portion(s) shall be limited or excluded from this Agreement to the minimum extent required so that this Agreement shall otherwise remain in full force and effect and enforceable in accordance with its terms. I also agree that if any restriction in this Agreement shall be determined to be invalid and unenforceable, it shall automatically be modified, or may be modified by a court of competent jurisdiction, to the extent necessary to make it valid and enforceable. I also understand that any breach of this Agreement will cause irreparable harm to the Company for which damages would not be an adequate remedy, and, therefore, the Company will be entitled to injunctive relief with respect thereto in addition to any other remedies. I hereby waive any requirement that the Company post a bond or similar security or instrument in connection with any action the Company may commence in an effort to enforce this Agreement.

10. Miscellaneous. Except for my employment agreement with the Company and my Change in Control Agreement with the Company, this Agreement supersedes all prior agreements and understandings between the parties—whether communicated in writing, orally or otherwise—and the representations, covenants and agreements herein shall be binding and in full force against the parties effective from the commencement of my employment with the Company. I may not assign this Agreement or any rights or obligations hereunder. This Agreement shall bind and inure to the benefit of each party and its respective successors, heirs and assigns. Any references to the “Company” in this Agreement shall include any subsidiary, affiliate, strategic partner, assign and/or successor of the Company or any similarly situated party.

I HAVE READ THIS AGREEMENT CAREFULLY AND I UNDERSTAND AND ACCEPT THE OBLIGATIONS WHICH IT IMPOSES UPON ME WITHOUT RESERVATION. I SIGN THIS AGREEMENT VOLUNTARILY AND FREELY, IN DUPLICATE, WITH THE UNDERSTANDING THAT ONE COUNTERPART WILL BE RETAINED BY COMPANY AND THE OTHER COUNTERPART WILL BE RETAINED BY ME.

EXECUTIVE

/s/ Michael W. McMahon
Michael W. McMahon

Address:
706 Deerfield Drive
Greer, SC 29650

Date of Commencement of Employment
December 16, 2011

Date Signed

Accepted and Agreed to:
Scio Diamond Technology Corporation

/s/ Edward S. Adams
Edward S. Adams
Chairman



APPENDIX A
PRIOR MATTER

Exhibit 10.2 - Page - 12



Charles G. Nichols
305 Riverside Drive
Greenville, SC 29605

RE: AMENDED AND RESTATED OFFER OF EMPLOYMENT, EFFECTIVE AS OF NOVEMBER 30, 2011

Dear Charles:

On behalf of Scio Diamond Technology Corporation (the "Company"), I am very pleased to offer you (sometimes referred to as "Executive") a full-time employment position with the Company. This offer letter (the "Letter Agreement") clarifies and confirms and memorializes the terms of your employment with the Company.

1. START DATE

Your employment will commence with the Company on or about January 9, 2012 (the "Start Date").

2. POSITION AND REPORTING

Your position with the Company will be Chief Financial Officer. At the discretion and direction of the Company's Board of Directors, you will report directly to the Company's President / CEO.

3. SALARY

As of the Start Date, your starting salary will be \$125,000 annualized, payable bi-weekly in accordance with the Company's standard payroll practice and subject to applicable withholding taxes. Because your position is exempt from overtime pay, your salary will compensate you for all hours worked. The Chief Operating Officer, Board of Directors, or its Compensation Committee will review your salary annually. Any increases will be effective as of the date determined by the Board of Directors or its Compensation Committee.

4. ANNUAL DISCRETIONARY BONUS

The Board of Directors, in its sole and exclusive discretion, may vote to award you with an annual bonus. Said bonus, if awarded, will be payable during the first payroll period following the calendar year for which it was awarded.

5. BENEFITS

You will also be entitled, during the term of your employment, to such vacation, medical and other employee benefits as the Company may offer from time to time, subject to applicable eligibility requirements. The Company does reserve the right to make any modifications in the benefits package that it deems appropriate. The Company hereby provides you with 15 days paid vacation each calendar year. You are also eligible to participate in any 401(k) retirement plan adopted and offered by the Company, subject to the terms and conditions thereof.



6. STOCK and STOCK OPTIONS

As we have discussed with you, the Company takes a long-term approach to investment, and its employees are its most important investments. Our compensation structure is weighted towards equity ownership because we believe we will create the most value for the Company and its shareholders over time by having employees think and act like, and therefore be, owners.

You will be eligible to participate in any stock option plan adopted and incorporated by the Company (the “Options”). The extent, terms and conditions of any Options provided to you will be determined by the Company’s Board of Directors or its Compensation Committee, if any, in its sole and unilateral discretion. The strike price on any stock option grant provided to you will be determined by the Company’s Board of Director’s or its Compensation Committee’s assessment of the fair market value per share of such stock on the date that the Board of Directors or Compensation Committee approved your grant.

The Shares and any Options granted to you will be adjusted pursuant to any forward or reverse stock splits that occur during the vesting or applicable option period.

7. EMPLOYMENT AT WILL

If you accept the Company’s offer of employment, you will be an employee-at-will, meaning that either you or the Company may terminate our relationship at any time for any reason, with or without cause. Any statements to the contrary that may have been made to you or that may be made to you by the Company, its agents, or representatives are superseded by this Letter. Termination of your employment with the Company will be subject to the terms of the Proprietary Information and Inventions Agreement.

8. CONFIDENTIALITY, NON-COMPETITION AND INVENTION ASSIGNMENT AGREEMENT

As a condition of your employment pursuant to this Letter Agreement, we do require that you sign the accompanying Proprietary Information and Inventions Agreement, which is attached hereto and incorporated herein as Appendix A.

You should know that the Proprietary Information and Inventions Agreement significantly restrict your future flexibility in many ways. For example, you will be unable to seek or accept certain employment opportunities for a period of 12 months after you leave the employ of the Company.

9. PRIOR APOLLO PATENTS

You agree to cooperate with the Company to perfect any assignments of intellectual property formerly owned by Apollo Diamond, Inc. and/or Apollo Diamond Gemstone Corporation (“Apollo IP”) to the Company.



10. ADDITIONAL PROVISIONS

Your employment pursuant to this letter is also contingent upon your submitting the legally required proof of your identity and authorization to work in the United States and the passing of a pre-employment drug test. Additionally you must complete the Scio Employee Application and Background Check form attached. Furthermore, as we are a “drug free” workplace and you will be required to submit to a pre-employment drug test.

This Letter Agreement and the agreements referenced herein and therein, contain the complete agreement between you and the Company with respect to the subject matter hereof and thereof, and supersede any prior understandings, agreements or representations by or between you and the Company, written or oral, which may have related to the subject matter hereof or thereof in any way, except for your Change in Control Agreement with the Company and the stock option agreements between you and the Company dated on or around May 7, 2012.

Neither you nor the Company may transfer or assign any rights or delegate any obligations hereunder, in whole or in part, whether voluntarily or by operation of law, without the prior written consent of the other party. Any purported transfer, assignment or delegation by either you or the Company will be null and void and of no force or effect. This Letter Agreement shall be binding upon and inure to the benefit of the parties’ successors and lawful assigns.

Whenever possible, each provision of this Letter Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Letter Agreement is held to be prohibited by or unenforceable or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Letter Agreement.

This Letter Agreement may be executed in one or more counterparts, any one of which need not contain the signatures of more than one party, but all such counterparts taken together, when delivered, will constitute one and the same instrument.

The internal law, without regard to conflicts of laws principles, of the State of South Carolina will govern all questions concerning the construction, validity and interpretation of this Letter Agreement and the performance of the obligations imposed by this Letter Agreement. Any and every legal proceeding arising out of or in connection with this Letter Agreement shall be brought in the appropriate courts of the State of South Carolina, and each of the parties hereto consents to the exclusive jurisdiction of such courts.

No term or condition of this Letter Agreement shall be deemed to have been waived, nor shall there be any estoppel to enforce any provisions of this Letter Agreement, except by a statement in writing signed by the party against whom enforcement of the waiver or estoppel is sought. Any written waiver shall not be deemed a continuing waiver unless specifically stated, shall operate only as to the specific term or condition waived and shall not constitute a waiver of such term or condition for the future or as to any act other than that specifically waived.



Please review this Letter Agreement and the accompanying Proprietary Information and Inventions Agreement carefully and, if appropriate, have your attorney review these documents as well. We encourage you to consult legal counsel to advise you regarding your obligations under this Letter Agreement and the accompanying Proprietary Information and Inventions Agreement before you sign these documents.

If you wish to accept employment with the Company, please indicate so by signing this Letter Agreement, the accompanying Proprietary Information and Inventions Agreement attached as Appendix A, and completing the Scio Employee Application and Background Check form attached hereto and made a part hereof and return the originals to me. You should retain copies of each agreement for your records.

We are very excited about our future relationship. I hope that you will accept this offer of employment, as I look forward to a productive and mutually beneficial working relationship. Please let me know if I can answer any questions for you about any of the matters outlined in this Letter Agreement and or any of its appendix or attachments referenced herein and made a part hereof.

Sincerely,

/s/ Edward S. Adams
Edward S. Adams
Chairman
Scio Diamond Technology Corporation

ACCEPTANCE

I accept employment with Scio Diamond Technology Corporation under the terms set forth in this Letter Agreement:

/s/ Charles G. Nichols
Charles G. Nichols

Dated as of 8/3/12



PROPRIETARY INFORMATION AND INVENTIONS AGREEMENT

This Agreement is made between me, the undersigned employee (sometimes referred to as "Executive"), and Scio Diamond Technology Corporation (the "Company"), and is a material part of the consideration for my continued employment by the Company and further is entered into in consideration for a cash payment of \$100, the premises, mutual covenants and representations contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties:

1. No Conflict. I have not entered into, and I agree I will not enter into, any agreement either written or oral in conflict with this Agreement or my employment with the Company. I will not violate any agreement with or rights of any third party or, except as expressly authorized by the Company in writing hereafter, use or disclose my own or any third party's confidential information or intellectual property when acting within the scope of my employment or otherwise on behalf of the Company. Further, I have not retained anything containing any confidential information of a prior employer or other third party, whether or not created by me.

2. Intellectual Property Assignment. The Company shall own all right, title and interest (including, but not limited to, patent rights, copyrights, trade secret rights, mask work rights, *sui generis* database rights and all other intellectual and industrial property rights of any sort throughout the world) relating to any and all inventions (whether or not patentable), works of authorship, mask works, designs, know-how, research, development, trade secrets, techniques, processes, procedures, plans, policies, discoveries, hardware, software, screens, specifications, designs, drawings, ideas and information made or conceived or reduced to practice, in whole or in part, by me or any other employee, independent contractor or agent of the Company during the term of my employment with Company (collectively, "Inventions"), and I will promptly disclose all Inventions to the Company. "Inventions" is to be broadly defined. By way of example and without limitation, Inventions include all items mentioned in the first sentence of this paragraph and any and all information concerning teaching techniques, processes, formulas, innovations, discoveries, improvements, research or development and test results, data, formats, marketing plans, business plans, strategies, forecasts, unpublished financial information, budgets, projections, and customer and supplier identities, characteristics and agreements.

I hereby make all assignments necessary to accomplish the foregoing. I shall further assist the Company, at the Company's expense, to further evidence, record and perfect such assignments, and to perfect, obtain, maintain, enforce, and defend any rights specified to be so owned or assigned. I hereby irrevocably designate and appoint the Company and its agents as attorneys-in-fact to act for and in my behalf to execute and file any document and to do all other lawfully permitted acts to further the purposes of the foregoing with the same legal force and effect as if executed by me. If I wish to clarify that something created by me prior to my employment that relates to the Company's actual or proposed business is not within the scope of this Agreement, I have listed it on Appendix A. If I use or (except pursuant to this paragraph 2) disclose my own or any third party's confidential information or intellectual property when acting within the scope of my employment or otherwise on behalf of the Company, the Company will have and I hereby grant the Company a perpetual, irrevocable, worldwide, royalty-free, non-exclusive, sublicensable right and license to exploit and exercise all such confidential information and intellectual property rights.

3. Prior Apollo IP. I agree to cooperate with the company to perfect any assignments of intellectual property formerly owned by, or claimed to be owned by, Apollo Diamond, Inc. and/or Apollo Diamond Gemstone Corporation (“Apollo IP”) to the Company. To the extent I hold any existing rights in intellectual property that Apollo Diamond, Inc. and/or Apollo Diamond Gemstone Corporation claim to own, I hereby assign any and all such rights, without exception, to the Company. I shall further assist the Company, at the Company’s expense, to further evidence, record and perfect such assignments, and to perfect, obtain, maintain, enforce, and defend any rights specified to be so owned or assigned. I hereby irrevocably designate and appoint the Company and its agents as attorneys-in-fact to act for and in my behalf to execute and file any document(s) and to do all other lawfully permitted acts to further the purposes of the foregoing with the same legal force and effect as if executed by me.

4. Moral Rights. To the extent allowed by law, paragraph 2 includes all rights of paternity, integrity, disclosure and withdrawal and any other rights that may be known as or referred to as “moral rights,” “artist’s rights,” “droit moral,” or the like (collectively “Moral Rights”). To the extent I retain any such Moral Rights under applicable law, I hereby ratify and consent to any action that may be taken with respect to such Moral Rights by or authorized by the Company and agree not to assert any Moral Rights with respect thereto. I will confirm any such ratifications, consents and agreements from time to time as requested by the Company.

5. Confidential Information. I agree that all Inventions and all other business, technical and financial information (including, without limitation, the identity of and information relating to customers, potential customers, suppliers, strategic partners, service providers, employees, agents or shareholders of the Company) I develop, learn or obtain during the term of my employment that relate to the Company or the business or demonstrably anticipated business of the Company or that are received by or for the Company in confidence, constitute “Proprietary Information.” Proprietary Information includes not only information disclosed by the Company or its clients to me in the course of my employment, but also information developed or learned by me during the course of my employment with the Company, such as Inventions (as defined above). Proprietary Information is to be broadly defined. Proprietary Information includes all information that has or could have commercial value or other utility in the business in which the Company or clients are engaged or contemplate engaging, which also includes all information of which the unauthorized disclosure could be detrimental to the interests of the Company or clients, whether or not such information is identified as Proprietary Information by the Company or clients, which does not rise to the level of a Trade Secret. By example and without limitation, Proprietary Information includes any and all information concerning teaching techniques, processes, innovations, inventions, discoveries, improvements, research or development and test results, specifications, data, know-how, formats, marketing plans, business plans, strategies, forecasts, unpublished financial information, budgets, projections, and customer and supplier identities, characteristics, and agreements which does not rise to the level of a Trade Secret. The term Trade Secret(s), as such term is used herein, means information, without regard to form, including, but not limited to, technical or nontechnical data, a formula, a pattern, a compilation, a program, a device, a method, a technique, a drawing, a process, financial data, financial plans, product plans, or a list of actual or potential customers or suppliers which is not commonly known by or available to the public and which information (i) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. During the term of my employment and until the fifth anniversary of the conclusion of my employment with Company, I will hold in confidence and not divulge, disclose or otherwise use any Proprietary Information except within the scope of my employment by the Company. I further covenant and agree that during the term of my employment and at all times thereafter, I will hold in confidence and not divulge, disclose or otherwise use any Trade Secrets of the Company except within the scope of my employment by the Company. However, I shall not be obligated under this paragraph with respect to information I can document is or becomes readily publicly available without restriction through no fault of mine. I acknowledge that all Proprietary Information, in any form or medium, including copies thereof is the sole and exclusive property of the Company. Upon termination of my employment, I will promptly return to the Company any and all items containing or embodying Proprietary Information in any form or medium (including all copies), except that I may keep a single personal copy of (i) my compensation records, (ii) materials distributed to shareholders generally and (iii) this Agreement. I also recognize and agree that I have no expectation of privacy with respect to the Company’s telecommunications, networking or information processing systems (including, without limitation, stored computer files, email messages and voice messages) and that my activity and any files or messages on or using any of those systems may be monitored at any time without notice.

6. Non-Solicitation. I agree that during the term of my employment and until the second anniversary of the conclusion of my employment with the Company, I will not encourage or solicit any employee or consultant of the Company to leave the Company for any reason (except for the bona fide firing of Company personnel within the scope of my employment). I also agree that during the term of my employment (whether or not during business hours) and until the second anniversary of the conclusion of my employment with the Company, I will not solicit business from, divert business from, or attempt to convert to other methods of using or offering the same or similar products or services as provided by the Company or its affiliates to any person or entity that is or was a client or prospective client of the Company or its affiliates at any time during the 24 months prior to the date of termination of my employment and with whom I have had material contact.

7. Non-Compete. During Executive's employment with the Company and for a period of 12 months thereafter, Executive shall not (without the prior written consent of the Company) compete with the Company or any of its Affiliates by, directly or indirectly, forming, serving as an organizer, director or officer of, or consultant to, or acquiring or maintaining more than a 5% investment in, a Competing Business located in the Territory. "Affiliate" shall mean any business entity controlled by, controlling or under common control with the Company. "Business" shall mean the production of cultured diamonds, and any other related business engaged in by the Company or any of its Affiliates as of the date of termination. "Competing Business" shall mean any business that, in whole or in part, is the same or substantially the same as the Business. "Territory" shall mean any state in the continental United States of America and the States of Alaska and Hawaii into which the Company has sold products during the 60 day period ending of the date of the Executive's termination.

8. Survival. I agree that my obligations under paragraphs 2, 3, 4, 5, 6 and 7 of this Agreement shall continue in effect after termination of my employment, regardless of the reason or reasons for termination, and whether such termination is voluntary or involuntary on my part, and that the Company is entitled to communicate my obligations under this Agreement to any future employer or potential employer of mine. My obligations under paragraphs 2, 4 and 5 also shall be binding upon my heirs, executors, assigns, and administrators and shall inure to the benefit of the Company, its subsidiaries, successors and assigns.

9. Governing Law; Choice of Forum. Any dispute in the meaning, effect or validity of this Agreement shall be resolved in accordance with the laws of the State of South Carolina without regard to the conflict of laws provisions thereof. I further agree that if one or more provisions of this Agreement are held to be illegal or unenforceable under applicable South Carolina law, such illegal or unenforceable portion(s) shall be limited or excluded from this Agreement to the minimum extent required so that this Agreement shall otherwise remain in full force and effect and enforceable in accordance with its terms. I also agree that if any restriction in this Agreement shall be determined to be invalid and unenforceable, it shall automatically be modified, or may be modified by a court of competent jurisdiction, to the extent necessary to make it valid and enforceable. I also understand that any breach of this Agreement will cause irreparable harm to the Company for which damages would not be an adequate remedy, and, therefore, the Company will be entitled to injunctive relief with respect thereto in addition to any other remedies. I hereby waive any requirement that the Company post a bond or similar security or instrument in connection with any action the Company may commence in an effort to enforce this Agreement.

10. Miscellaneous. Except for my employment agreement with the Company and my Change in Control Agreement with the Company, this Agreement supersedes all prior agreements and understandings between the parties—whether communicated in writing, orally or otherwise—and the representations, covenants and agreements herein shall be binding and in full force against the parties effective from the commencement of my employment with the Company. I may not assign this Agreement or any rights or obligations hereunder. This Agreement shall bind and inure to the benefit of each party and its respective successors, heirs and assigns. Any references to the “Company” in this Agreement shall include any subsidiary, affiliate, strategic partner, assign and/or successor of the Company or any similarly situated party.

I HAVE READ THIS AGREEMENT CAREFULLY AND I UNDERSTAND AND ACCEPT THE OBLIGATIONS WHICH IT IMPOSES UPON ME WITHOUT RESERVATION. I SIGN THIS AGREEMENT VOLUNTARILY AND FREELY, IN DUPLICATE, WITH THE UNDERSTANDING THAT ONE COUNTERPART WILL BE RETAINED BY COMPANY AND THE OTHER COUNTERPART WILL BE RETAINED BY ME.

EXECUTIVE

/s/ Charles G. Nichols
Charles G. Nichols

Address:
305 Riverside Drive
Greenville, SC 29605

Date of Commencement of Employment
January 9, 2012

Date Signed

Accepted and Agreed to:
Scio Diamond Technology Corporation

/s/ Edward S. Adams
Edward S. Adams
Chairman



APPENDIX A
PRIOR MATTER

Exhibit 10.3 - Page - 10

CHANGE IN CONTROL AGREEMENT

This Change in Control Agreement (this "Agreement") by and between **SCIO DIAMOND TECHNOLOGY CORPORATION**, a Nevada corporation ("Company"), and Joseph D. Lancia (the "Executive"), is made and entered into as of August 3, 2012.

WITNESSETH :

WHEREAS, the Board of Directors of the Company (the "Board of Directors") has determined that it is in the best interests of the Company and its shareholders to enter into this Agreement in order to assure that the Company will have the continued dedication of the Executive, notwithstanding the possibility, threat or occurrence of a Qualifying Change in Control (as defined herein) of the Company; and

WHEREAS, Executive has determined that it is in the best interests of the Executive to enter into this Agreement;

NOW, THEREFORE, in consideration of the premises, the promises hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both parties, it is hereby agreed as follows:

1. Term. The initial term of this Agreement shall be for a two year period beginning on the execution date of this Agreement and ending on the second anniversary thereof. This Agreement will automatically renew for subsequent one year periods (each a "Renewal Period") unless, at least 90 days prior to the beginning of a Renewal Period, the Company shall give notice to Executive that this Agreement shall not be so renewed.

2. Terms of At-Will Employment.

(a) Executive and the Company acknowledge that the Executive shall have no rights to continued employment under this Agreement and that, if the Executive's employment is otherwise "at will" that such "at will" employment status is not changes by this Agreement.

(b) During the term of his employment by the Company, and excluding any periods of vacation and sick leave to which Executive is entitled, Executive agrees to devote reasonable attention and time to the business and affairs of the Company and, to the extent necessary to discharge the responsibilities assigned to Executive by the Board of Directors, to use Executive's reasonable best efforts to perform faithfully and efficiently such responsibilities.

3. Qualifying Change in Control Payment.

If the employment of Executive terminates pursuant to a Qualifying Termination and Notice of Termination is given by the Company or Executive within four months prior to a Qualifying Change in Control or one year following a Qualifying Change in Control, then:

(a) The Company shall pay Executive a lump sum in cash (less applicable withholdings) (x) within 7 days of the date of termination, if the termination occurs on or after the applicable Qualifying Change in Control and within one (1) year of the Qualifying Change in Control date, or (y) on the date of the Qualifying Change in Control, if the termination occurs within the four months prior to the Qualifying Change in Control. The lump sum severance compensation shall be an amount equal to his then current (as of the date of termination) monthly base salary multiplied by 24 months, less any severance benefits, if any, paid to Executive under his Amended and Restated Offer of Employment on account of his termination by the Company within four (4) months of the Qualifying Change in Control (being both severance benefits and COBRA payments). If Executive's date of termination is on or after the Qualifying Change in Control, the Executive will also be paid any base salary and/or bonus earned or accrued through the date of termination and not previously paid (including any amounts awarded for previous years but which were not yet vested), subject to applicable withholdings; and

(b) The Company will provide the Executive with the following payments ("Separation Payments") which payments are intended to roughly offset on an after-tax basis the potential costs of providing medical and other employee benefits that may be lost during the 24 months following a Qualifying Termination, but which payments shall be as set forth herein regardless of whether the pre-tax value of the lost benefits is greater or less than the payments set forth herein): \$2,700 per month, less any applicable tax withholding, paid on the first business day of each month, beginning on the first business day of the first month that begins following the date of termination (if the termination date is on or after the date of the applicable Qualifying Change in Control) or beginning on the first business day of the first month coincident with or next following the Qualifying Change in Control date if the termination date occurred prior to the Qualifying Change in Control date, and ending after the first business day of the 24th month that begins following the termination date or the Qualifying Change in Control date, as applicable.

The foregoing shall be in addition to any other rights that Executive may be entitled to under any other agreements with, or benefit plans of, the Company.

The parties intend that the payments and other compensation provided for herein are reasonable compensation for Executive's services to the Company (and/or agreement not to compete with the Company) and shall not constitute "excess parachute payments" within the meaning of Section 280G of the Code. Notwithstanding anything contained in this Agreement to the contrary, any payments to be made to or for the benefit of Executive which are deemed to be "parachute payments" as that term is defined in Section 280G of the Code shall be modified or reduced to the extent, but only to the extent, necessary to avoid the imposition of excise taxes on Executive under Section 4999 of the Code or the disallowance of a deduction to the Company under Section 280(a) of the Code.

4. Restrictive Covenants.

(a) No Solicitation of Customers. During Executive's employment with the Company and for a period of 24 months thereafter, Executive shall not (except on behalf of or with the prior written consent of the Company), either directly or indirectly, on Executive's own behalf or in the service or on behalf of others, (A) solicit, divert, or appropriate, or (B) attempt to solicit, divert, or appropriate to or for a Competing Business located in the Territory, any person or entity that is or was a customer of the Company or any of its Affiliates at any time during the 12 months prior to the date of termination and with whom Executive has had material contact.

(b) No Recruitment of Personnel. During Executive's employment with the Company and for a period of 24 months thereafter, Executive shall not, either directly or indirectly, on Executive's own behalf or in the service or on behalf of others, (A) solicit, divert, or hire away, or (B) attempt to solicit, divert, or hire away, to any Competing Business located in the Territory, any employee of or consultant to the Company or any of its Affiliates, regardless of whether the employee or consultant is full-time or temporary, the employment or engagement is pursuant to written agreement, or the employment is for a determined period or is at will.

(c) Non-Competition Agreement. During Executive's employment with the Company and for a period of 24 months thereafter, Executive shall not (without the prior written consent of the Company) compete with the Company or any of its Affiliates by, directly or indirectly, forming, serving as an organizer, director or officer of, or consultant to, or acquiring or maintaining more than a 5% investment in, a Competing Business located in the Territory.

The provisions of this Section 4 shall cease to apply if the Executive is terminated by the Company, or the Executive terminates his employment with the Company, under circumstances that do not require payments to the Executive pursuant to Section 3 of this Agreement; *provided that* with respect to any Qualifying Termination that occurs prior to the occurrence of a Qualifying Change in Control, the provisions of this Section 4 shall continue to apply for at least four months following such Qualifying Termination in order to allow time to determine whether a Qualifying Change in Control will occur within the requisite time-frame such that payments will be required to be made to the Executive pursuant to Section 3 of this Agreement.

5. Compliance with Section 409A.

(a) This Agreement is intended to be exempt from Section 409A of the Internal Revenue Code and any regulations and Treasury guidance promulgated thereunder (the "Code") to the maximum extent possible through the short term deferral exception of Treas. Reg. §1.409A-1(b)(4) and the separation pay plan exception of Treas. Reg. §1.409A-1(b)(9), and shall be interpreted and administered accordingly. Any payments exempt under the separation pay plan exception shall be paid no later than the last day of the second calendar year following the calendar year in which Executive's termination of employment occurs. For purposes of Code Section 409A, the Executive's right to receive any installment payments pursuant to this Agreement shall be treated as a right to receive a series of separate and distinct payments.

(b) The Company and Executive agree that they will execute any and all amendments to this Agreement as they mutually agree in good faith may be necessary to ensure exemption from, or as needed, compliance with, Section 409A of the Code.

(c) The Company makes no representation or warranty as to the tax effect of any of the preceding provisions, and the provisions of this Agreement shall not be construed as a guarantee by the Company of any particular tax effect to Executive under this Agreement. The Company shall not be liable to Executive or any other person for any payment made under this Agreement which is determined to result in the imposition of an excise tax, penalty or interest under Section 409A of the Code, nor for reporting in good faith any payment made under this Agreement as an amount includible in gross income under Section 409A of the Code.

(d) Notwithstanding the timing of any payments pursuant to Section 3 of this Agreement, if Executive is deemed on the date of termination to be a "specified employee" within the meaning of that term under Code Section 409A(a)(2)(B), then each of the following shall apply:

(i) With regard to any payment that is considered deferred compensation under Code Section 409A payable on account of a "separation from service," such payment shall be made on the date which is the earlier of (x) the expiration of the six (6)-month period measured from the date of such "separation from service" of the Employee, and (y) the date of the Employee's death (the "Delay Period") to the extent required under Code Section 409A. Upon the expiration of the Delay Period, all payments delayed pursuant to this Section (whether they would have otherwise been payable in a single sum or in installments in the absence of such delay) shall be paid to the Executive in a lump sum, and any remaining payments and benefits due under this Agreement shall be paid or provided in accordance with the normal payment dates specified for them herein; and

(ii) To the extent any benefits provided during the first six months after Executive's termination are considered deferred compensation under Code Section 409A provided on account of a "separation from service," and such benefits are not otherwise exempt from Code Section 409A, Executive shall pay the costs of such benefits during the first six months following termination and shall be reimbursed, to the extent such costs would otherwise have been paid by the Company or to the extent such benefits would otherwise have been provided by the Company at no cost to the Executive, the cost of such coverage six months after Executive's termination.

6. Certain Definitions.

(a) "Affiliate" shall mean any business entity controlled by, controlling or under common control with the Company.

(b) "Business" shall mean the production of cultured diamonds, and any other related business engaged in by the Company or any of its Affiliates as of the date of termination.

(c) "Change in Control" shall mean a (x) change in the ownership or effective control of the Company, or in the ownership of a substantial portion of the assets of the Company (in accordance with Treasury Regulation § 1.409A-3(i)(5) (as it may be amended and including any successor regulation).

(d) "Cause" shall mean (A) the willful and continued failure of Executive to perform substantially his duties with the Company (other than any such failure resulting from Executive's incapacity due to physical or mental illness or condition or any such failure subsequent to Executive being delivered a Notice of Termination without Cause by the Company or Executive delivering a Notice of Termination for Good Reason to the Company) that is not remedied within 30 days after a written demand for substantial performance is delivered to Executive by the Chairman of the Board or the Chairman of the Compensation Committee which specifically identifies the manner in which Executive has not substantially performed Executive's duties and that such failure if not remedied constitutes "Cause" under this Agreement, (B) Executive's conviction by a court of law, Executive's admission in a legal proceeding that he is guilty or Executive's plea of nolo contendere, in each case, with respect to a felony, (C) Disability, (D) death, or (E) Retirement.

For purposes of this subsection (d), no act or failure to act by Executive shall be considered "willful" unless done or omitted to be done by Executive in bad faith and without reasonable belief that Executive's action or omission was in, or not opposed to, the best interests of the Company.

(e) "Company Value" means, with respect to a Change in Control, the total amount paid or payable, directly or indirectly, to, or for the benefit of, the Company (including any subsidiary thereof) and/or (but without duplication) the equity security holders of the Company ("Equityholders") in respect of their Company equity securities, including amounts paid or payable to holders of options, warrants or convertible securities, of (i) cash, (ii) equity securities or other equity interests or debt securities or notes, (iii) in a sale of assets, the fair value of assets retained by the Company after consummation of the Change In Control minus the fair value of any liabilities retained by the Company after consummation of the Change in Control; (iv) the amount of any other consideration paid or payable to, or for the benefit of, the Company or to any Equityholder in respect of their Company equity securities, including any consideration held in escrow, future payments which are contingent upon the performance of the Company or any successor to the Company, and the amount of any extraordinary dividends or distributions paid to the holders of the Company's equity securities in connection with the Change in Control. In the event a Change in Control is accomplished through a recapitalization, reorganization, restructuring, tender offer or other share purchase that results in an acquisition of less than all of the Company's outstanding equity securities, or other similar transaction, the Company Value shall also include the value of the Company's equity securities or other equity interests retained by its Equityholders. If any part of the Change in Control transaction(s) includes future payments such as earn-out payments, escrowed proceeds, or post-closing adjustments ("Future Proceeds"), those amounts shall be included as part of the Company Value at the Estimated Present Fair Value. The "Estimated Present Fair Value" is the fair value, as of the date of the Change in Control, of the potential Future Proceeds as determined in good faith by the board of directors by (i) determining the potential amounts of Future Proceeds and the probabilities of the actual receipt of such potential amounts of Future Proceeds (the "Probability Weighted Expected Payout"), and (ii) then determining the present value as of the date of the Change in Control of such Probability Weighted Expected Payout by discounting at the prevailing rate on United States Treasury obligations having a maturity most closely approximating the period over which such Probability Weighted Expected Payout payments are expected to be made; provided, however, that financing in the form of notes or other debt obligations in an Equityholder financed (in whole or in part) Change in Control shall not be treated as Future Proceeds but rather such notes or other debt obligations shall be included in the calculation of Company Value in an amount equal to the principal amount owed thereunder, unless the Board of Directors determines that it would be unreasonable to do so, and in such case the Board of Directors shall in good faith determine the fair value of such notes or other debt obligations and include such fair value in the calculation of Company Value. If any portion of the consideration paid or payable to, or for the benefit of, the Company and/or its equity security holders is paid in the form of equity securities or other equity interests, the value of such equity securities or interests shall be determined by the average of the last sale prices for such equity securities on the five trading days ending five days prior to the consummation of the Change in Control. If such equity securities or interests do not have an existing public trading market, the value thereof shall be the fair market value thereof on the day prior to the consummation of the Change in Control as determined in good faith by the Company's Board of Directors.

- (f) "Competing Business" shall mean any business that, in whole or in part, is the same or substantially the same as the Business.
- (g) "Disability" means Executive's absence from Executive's duties with the Company on a full-time basis for at least one-hundred-eighty (180) consecutive days as a result of Executive's incapacity due to physical or mental illness, unless within 30 days after Notice of Termination is given to Executive following such absence Executive shall have returned to the full-time performance of Executive's duties.
- (h) "Good Reason" shall mean "good reason" within the meaning of the safe harbor under Treasury Regulation § 1.409A-1(n)(2)
- (i) "Notice of Termination" shall mean a written notice of Executive's termination by the Company or Executive, as the case may be, to the other, which written notice shall (i) indicate the specific termination provision in this Agreement relied upon, (ii) to the extent applicable, set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of Executive's employment under the provision so indicated, and (iii) specify the date of termination; *provided that* the failure by Executive or the Company to set forth in such notice any fact or circumstance which contributes to a showing of Good Reason or Cause shall not waive any right of Executive or the Company hereunder or preclude Executive or the Company from asserting such fact or circumstance in enforcing Executive's or the Company's rights hereunder; *further provided* that, with respect to any Qualifying Termination by the Executive, the Executive must provide notice to the Company within 90 days of the initial condition giving rise to the Good Reason termination, and the Company shall have at least 30 days to cure the condition that gave rise to Good Reason; and *further provided* that in the event of a termination for Disability the date of termination shall be 30 days after Notice of Termination is given (provided that Executive shall not have returned to the performance of Executive's duties on a full-time basis during such 30 day period).

(j) "Qualifying Change in Control" means a Change in Control with respect to which the Company Value, as determined in good faith by the Board of Directors, is fifty million dollars (\$50,000,000) or more as of the date of the Change in Control.

(k) "Qualifying Termination" means a termination of Executive's employment (i) by the Company other than for Cause, or (ii) by Executive for Good Reason. Termination of Executive's employment on account of death, Disability, Retirement or by Executive without Good Reason shall not be treated as a Qualifying Termination.

(l) "Retirement" means Executive's termination of his employment on or after his attainment of age 65.

(m) "Terminate," "terminated," "termination," or "termination of employment" shall mean separation from service as defined by Treasury Regulation § 1.409A-1(h).

(n) "Territory" shall mean any state in the continental United States of America and the States of Alaska and Hawaii into which the Company has sold products during the 60 day period ending of the date of the Executive's termination.

7. Miscellaneous.

(a) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, without reference to principles of conflict of laws.

(b) Successors.

(i) This Agreement is personal to Executive and, without the prior written consent of the Company, shall not be assignable by Executive otherwise than by will or the laws of descent and distribution. This Agreement shall inure to the benefit of, and be enforceable by, Executive's estate and legal representatives.

(ii) This Agreement shall inure to the benefit of, and be binding upon, the Company and its successors and assigns.

(c) Amendments. This Agreement may not be amended or modified otherwise than by a written agreement executed by the parties hereto or their respective successors and legal representatives.

(d) Notices. All notices and other communications hereunder shall be in writing and shall be given by hand delivery (which shall include delivery via Federal Express or UPS) to the other party or by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to Executive :

Joseph D. Lancia
109 Thornblade Blvd
Greer, SC 29650

If to the Company :

SCIO DIAMOND TECHNOLOGY CORPORATION
411 University Ridge, Suite D
Greenville, SC 29601
Attention:

or to such other address as either party shall have furnished to the other in writing in accordance herewith. Notice and communications shall be effective when actually received by the addressee.

(e) Captions. The captions of this Agreement are not part of the provisions hereof and shall have no force and effect.

(f) Severability. If any provision of this Agreement or the application of any provision hereof to any person or circumstance is held invalid, unenforceable or otherwise illegal, the remainder of this Agreement and the application of such provision to any other person or circumstance shall not be affected, and the provision so held to be invalid, unenforceable or otherwise illegal shall be reformed to the extent (and only to the extent) necessary to make it valid, enforceable and legal; provided, however, if the provision so held to be invalid, unenforceable or otherwise illegal cannot be reformed so as to be valid and enforceable, then it shall be severed from, and shall not affect the enforceability of, the remaining provisions of the Agreement.

(g) Withholding. The Company may withhold from any amounts payable under this Agreement such federal, state, local or foreign taxes as shall be required to be withheld pursuant to any applicable law or regulation.

(h) Entire Agreement. This Agreement embodies the entire agreement between the parties with respect to the subject matter addressed herein. This Agreement shall supersede any other agreement between the parties with respect to the subject matter hereof; provided that any written employment agreement and written agreement that is an exhibit or attachment thereto shall survive the execution of this Agreement and shall not be superseded by this Agreement.

[Signatures appear on the following page]

IN WITNESS WHEREOF , the parties hereto have executed this Change in Control Agreement as of the date first above written.

**SCIO DIAMOND TECHNOLOGY
CORPORATION**

ATTEST:

By: _____

Name: _____

By: /s/ Edward S. Adams _____

Name: Edward S. Adams _____

Title: Chairman

EXECUTIVE

ATTEST:

By: /s/ Amy Nicholls _____

Name: Amy Nicholls _____

By: /s/ Joseph D. Lancia _____

Name: Joseph D. Lancia _____

Title: President & CEO

CHANGE IN CONTROL AGREEMENT

This Change in Control Agreement (this "Agreement") by and between **SCIO DIAMOND TECHNOLOGY CORPORATION**, a Nevada corporation ("Company"), and Michael W. McMahon (the "Executive"), is made and entered into as of August 3, 2012.

WITNESSETH :

WHEREAS, the Board of Directors of the Company (the "Board of Directors") has determined that it is in the best interests of the Company and its shareholders to enter into this Agreement in order to assure that the Company will have the continued dedication of the Executive, notwithstanding the possibility, threat or occurrence of a Qualifying Change in Control (as defined herein) of the Company; and

WHEREAS, Executive has determined that it is in the best interests of the Executive to enter into this Agreement;

NOW, THEREFORE, in consideration of the premises, the promises hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both parties, it is hereby agreed as follows:

1. Term. The initial term of this Agreement shall be for a two year period beginning on the execution date of this Agreement and ending on the second anniversary thereof. This Agreement will automatically renew for subsequent one year periods (each a "Renewal Period") unless, at least 90 days prior to the beginning of a Renewal Period, the Company shall give notice to Executive that this Agreement shall not be so renewed.

2. Terms of At-Will Employment.

(a) Executive and the Company acknowledge that the Executive shall have no rights to continued employment under this Agreement and that, if the Executive's employment is otherwise "at will" that such "at will" employment status is not changes by this Agreement.

(b) During the term of his employment by the Company, and excluding any periods of vacation and sick leave to which Executive is entitled, Executive agrees to devote reasonable attention and time to the business and affairs of the Company and, to the extent necessary to discharge the responsibilities assigned to Executive by the Board of Directors, to use Executive's reasonable best efforts to perform faithfully and efficiently such responsibilities.

3. Qualifying Change in Control Payment.

If the employment of Executive terminates pursuant to a Qualifying Termination and Notice of Termination is given by the Company or Executive within four months prior to a Qualifying Change in Control or one year following a Qualifying Change in Control, then:

(a) The Company shall pay Executive a lump sum in cash (less applicable withholdings) (x) within 7 days of the date of termination, if the termination occurs on or after the applicable Qualifying Change in Control and within one (1) year of the Qualifying Change in Control date, or (y) on the date of the Qualifying Change in Control, if the termination occurs within the four months prior to the Qualifying Change in Control. The lump sum severance compensation shall be an amount equal to his then current (as of the date of termination) monthly base salary multiplied by 24 months, less any severance benefits, if any, paid to Executive under his Amended and Restated Offer of Employment on account of his termination by the Company within four (4) months of the Qualifying Change in Control (being both severance benefits and COBRA payments). If Executive's date of termination is on or after the Qualifying Change in Control, the Executive will also be paid any base salary and/or bonus earned or accrued through the date of termination and not previously paid (including any amounts awarded for previous years but which were not yet vested), subject to applicable withholdings; and

(b) The Company will provide the Executive with the following payments ("Separation Payments") which payments are intended to roughly offset on an after-tax basis the potential costs of providing medical and other employee benefits that may be lost during the 24 months following a Qualifying Termination, but which payments shall be as set forth herein regardless of whether the pre-tax value of the lost benefits is greater or less than the payments set forth herein): \$2,700 per month, less any applicable tax withholding, paid on the first business day of each month, beginning on the first business day of the first month that begins following the date of termination (if the termination date is on or after the date of the applicable Qualifying Change in Control) or beginning on the first business day of the first month coincident with or next following the Qualifying Change in Control date if the termination date occurred prior to the Qualifying Change in Control date, and ending after the first business day of the 24th month that begins following the termination date or the Qualifying Change in Control date, as applicable.

The foregoing shall be in addition to any other rights that Executive may be entitled to under any other agreements with, or benefit plans of, the Company.

The parties intend that the payments and other compensation provided for herein are reasonable compensation for Executive's services to the Company (and/or agreement not to compete with the Company) and shall not constitute "excess parachute payments" within the meaning of Section 280G of the Code. Notwithstanding anything contained in this Agreement to the contrary, any payments to be made to or for the benefit of Executive which are deemed to be "parachute payments" as that term is defined in Section 280G of the Code shall be modified or reduced to the extent, but only to the extent, necessary to avoid the imposition of excise taxes on Executive under Section 4999 of the Code or the disallowance of a deduction to the Company under Section 280(a) of the Code.

4. Restrictive Covenants.

(a) No Solicitation of Customers. During Executive's employment with the Company and for a period of 24 months thereafter, Executive shall not (except on behalf of or with the prior written consent of the Company), either directly or indirectly, on Executive's own behalf or in the service or on behalf of others, (A) solicit, divert, or appropriate, or (B) attempt to solicit, divert, or appropriate to or for a Competing Business located in the Territory, any person or entity that is or was a customer of the Company or any of its Affiliates at any time during the 12 months prior to the date of termination and with whom Executive has had material contact.

(b) No Recruitment of Personnel. During Executive's employment with the Company and for a period of 24 months thereafter, Executive shall not, either directly or indirectly, on Executive's own behalf or in the service or on behalf of others, (A) solicit, divert, or hire away, or (B) attempt to solicit, divert, or hire away, to any Competing Business located in the Territory, any employee of or consultant to the Company or any of its Affiliates, regardless of whether the employee or consultant is full-time or temporary, the employment or engagement is pursuant to written agreement, or the employment is for a determined period or is at will.

(c) Non-Competition Agreement. During Executive's employment with the Company and for a period of 24 months thereafter, Executive shall not (without the prior written consent of the Company) compete with the Company or any of its Affiliates by, directly or indirectly, forming, serving as an organizer, director or officer of, or consultant to, or acquiring or maintaining more than a 5% investment in, a Competing Business located in the Territory.

The provisions of this Section 4 shall cease to apply if the Executive is terminated by the Company, or the Executive terminates his employment with the Company, under circumstances that do not require payments to the Executive pursuant to Section 3 of this Agreement; *provided that* with respect to any Qualifying Termination that occurs prior to the occurrence of a Qualifying Change in Control, the provisions of this Section 4 shall continue to apply for at least four months following such Qualifying Termination in order to allow time to determine whether a Qualifying Change in Control will occur within the requisite time-frame such that payments will be required to be made to the Executive pursuant to Section 3 of this Agreement.

5. Compliance with Section 409A.

(a) This Agreement is intended to be exempt from Section 409A of the Internal Revenue Code and any regulations and Treasury guidance promulgated thereunder (the "Code") to the maximum extent possible through the short term deferral exception of Treas. Reg. §1.409A-1(b)(4) and the separation pay plan exception of Treas. Reg. §1.409A-1(b)(9), and shall be interpreted and administered accordingly. Any payments exempt under the separation pay plan exception shall be paid no later than the last day of the second calendar year following the calendar year in which Executive's termination of employment occurs. For purposes of Code Section 409A, the Executive's right to receive any installment payments pursuant to this Agreement shall be treated as a right to receive a series of separate and distinct payments.

(b) The Company and Executive agree that they will execute any and all amendments to this Agreement as they mutually agree in good faith may be necessary to ensure exemption from, or as needed, compliance with, Section 409A of the Code.

(c) The Company makes no representation or warranty as to the tax effect of any of the preceding provisions, and the provisions of this Agreement shall not be construed as a guarantee by the Company of any particular tax effect to Executive under this Agreement. The Company shall not be liable to Executive or any other person for any payment made under this Agreement which is determined to result in the imposition of an excise tax, penalty or interest under Section 409A of the Code, nor for reporting in good faith any payment made under this Agreement as an amount includible in gross income under Section 409A of the Code.

(d) Notwithstanding the timing of any payments pursuant to Section 3 of this Agreement, if Executive is deemed on the date of termination to be a "specified employee" within the meaning of that term under Code Section 409A(a)(2)(B), then each of the following shall apply:

(i) With regard to any payment that is considered deferred compensation under Code Section 409A payable on account of a "separation from service," such payment shall be made on the date which is the earlier of (x) the expiration of the six (6)-month period measured from the date of such "separation from service" of the Employee, and (y) the date of the Employee's death (the "Delay Period") to the extent required under Code Section 409A. Upon the expiration of the Delay Period, all payments delayed pursuant to this Section (whether they would have otherwise been payable in a single sum or in installments in the absence of such delay) shall be paid to the Executive in a lump sum, and any remaining payments and benefits due under this Agreement shall be paid or provided in accordance with the normal payment dates specified for them herein; and

(ii) To the extent any benefits provided during the first six months after Executive's termination are considered deferred compensation under Code Section 409A provided on account of a "separation from service," and such benefits are not otherwise exempt from Code Section 409A, Executive shall pay the costs of such benefits during the first six months following termination and shall be reimbursed, to the extent such costs would otherwise have been paid by the Company or to the extent such benefits would otherwise have been provided by the Company at no cost to the Executive, the cost of such coverage six months after Executive's termination.

6. Certain Definitions.

(a) "Affiliate" shall mean any business entity controlled by, controlling or under common control with the Company.

(b) "Business" shall mean the production of cultured diamonds, and any other related business engaged in by the Company or any of its Affiliates as of the date of termination.

(c) "Change in Control" shall mean a (x) change in the ownership or effective control of the Company, or in the ownership of a substantial portion of the assets of the Company (in accordance with Treasury Regulation § 1.409A-3(i)(5) (as it may be amended and including any successor regulation).

(d) "Cause" shall mean (A) the willful and continued failure of Executive to perform substantially his duties with the Company (other than any such failure resulting from Executive's incapacity due to physical or mental illness or condition or any such failure subsequent to Executive being delivered a Notice of Termination without Cause by the Company or Executive delivering a Notice of Termination for Good Reason to the Company) that is not remedied within 30 days after a written demand for substantial performance is delivered to Executive by the Chairman of the Board or the Chairman of the Compensation Committee which specifically identifies the manner in which Executive has not substantially performed Executive's duties and that such failure if not remedied constitutes "Cause" under this Agreement, (B) Executive's conviction by a court of law, Executive's admission in a legal proceeding that he is guilty or Executive's plea of nolo contendere, in each case, with respect to a felony, (C) Disability, (D) death, or (E) Retirement.

For purposes of this subsection (d), no act or failure to act by Executive shall be considered "willful" unless done or omitted to be done by Executive in bad faith and without reasonable belief that Executive's action or omission was in, or not opposed to, the best interests of the Company.

(e) "Company Value" means, with respect to a Change in Control, the total amount paid or payable, directly or indirectly, to, or for the benefit of, the Company (including any subsidiary thereof) and/or (but without duplication) the equity security holders of the Company ("Equityholders") in respect of their Company equity securities, including amounts paid or payable to holders of options, warrants or convertible securities, of (i) cash, (ii) equity securities or other equity interests or debt securities or notes, (iii) in a sale of assets, the fair value of assets retained by the Company after consummation of the Change In Control minus the fair value of any liabilities retained by the Company after consummation of the Change in Control; (iv) the amount of any other consideration paid or payable to, or for the benefit of, the Company or to any Equityholder in respect of their Company equity securities, including any consideration held in escrow, future payments which are contingent upon the performance of the Company or any successor to the Company, and the amount of any extraordinary dividends or distributions paid to the holders of the Company's equity securities in connection with the Change in Control. In the event a Change in Control is accomplished through a recapitalization, reorganization, restructuring, tender offer or other share purchase that results in an acquisition of less than all of the Company's outstanding equity securities, or other similar transaction, the Company Value shall also include the value of the Company's equity securities or other equity interests retained by its Equityholders. If any part of the Change in Control transaction(s) includes future payments such as earn-out payments, escrowed proceeds, or post-closing adjustments ("Future Proceeds"), those amounts shall be included as part of the Company Value at the Estimated Present Fair Value. The "Estimated Present Fair Value" is the fair value, as of the date of the Change in Control, of the potential Future Proceeds as determined in good faith by the board of directors by (i) determining the potential amounts of Future Proceeds and the probabilities of the actual receipt of such potential amounts of Future Proceeds (the "Probability Weighted Expected Payout"), and (ii) then determining the present value as of the date of the Change in Control of such Probability Weighted Expected Payout by discounting at the prevailing rate on United States Treasury obligations having a maturity most closely approximating the period over which such Probability Weighted Expected Payout payments are expected to be made; provided, however, that financing in the form of notes or other debt obligations in an Equityholder financed (in whole or in part) Change in Control shall not be treated as Future Proceeds but rather such notes or other debt obligations shall be included in the calculation of Company Value in an amount equal to the principal amount owed thereunder, unless the Board of Directors determines that it would be unreasonable to do so, and in such case the Board of Directors shall in good faith determine the fair value of such notes or other debt obligations and include such fair value in the calculation of Company Value. If any portion of the consideration paid or payable to, or for the benefit of, the Company and/or its equity security holders is paid in the form of equity securities or other equity interests, the value of such equity securities or interests shall be determined by the average of the last sale prices for such equity securities on the five trading days ending five days prior to the consummation of the Change in Control. If such equity securities or interests do not have an existing public trading market, the value thereof shall be the fair market value thereof on the day prior to the consummation of the Change in Control as determined in good faith by the Company's Board of Directors.

- Business.
- (f) "Competing Business" shall mean any business that, in whole or in part, is the same or substantially the same as the Business.
- (g) "Disability" means Executive's absence from Executive's duties with the Company on a full-time basis for at least one-hundred-eighty (180) consecutive days as a result of Executive's incapacity due to physical or mental illness, unless within 30 days after Notice of Termination is given to Executive following such absence Executive shall have returned to the full-time performance of Executive's duties.
- (h) "Good Reason" shall mean "good reason" within the meaning of the safe harbor under Treasury Regulation § 1.409A-1(n)(2)
- (i) "Notice of Termination" shall mean a written notice of Executive's termination by the Company or Executive, as the case may be, to the other, which written notice shall (i) indicate the specific termination provision in this Agreement relied upon, (ii) to the extent applicable, set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of Executive's employment under the provision so indicated, and (iii) specify the date of termination; *provided that* the failure by Executive or the Company to set forth in such notice any fact or circumstance which contributes to a showing of Good Reason or Cause shall not waive any right of Executive or the Company hereunder or preclude Executive or the Company from asserting such fact or circumstance in enforcing Executive's or the Company's rights hereunder; *further provided* that, with respect to any Qualifying Termination by the Executive, the Executive must provide notice to the Company within 90 days of the initial condition giving rise to the Good Reason termination, and the Company shall have at least 30 days to cure the condition that gave rise to Good Reason; and *further provided* that in the event of a termination for Disability the date of termination shall be 30 days after Notice of Termination is given (provided that Executive shall not have returned to the performance of Executive's duties on a full-time basis during such 30 day period).

(j) "Qualifying Change in Control" means a Change in Control with respect to which the Company Value, as determined in good faith by the Board of Directors, is fifty million dollars (\$50,000,000) or more as of the date of the Change in Control.

(k) "Qualifying Termination" means a termination of Executive's employment (i) by the Company other than for Cause, or (ii) by Executive for Good Reason. Termination of Executive's employment on account of death, Disability, Retirement or by Executive without Good Reason shall not be treated as a Qualifying Termination.

(l) "Retirement" means Executive's termination of his employment on or after his attainment of age 65.

(m) "Terminate," "terminated," "termination," or "termination of employment" shall mean separation from service as defined by Treasury Regulation § 1.409A-1(h).

(n) "Territory" shall mean any state in the continental United States of America and the States of Alaska and Hawaii into which the Company has sold products during the 60 day period ending of the date of the Executive's termination.

7. Miscellaneous.

(a) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, without reference to principles of conflict of laws.

(b) Successors.

(i) This Agreement is personal to Executive and, without the prior written consent of the Company, shall not be assignable by Executive otherwise than by will or the laws of descent and distribution. This Agreement shall inure to the benefit of, and be enforceable by, Executive's estate and legal representatives.

(ii) This Agreement shall inure to the benefit of, and be binding upon, the Company and its successors and assigns.

(c) Amendments. This Agreement may not be amended or modified otherwise than by a written agreement executed by the parties hereto or their respective successors and legal representatives.

(d) Notices. All notices and other communications hereunder shall be in writing and shall be given by hand delivery (which shall include delivery via Federal Express or UPS) to the other party or by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to Executive :

Michael W. McMahon
5 St. Helaine Place
Greer, SC 29650

If to the Company :

SCIO DIAMOND TECHNOLOGY CORPORATION
411 University Ridge, Suite D
Greenville, SC 29601
Attention:

or to such other address as either party shall have furnished to the other in writing in accordance herewith. Notice and communications shall be effective when actually received by the addressee.

(e) Captions. The captions of this Agreement are not part of the provisions hereof and shall have no force and effect.

(f) Severability. If any provision of this Agreement or the application of any provision hereof to any person or circumstance is held invalid, unenforceable or otherwise illegal, the remainder of this Agreement and the application of such provision to any other person or circumstance shall not be affected, and the provision so held to be invalid, unenforceable or otherwise illegal shall be reformed to the extent (and only to the extent) necessary to make it valid, enforceable and legal; provided, however, if the provision so held to be invalid, unenforceable or otherwise illegal cannot be reformed so as to be valid and enforceable, then it shall be severed from, and shall not affect the enforceability of, the remaining provisions of the Agreement.

(g) Withholding. The Company may withhold from any amounts payable under this Agreement such federal, state, local or foreign taxes as shall be required to be withheld pursuant to any applicable law or regulation.

(h) Entire Agreement. This Agreement embodies the entire agreement between the parties with respect to the subject matter addressed herein. This Agreement shall supersede any other agreement between the parties with respect to the subject matter hereof; provided that any written employment agreement and written agreement that is an exhibit or attachment thereto shall survive the execution of this Agreement and shall not be superseded by this Agreement.

[Signatures appear on the following page]

IN WITNESS WHEREOF , the parties hereto have executed this Change in Control Agreement as of the date first above written.

**SCIO DIAMOND TECHNOLOGY
CORPORATION**

ATTEST:

By: _____

Name: _____

By: /s/ Edward S. Adams _____

Name: Edward S. Adams _____

Title: Chairman

EXECUTIVE

ATTEST:

By: /s/ Amy Nicholls _____

Name: Amy Nicholls _____

By: /s/ Michael McMahon _____

Name: Michael McMahon _____

Title: Chief Operating Officer

CHANGE IN CONTROL AGREEMENT

This Change in Control Agreement (this "Agreement") by and between **SCIO DIAMOND TECHNOLOGY CORPORATION**, a Nevada corporation ("Company"), and Charles G. Nichols (the "Executive"), is made and entered into as of August 3, 2012.

WITNESSETH :

WHEREAS, the Board of Directors of the Company (the "Board of Directors") has determined that it is in the best interests of the Company and its shareholders to enter into this Agreement in order to assure that the Company will have the continued dedication of the Executive, notwithstanding the possibility, threat or occurrence of a Qualifying Change in Control (as defined herein) of the Company; and

WHEREAS, Executive has determined that it is in the best interests of the Executive to enter into this Agreement;

NOW, THEREFORE, in consideration of the premises, the promises hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both parties, it is hereby agreed as follows:

1. Term. The initial term of this Agreement shall be for a two year period beginning on the execution date of this Agreement and ending on the second anniversary thereof. This Agreement will automatically renew for subsequent one year periods (each a "Renewal Period") unless, at least 90 days prior to the beginning of a Renewal Period, the Company shall give notice to Executive that this Agreement shall not be so renewed.

2. Terms of At-Will Employment.

(a) Executive and the Company acknowledge that the Executive shall have no rights to continued employment under this Agreement and that, if the Executive's employment is otherwise "at will" that such "at will" employment status is not changes by this Agreement.

(b) During the term of his employment by the Company, and excluding any periods of vacation and sick leave to which Executive is entitled, Executive agrees to devote reasonable attention and time to the business and affairs of the Company and, to the extent necessary to discharge the responsibilities assigned to Executive by the Board of Directors, to use Executive's reasonable best efforts to perform faithfully and efficiently such responsibilities.

3. Qualifying Change in Control Payment.

If the employment of Executive terminates pursuant to a Qualifying Termination and Notice of Termination is given by the Company or Executive within four months prior to a Qualifying Change in Control or one year following a Qualifying Change in Control, then:

(a) The Company shall pay Executive a lump sum in cash (less applicable withholdings) (x) within 7 days of the date of termination, if the termination occurs on or after the applicable Qualifying Change in Control and within one (1) year of the Qualifying Change in Control date, or (y) on the date of the Qualifying Change in Control, if the termination occurs within the four months prior to the Qualifying Change in Control. The lump sum severance compensation shall be an amount equal to his then current (as of the date of termination) monthly base salary multiplied by 24 months, less any severance benefits, if any, paid to Executive under his Amended and Restated Offer of Employment on account of his termination by the Company within four (4) months of the Qualifying Change in Control (being both severance benefits and COBRA payments). If Executive's date of termination is on or after the Qualifying Change in Control, the Executive will also be paid any base salary and/or bonus earned or accrued through the date of termination and not previously paid (including any amounts awarded for previous years but which were not yet vested), subject to applicable withholdings; and

(b) The Company will provide the Executive with the following payments ("Separation Payments") which payments are intended to roughly offset on an after-tax basis the potential costs of providing medical and other employee benefits that may be lost during the 24 months following a Qualifying Termination, but which payments shall be as set forth herein regardless of whether the pre-tax value of the lost benefits is greater or less than the payments set forth herein): \$2,700 per month, less any applicable tax withholding, paid on the first business day of each month, beginning on the first business day of the first month that begins following the date of termination (if the termination date is on or after the date of the applicable Qualifying Change in Control) or beginning on the first business day of the first month coincident with or next following the Qualifying Change in Control date if the termination date occurred prior to the Qualifying Change in Control date, and ending after the first business day of the 24th month that begins following the termination date or the Qualifying Change in Control date, as applicable.

The foregoing shall be in addition to any other rights that Executive may be entitled to under any other agreements with, or benefit plans of, the Company.

The parties intend that the payments and other compensation provided for herein are reasonable compensation for Executive's services to the Company (and/or agreement not to compete with the Company) and shall not constitute "excess parachute payments" within the meaning of Section 280G of the Code. Notwithstanding anything contained in this Agreement to the contrary, any payments to be made to or for the benefit of Executive which are deemed to be "parachute payments" as that term is defined in Section 280G of the Code shall be modified or reduced to the extent, but only to the extent, necessary to avoid the imposition of excise taxes on Executive under Section 4999 of the Code or the disallowance of a deduction to the Company under Section 280(a) of the Code.

4. Restrictive Covenants.

(a) No Solicitation of Customers. During Executive's employment with the Company and for a period of 24 months thereafter, Executive shall not (except on behalf of or with the prior written consent of the Company), either directly or indirectly, on Executive's own behalf or in the service or on behalf of others, (A) solicit, divert, or appropriate, or (B) attempt to solicit, divert, or appropriate to or for a Competing Business located in the Territory, any person or entity that is or was a customer of the Company or any of its Affiliates at any time during the 12 months prior to the date of termination and with whom Executive has had material contact.

(b) No Recruitment of Personnel. During Executive's employment with the Company and for a period of 24 months thereafter, Executive shall not, either directly or indirectly, on Executive's own behalf or in the service or on behalf of others, (A) solicit, divert, or hire away, or (B) attempt to solicit, divert, or hire away, to any Competing Business located in the Territory, any employee of or consultant to the Company or any of its Affiliates, regardless of whether the employee or consultant is full-time or temporary, the employment or engagement is pursuant to written agreement, or the employment is for a determined period or is at will.

(c) Non-Competition Agreement. During Executive's employment with the Company and for a period of 24 months thereafter, Executive shall not (without the prior written consent of the Company) compete with the Company or any of its Affiliates by, directly or indirectly, forming, serving as an organizer, director or officer of, or consultant to, or acquiring or maintaining more than a 5% investment in, a Competing Business located in the Territory.

The provisions of this Section 4 shall cease to apply if the Executive is terminated by the Company, or the Executive terminates his employment with the Company, under circumstances that do not require payments to the Executive pursuant to Section 3 of this Agreement; *provided that* with respect to any Qualifying Termination that occurs prior to the occurrence of a Qualifying Change in Control, the provisions of this Section 4 shall continue to apply for at least four months following such Qualifying Termination in order to allow time to determine whether a Qualifying Change in Control will occur within the requisite time-frame such that payments will be required to be made to the Executive pursuant to Section 3 of this Agreement.

5. Compliance with Section 409A.

(a) This Agreement is intended to be exempt from Section 409A of the Internal Revenue Code and any regulations and Treasury guidance promulgated thereunder (the "Code") to the maximum extent possible through the short term deferral exception of Treas. Reg. §1.409A-1(b)(4) and the separation pay plan exception of Treas. Reg. §1.409A-1(b)(9), and shall be interpreted and administered accordingly. Any payments exempt under the separation pay plan exception shall be paid no later than the last day of the second calendar year following the calendar year in which Executive's termination of employment occurs. For purposes of Code Section 409A, the Executive's right to receive any installment payments pursuant to this Agreement shall be treated as a right to receive a series of separate and distinct payments.

(b) The Company and Executive agree that they will execute any and all amendments to this Agreement as they mutually agree in good faith may be necessary to ensure exemption from, or as needed, compliance with, Section 409A of the Code.

(c) The Company makes no representation or warranty as to the tax effect of any of the preceding provisions, and the provisions of this Agreement shall not be construed as a guarantee by the Company of any particular tax effect to Executive under this Agreement. The Company shall not be liable to Executive or any other person for any payment made under this Agreement which is determined to result in the imposition of an excise tax, penalty or interest under Section 409A of the Code, nor for reporting in good faith any payment made under this Agreement as an amount includible in gross income under Section 409A of the Code.

(d) Notwithstanding the timing of any payments pursuant to Section 3 of this Agreement, if Executive is deemed on the date of termination to be a "specified employee" within the meaning of that term under Code Section 409A(a)(2)(B), then each of the following shall apply:

(i) With regard to any payment that is considered deferred compensation under Code Section 409A payable on account of a "separation from service," such payment shall be made on the date which is the earlier of (x) the expiration of the six (6)-month period measured from the date of such "separation from service" of the Employee, and (y) the date of the Employee's death (the "Delay Period") to the extent required under Code Section 409A. Upon the expiration of the Delay Period, all payments delayed pursuant to this Section (whether they would have otherwise been payable in a single sum or in installments in the absence of such delay) shall be paid to the Executive in a lump sum, and any remaining payments and benefits due under this Agreement shall be paid or provided in accordance with the normal payment dates specified for them herein; and

(ii) To the extent any benefits provided during the first six months after Executive's termination are considered deferred compensation under Code Section 409A provided on account of a "separation from service," and such benefits are not otherwise exempt from Code Section 409A, Executive shall pay the costs of such benefits during the first six months following termination and shall be reimbursed, to the extent such costs would otherwise have been paid by the Company or to the extent such benefits would otherwise have been provided by the Company at no cost to the Executive, the cost of such coverage six months after Executive's termination.

6. Certain Definitions.

(a) "Affiliate" shall mean any business entity controlled by, controlling or under common control with the Company.

(b) "Business" shall mean the production of cultured diamonds, and any other related business engaged in by the Company or any of its Affiliates as of the date of termination.

(c) "Change in Control" shall mean a (x) change in the ownership or effective control of the Company, or in the ownership of a substantial portion of the assets of the Company (in accordance with Treasury Regulation § 1.409A-3(i)(5) (as it may be amended and including any successor regulation).

(d) "Cause" shall mean (A) the willful and continued failure of Executive to perform substantially his duties with the Company (other than any such failure resulting from Executive's incapacity due to physical or mental illness or condition or any such failure subsequent to Executive being delivered a Notice of Termination without Cause by the Company or Executive delivering a Notice of Termination for Good Reason to the Company) that is not remedied within 30 days after a written demand for substantial performance is delivered to Executive by the Chairman of the Board or the Chairman of the Compensation Committee which specifically identifies the manner in which Executive has not substantially performed Executive's duties and that such failure if not remedied constitutes "Cause" under this Agreement, (B) Executive's conviction by a court of law, Executive's admission in a legal proceeding that he is guilty or Executive's plea of nolo contendere, in each case, with respect to a felony, (C) Disability, (D) death, or (E) Retirement.

For purposes of this subsection (d), no act or failure to act by Executive shall be considered "willful" unless done or omitted to be done by Executive in bad faith and without reasonable belief that Executive's action or omission was in, or not opposed to, the best interests of the Company.

(e) "Company Value" means, with respect to a Change in Control, the total amount paid or payable, directly or indirectly, to, or for the benefit of, the Company (including any subsidiary thereof) and/or (but without duplication) the equity security holders of the Company ("Equityholders") in respect of their Company equity securities, including amounts paid or payable to holders of options, warrants or convertible securities, of (i) cash, (ii) equity securities or other equity interests or debt securities or notes, (iii) in a sale of assets, the fair value of assets retained by the Company after consummation of the Change In Control minus the fair value of any liabilities retained by the Company after consummation of the Change in Control; (iv) the amount of any other consideration paid or payable to, or for the benefit of, the Company or to any Equityholder in respect of their Company equity securities, including any consideration held in escrow, future payments which are contingent upon the performance of the Company or any successor to the Company, and the amount of any extraordinary dividends or distributions paid to the holders of the Company's equity securities in connection with the Change in Control. In the event a Change in Control is accomplished through a recapitalization, reorganization, restructuring, tender offer or other share purchase that results in an acquisition of less than all of the Company's outstanding equity securities, or other similar transaction, the Company Value shall also include the value of the Company's equity securities or other equity interests retained by its Equityholders. If any part of the Change in Control transaction(s) includes future payments such as earn-out payments, escrowed proceeds, or post-closing adjustments ("Future Proceeds"), those amounts shall be included as part of the Company Value at the Estimated Present Fair Value. The "Estimated Present Fair Value" is the fair value, as of the date of the Change in Control, of the potential Future Proceeds as determined in good faith by the board of directors by (i) determining the potential amounts of Future Proceeds and the probabilities of the actual receipt of such potential amounts of Future Proceeds (the "Probability Weighted Expected Payout"), and (ii) then determining the present value as of the date of the Change in Control of such Probability Weighted Expected Payout by discounting at the prevailing rate on United States Treasury obligations having a maturity most closely approximating the period over which such Probability Weighted Expected Payout payments are expected to be made; provided, however, that financing in the form of notes or other debt obligations in an Equityholder financed (in whole or in part) Change in Control shall not be treated as Future Proceeds but rather such notes or other debt obligations shall be included in the calculation of Company Value in an amount equal to the principal amount owed thereunder, unless the Board of Directors determines that it would be unreasonable to do so, and in such case the Board of Directors shall in good faith determine the fair value of such notes or other debt obligations and include such fair value in the calculation of Company Value. If any portion of the consideration paid or payable to, or for the benefit of, the Company and/or its equity security holders is paid in the form of equity securities or other equity interests, the value of such equity securities or interests shall be determined by the average of the last sale prices for such equity securities on the five trading days ending five days prior to the consummation of the Change in Control. If such equity securities or interests do not have an existing public trading market, the value thereof shall be the fair market value thereof on the day prior to the consummation of the Change in Control as determined in good faith by the Company's Board of Directors.

- Business.
- (f) “Competing Business” shall mean any business that, in whole or in part, is the same or substantially the same as the Business.
- (g) “Disability” means Executive’s absence from Executive’s duties with the Company on a full-time basis for at least one-hundred-eighty (180) consecutive days as a result of Executive’s incapacity due to physical or mental illness, unless within 30 days after Notice of Termination is given to Executive following such absence Executive shall have returned to the full-time performance of Executive’s duties.
- (h) “Good Reason” shall mean "good reason" within the meaning of the safe harbor under Treasury Regulation § 1.409A-1(n)(2)
- (i) “Notice of Termination” shall mean a written notice of Executive’s termination by the Company or Executive, as the case may be, to the other, which written notice shall (i) indicate the specific termination provision in this Agreement relied upon, (ii) to the extent applicable, set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of Executive’s employment under the provision so indicated, and (iii) specify the date of termination; *provided that* the failure by Executive or the Company to set forth in such notice any fact or circumstance which contributes to a showing of Good Reason or Cause shall not waive any right of Executive or the Company hereunder or preclude Executive or the Company from asserting such fact or circumstance in enforcing Executive’s or the Company’s rights hereunder; *further provided* that, with respect to any Qualifying Termination by the Executive, the Executive must provide notice to the Company within 90 days of the initial condition giving rise to the Good Reason termination, and the Company shall have at least 30 days to cure the condition that gave rise to Good Reason; and *further provided* that in the event of a termination for Disability the date of termination shall be 30 days after Notice of Termination is given (provided that Executive shall not have returned to the performance of Executive’s duties on a full-time basis during such 30 day period).

(j) "Qualifying Change in Control" means a Change in Control with respect to which the Company Value, as determined in good faith by the Board of Directors, is fifty million dollars (\$50,000,000) or more as of the date of the Change in Control.

(k) "Qualifying Termination" means a termination of Executive's employment (i) by the Company other than for Cause, or (ii) by Executive for Good Reason. Termination of Executive's employment on account of death, Disability, Retirement or by Executive without Good Reason shall not be treated as a Qualifying Termination.

(l) "Retirement" means Executive's termination of his employment on or after his attainment of age 65.

(m) "Terminate," "terminated," "termination," or "termination of employment" shall mean separation from service as defined by Treasury Regulation § 1.409A-1(h).

(n) "Territory" shall mean any state in the continental United States of America and the States of Alaska and Hawaii into which the Company has sold products during the 60 day period ending of the date of the Executive's termination.

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(a) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, without reference to principles of conflict of laws.

(b) Successors.

(i) This Agreement is personal to Executive and, without the prior written consent of the Company, shall not be assignable by Executive otherwise than by will or the laws of descent and distribution. This Agreement shall inure to the benefit of, and be enforceable by, Executive's estate and legal representatives.

(ii) This Agreement shall inure to the benefit of, and be binding upon, the Company and its successors and assigns.

(c) Amendments. This Agreement may not be amended or modified otherwise than by a written agreement executed by the parties hereto or their respective successors and legal representatives.

(d) Notices. All notices and other communications hereunder shall be in writing and shall be given by hand delivery (which shall include delivery via Federal Express or UPS) to the other party or by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to Executive :

Charles G. Nichols
305 Riverside Drive
Greenville, SC 29605

If to the Company :

SCIO DIAMOND TECHNOLOGY CORPORATION
411 University Ridge, Suite D
Greenville, SC 29601
Attention:

or to such other address as either party shall have furnished to the other in writing in accordance herewith. Notice and communications shall be effective when actually received by the addressee.

(e) Captions. The captions of this Agreement are not part of the provisions hereof and shall have no force and effect.

(f) Severability. If any provision of this Agreement or the application of any provision hereof to any person or circumstance is held invalid, unenforceable or otherwise illegal, the remainder of this Agreement and the application of such provision to any other person or circumstance shall not be affected, and the provision so held to be invalid, unenforceable or otherwise illegal shall be reformed to the extent (and only to the extent) necessary to make it valid, enforceable and legal; provided, however, if the provision so held to be invalid, unenforceable or otherwise illegal cannot be reformed so as to be valid and enforceable, then it shall be severed from, and shall not affect the enforceability of, the remaining provisions of the Agreement.

(g) Withholding. The Company may withhold from any amounts payable under this Agreement such federal, state, local or foreign taxes as shall be required to be withheld pursuant to any applicable law or regulation.

(h) Entire Agreement. This Agreement embodies the entire agreement between the parties with respect to the subject matter addressed herein. This Agreement shall supersede any other agreement between the parties with respect to the subject matter hereof; provided that any written employment agreement and written agreement that is an exhibit or attachment thereto shall survive the execution of this Agreement and shall not be superseded by this Agreement.

[Signatures appear on the following page]

IN WITNESS WHEREOF , the parties hereto have executed this Change in Control Agreement as of the date first above written.

**SCIO DIAMOND TECHNOLOGY
CORPORATION**

ATTEST:

By: _____

Name: _____

By: /s/ Edward S. Adams _____

Name: Edward S. Adams _____

Title: Chairman

EXECUTIVE

ATTEST:

By: /s/ Amy Nicholls _____

Name: Amy Nicholls _____

By: /s/ Charles G. Nichols _____

Name: Charles G. Nichols _____

Title: Chief Financial Officer

SCIO DIAMOND TECHNOLOGY CORP.

FORM OF QUALIFIED STOCK OPTION GRANT AGREEMENT

This Stock Option Grant Agreement (the "Agreement") is entered into on 2012, by and between Scio Diamond Technology Corp., a Nevada corporation (the "Corporation"), and (the "Optionee"), effective as of 2012 (the "Grant Date").

In consideration of the premises, mutual covenants and agreements herein, the Corporation and the Optionee agree as follows:

1. **Grant of Option**. The Corporation hereby grants to the Optionee, pursuant to the 2012 Share Incentive Plan (the "Plan"), a stock option to purchase from the Corporation, at a price of \$ per share (the "Exercise Price"), up to shares of Common Stock of the Corporation, \$0.001 par value, subject to the provisions of this Agreement and the Plan (the "Options"). The Options shall expire at 5:00 p.m. Pacific Time on the last business day preceding the 3 year anniversary of the Grant Date (the "Expiration Date"), unless fully exercised or terminated earlier.

2. **Terminology**. Unless stated otherwise in this Agreement, capitalized terms in this Agreement shall have the meaning set forth in the Plan.

3. **Exercise of Option**.

(a) **Vesting**. Subject to the terms of the Plan with respect to vesting, the Options granted shall vest in the amounts and as of the dates Corporation reaches the performance milestones shown in Exhibit A as determined by the Administrator, and shall stay vested, provided that the Optionee is in the continuous employ of, or in a service relationship with, the Corporation from the Grant Date through the applicable date upon which such Options become vested. The extent to which the Options are vested as of a particular vesting date shall be rounded down to the nearest whole share. However, vesting is rounded up to the nearest whole share on the last vesting date.

(b) **Right to Exercise**. The Optionee shall have the right to exercise the Options, whether or not vested, in whole or in part at any time prior to the Expiration Date or earlier termination of the Options in accordance with the Plan and this Agreement; provided, that to the extent, if any, that the aggregate Fair Market Value of the Common Stock subject to the Options as of the Grant Date, plus the aggregate fair market value (determined as of the date of grant) of all other stock with respect to which incentive stock options granted to the Optionee prior to the Grant Date under all plans of the Corporation and its parent and subsidiary corporations first become exercisable during any calendar year exceeds \$100,000 (the "Annual Limitation"), then except as otherwise provided in this Agreement the Options shall be exercisable during that year only to the extent, if any, that their exercisability does not cause the Annual Limitation to be exceeded. Any Options that are not exercisable due to the proviso in the preceding sentence shall be exercisable during the next calendar year, subject again to the application of that proviso. To the extent not exercised, the number of shares as to which the Option is exercisable shall accumulate and remain exercisable, in whole or in part, at any time after becoming exercisable, but not later than the Expiration Date or other termination of the Option. In the event of the Optionee's termination of employment, the exercisability is governed by Section 4.

(c) **Exercise Procedure**. Subject to the conditions set forth in this Agreement, the Option shall be exercised (to the extent then exercisable) by delivery of written notice of exercise on any business day to the Corporate Secretary of the Corporation in such form as the Administrator may require from time to time. Such notice shall specify the number of shares in respect to which the Option is being exercised and shall be accompanied by full payment of the Exercise Price for such shares in accordance with Section 3(e) of this Agreement. The exercise shall be effective upon receipt by the Corporate Secretary of the Corporation of such written notice accompanied by the required payment. The Option may be exercised only in multiples of whole shares and may not be exercised at any one time as to fewer than one hundred shares (or such lesser number of shares as to which the Option is then exercisable). No fractional shares shall be issued pursuant to this Option.

(d) Effect. The exercise, in whole or in part, of the Option shall cause a reduction in the number of shares of Common Stock subject to the Option equal to the number of shares of Common Stock with respect to which the Option is exercised.

(e) Method of Payment. In addition to any other method approved by the Administrator, if any, payment of the Exercise Price shall be by any of the following, or a combination thereof, as determined by the Administrator in its discretion at the time of exercise:

(i) by delivery of cash, certified or cashier's check, or money order or other cash equivalent acceptable to Administrator in its sole discretion; or

(ii) by a broker-assisted cashless exercise in accordance with Regulation T of the Board of Governors of the Federal Reserve System and the following provisions. Subject to such limitations as the Administrator may determine, at any time during which the Common Stock is publicly traded, the Exercise Price shall be deemed to be paid, in whole or in part, if the Optionee delivers a properly executed exercise notice, together with irrevocable instructions: (i) to a brokerage firm approved by the Corporation to deliver promptly to the Corporation the aggregate amount of sale or loan proceeds to pay the Exercise Price and any withholding tax obligations that may arise in connection with the exercise; and (ii) to the Corporation to deliver the certificates for such purchased shares directly to such brokerage firm.

(f) Issuance of Shares Upon Exercise. Upon due exercise of the Option, in whole or in part, in accordance with the terms of this Agreement, the Corporation shall issue to the Optionee, the brokerage firm specified in the Optionee's delivery instructions pursuant to a broker-assisted cashless exercise, or such other person exercising the Option, as the case may be, the number of shares of Common Stock so paid for, in the form of fully paid and non-assessable stock and shall deliver certificates therefore as soon as practicable thereafter.

(g) Restrictions on Exercise and upon Shares Issued upon Exercise. Notwithstanding any other provision of the Agreement, the Option may not be exercised at any time that the Corporation does not have in effect a registration statement under the Securities Act of 1933, as amended, relating to the offer of Common Stock to the Optionee under the Plan, unless the Corporation agrees to permit such exercise. Upon the issuance of any shares of Common Stock pursuant to the exercise of the Option, the Optionee will, upon the request of the Corporation, agree in writing that the Optionee is acquiring such shares for investment only and not with a view to resale, and that the Optionee will not sell, pledge or otherwise dispose of such shares so issued unless (i) the Corporation is furnished with an opinion of counsel to the effect that registration of such shares pursuant to the Securities Act of 1933, as amended, is not required by that Act or by the rules and regulations thereunder; (ii) the staff of the Securities and Exchange Commission has issued a "no-action" letter with respect to such disposition; or (iii) such registration or notification as is, in the opinion of counsel for the Corporation, required for the lawful disposition of such shares has been filed by the Corporation and has become effective; provided, however, that the Corporation is not obligated hereby to file any such registration or notification. In addition, the Common Stock issued upon the exercise of any Options shall be subject to repurchase by the Corporation for an amount equal to the Exercise Price of such Options (i) upon the occurrence of an event described in Section 4(d) of this Agreement, or (ii) if the Options were not vested when they were exercised, upon the occurrence of any event that would have resulted in the termination of those Options under the Plan and this Agreement if those Options had not been exercised. The Corporation may place a legend embodying such restrictions on the certificates evidencing such shares.

4. Termination of Employment or Service.

(a) Exercise Period Following Cessation of Employment or Other Service Relationship, In General. If Optionee ceases to be employed by, or in a service relationship with the Corporation for any reason other than death, Disability, or discharge for Cause, (i) the unvested Options shall terminate immediately upon such cessation, and (ii) the vested Options shall remain exercisable during the 30-day period following such cessation, but in no event after the Expiration Date. Unless sooner terminated, any unexercised vested Options shall terminate upon the expiration of such 30-day period.

(b) Death of Optionee. If Optionee dies prior to the expiration or other termination of the Options, (i) the unvested Options shall terminate immediately upon Optionee's death, and (ii) the vested Options shall remain exercisable during the one-year period following Optionee's death, but in no event after the Expiration Date, by Optionee's executor, personal representative, or the person(s) to whom the Options are transferred by will or the laws of descent and distribution. Unless sooner terminated, any unexercised vested Options shall terminate upon the expiration of such one-year period.

(c) Disability of Optionee. If Optionee ceases to be employed by, or in a service relationship with, the Corporation as a result of Optionee's Disability, (i) the unvested Options shall terminate immediately upon such cessation, and (ii) the vested Options shall remain exercisable during the one-year period following such cessation, but in no event after the Expiration Date. Unless sooner terminated, any unexercised vested Options shall terminate upon the expiration of such one-year period.

(d) Misconduct. Notwithstanding anything to the contrary in this Agreement, the Options shall terminate in their entirety, regardless of whether the Options are vested, immediately upon Optionee's discharge of employment or other service relationship for Cause or upon Optionee's commission of any of the following acts during any period following the cessation of Optionee's employment or other service relationship during which the Options otherwise would be exercisable: (i) fraud on or misappropriation of any funds or property of the Corporation, or (ii) breach by Optionee of any provision of any employment, non-disclosure, non-competition, non-solicitation, assignment of inventions, or other similar agreement executed by Optionee for the benefit of the Corporation, as determined by the Administrator, which determination will be conclusive.

5. Adjustments and Business Combinations.

(a) Adjustments for Events Affecting Common Stock. In the event of changes in the Common Stock of the Corporation by reason of any stock dividend, spin-off, split-up, reverse stock split, recapitalization, reclassification, merger, consolidation, liquidation, business combination or exchange of shares and the like, the Administrator shall, in its discretion, make appropriate substitutions for or adjustments in the number, kind and price of shares covered by this Option, and shall, in its discretion and without the consent of the Optionee, make any other substitutions for or adjustments in this Option, including but not limited to reducing the number of shares subject to the Option or providing or mandating alternative settlement methods such as settlement of the Option in cash or in shares of Common Stock or other securities of the Corporation or of any other entity, or in any other matters which relate to the Option as the Administrator shall, in its sole discretion, determine to be necessary or appropriate.

(b) Pooling of Interests Transaction. Notwithstanding anything in the Plan or this Agreement to the contrary and without the consent of the Optionee, the Administrator, in its sole discretion, may make any modifications to the Option, including but not limited to cancellation, forfeiture, surrender or other termination of the Option in whole or in part regardless of the vested status of the Option, in order to facilitate any business combination that is authorized by the Board to comply with requirements for treatment as a pooling of interests transaction for accounting purposes under generally accepted accounting principles.

(c) Adjustments for Other Events. The Administrator is authorized to make, in its discretion and without the consent of the Optionee, adjustments in the terms and conditions of, and the criteria included in, the Option in recognition of unusual or nonrecurring events affecting the Corporation, or the financial statements of the Corporation, or of changes in applicable laws, regulations, or accounting principles, whenever the Administrator determines that such adjustments are appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Option or the Plan.

(d) Binding Nature of Adjustments. Adjustments under this Section 5 will be made by the Administrator, whose determination as to what adjustments, if any, will be made and the extent thereof will be final, binding and conclusive. No fractional shares will be issued pursuant to this Option on account of any such adjustments.

(e) Effect of Change of Control Event. All outstanding portions of the Option, if any, shall become fully vested upon the occurrence of any Change of Control Event, except to the extent that provision is made in connection with the Change of Control Event for the continuation or assumption of the Option by, or for the substitution of equivalent options with respect to, the surviving or successor entity or a parent thereof, and shall be exercisable in accordance with the Plan; provided, that unless otherwise decided in the sole discretion of the Administrator, the acceleration of vesting in connection with a Change of Control Event shall be limited as provided in the Plan.

6. **Non-Guarantee of Employment**. Nothing in the Plan or in this Agreement shall confer on an individual any legal or equitable right against the Corporation or the Administrator, except as expressly provided in the Plan or this Agreement. Nothing in the Plan or in this Agreement shall (a) constitute inducement, consideration, or contract for employment or service between an individual and the Corporation; (b) confer any right on an individual to continue in the service of the Corporation; or (c) shall interfere in any way with the right of the Corporation to terminate such service at any time with or without cause or notice, or to increase or decrease compensation for such service.

7. **No Rights as Stockholder**. The Optionee shall not have any of the rights of a stockholder with respect to the shares of Common Stock that may be issued upon the exercise of the Option (including, without limitation, any rights to receive dividends or noncash distributions with respect to such shares) until such shares of Common Stock have been issued to him or her upon the due exercise of the Option. No adjustment shall be made for dividends or distributions or other rights for which the record date is prior to the date such certificate or certificates are issued.

8. **Incentive/Nonqualified Nature of the Option**. The Options are intended to qualify as an incentive stock option within the meaning of Section 422A of the Code to the extent set forth herein, and this Agreement shall be so construed; provided, however, to the extent that the aggregate Fair Market Value as of the date of this grant, of the shares into which the Option becomes exercisable for the first time by the Optionee during any calendar year exceeds \$100,000, the portion of the Option which is in excess of the \$100,000 limitation will be treated as a nonqualified stock option.

9. **Withholding of Taxes**.

(a) **In General**. At the time the Option is exercised in whole or in part, or at any time thereafter as requested by the Corporation, the Optionee hereby authorizes withholding from payroll or any other payment of any kind due the Optionee and otherwise agrees to make adequate provision for foreign, federal, state and local taxes required by law to be withheld, if any, which arise in connection with the Option (including, without limitation, upon a disqualifying disposition with the meaning of Code section 421(b)). The Corporation may require the Optionee to make a cash payment to cover any withholding tax obligation as a condition of exercise of the Option. If the Optionee does not make such payment when requested, the Corporation may refuse to issue any stock certificate under the Plan until arrangements satisfactory to the Administrator for such payment have been made.

(b) **Means of Payment**. The Administrator may, in its sole discretion, permit the Optionee to satisfy, in whole or in part, any withholding tax obligation which may arise in connection with the Option by any of the following means or by a combination of such means: (i) tendering a cash payment, (ii) authorizing the Corporation to deduct any such tax obligations from any payment of any kind otherwise due to the Optionee, (iii) authorizing the Corporation to withhold shares of Common Stock otherwise issuable to the Optionee pursuant to the exercise of this Option, or (iv) delivering to the Corporation unencumbered shares of Common Stock already owned by the Optionee.

(c) **Disposition of Shares**. The acceptance of shares of Common Stock upon exercise of this Option shall constitute an agreement by the Optionee (i) to notify the Corporation if any of such shares are disposed of by the Optionee within two years from the Grant Date or within one year from the date the shares were issued to the Optionee pursuant to the exercise of the Option, and (ii) if required by law, to remit to the Corporation, at the time of any such disposition, an amount sufficient to satisfy the Corporation's withholding tax obligations with respect to such disposition, whether or not, as to both (i) and (ii), the Optionee is employed by or has any other relationship with the Corporation at the time of such disposition.

10. **Compliance with Regulations of the FRB and OCC; Forfeiture** . Subject to the terms of the Plan, the grant of Options made hereby are subject to the rules and regulations promulgated by the Federal Reserve Board (“FRB”) and the Office of the Comptroller of Currency (“OCC”). In accordance with certain provisions of such regulations, the Options granted hereby must be exercised or forfeited in the event the Company or its affiliates, becomes critically undercapitalized (as defined in 12 C.F.R. § 6.4, or any successor law or regulation), is subject to FRB or OCC enforcement action, or receives a capital directive under 12 C.F.R § 6.21 or any successor law or regulation.

11. **The Corporation’s Rights** . The existence of this Option shall not affect in any way the right or power of the Corporation or its stockholders to make or authorize any or all adjustments, recapitalizations, reorganizations or other changes in the Corporation’s capital structure or its business, or any merger or consolidation of the Corporation, or any issue of bonds, debentures, preferred or other stocks with preference ahead of or convertible into, or otherwise affecting the Common Stock or the rights thereof, or the dissolution or liquidation of the Corporation, or any sale or transfer of all or any part of the Corporation’s assets or business, or any other corporate act or proceeding, whether of a similar character or otherwise.

12. **Optionee** . Whenever the word “Optionee” is used in any provision of this Agreement under circumstances where the provision should logically be construed, as determined by the Administrator, to apply to the estate, personal representative or beneficiary to whom this Option may be transferred by will, by the laws of descent and distribution, or pursuant to a qualified domestic relations order as defined in Code section 414(p), the word “Optionee” shall be deemed to include such person.

13. **Transferability of Option** . This Option is not transferable other than by will or the laws of descent and distribution, pursuant to a qualified domestic relations order as defined in Code section 414(p), or as otherwise permitted by the Administrator, in its sole discretion. During the lifetime of the Optionee, the Option may be exercised only by the Optionee, by such permitted transferees or, during the period the Optionee is under a legal disability, by the Optionee’s guardian or legal representative. Except as provided above, the Option may not be assigned, transferred, pledged, hypothecated or disposed of in any way (whether by operation of law or otherwise) and shall not be subject to execution, attachment or similar process.

14. **Notices** . All notices and other communications made or given pursuant to this Agreement shall be in writing and shall be sufficiently made or given if hand delivered or mailed by certified mail, addressed to the Optionee at the address contained in the records of the Corporation, or addressed to the Administrator, care of the Corporation for the attention of its Corporate Secretary at its principal office or, if the receiving party consents in advance, transmitted and received via telecopy or via such other electronic transmission mechanism as may be available to the parties.

15. **Entire Agreement** . This Agreement and the Plan contain the entire agreement between the parties with respect to the Option granted hereunder. Any oral or written agreements, representations, warranties, written inducements, or other communications made prior to the execution of this Agreement with respect to the Option granted hereunder shall be void and ineffective for all purposes.

16. **Amendment** . This Agreement may not be modified, except as provided in the Plan or in a written document signed by each of the parties hereto.

17. **Conformity with Plan** . This Agreement is intended to conform in all respects with, and is subject to all applicable provisions of, the Plan, which is incorporated herein by reference. Inconsistencies between this Agreement and the Plan shall be resolved in accordance with the terms of the Plan. In the event of any ambiguity in this Agreement or any matters as to which this Agreement is silent, the Plan shall govern. A copy of the Plan is available upon request to the Administrator.

18. **Governing Law**. This Agreement shall be governed by and construed in accordance with the laws of the State of Nevada, other than the conflict of laws principles thereof.

19. **Headings**. The headings in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the Corporation has caused this Agreement to be executed by its duly authorized officer as of the date first above written.

SCIO DIAMOND TECHNOLOGY CORP.

By: _____

Print Name: **Edward S. Adams**

Title: **Chairman of the Board of Directors**

The undersigned hereby acknowledges that he/she has carefully read this Agreement and the Plan and agrees to be bound by all of the provisions set forth in such documents.

OPTIONEE:

By:

Name:

Date:

Exhibit A

Scio Diamond 2013 / 14 Production Performance Option Plan

Grantee

Laser Operation in SC*	X	20%
\$1 Million EBITDA (cumulative from July 1, 2012 forward)	X	40%
\$5 Million in Revenue (cumulative from July 1, 2012 forward)	X	40%
<hr/>		
Total Shares under option at Fair Market Value date of Grant**	-	100%

* The Company will have placed in service equipment for cutting and polishing of diamond material in support of the growers operating in South Carolina. Lasers, polishers and related infrastructure and control equipment must be operational and available for fabrication of fifty (50%) of all of the Company's diamond production.

** The CEO of the Company shall have discretion to award up to 300,000 total additional options to Messrs. McMahon and Nichols in the amount he sees fit in connection with their relative performance of such parties in connection with their contributions to production performance.

EXERCISE FORM

Scio Diamond Technology Corp.
411 University Ridge, Suite D
Greenville SC 29601

Ladies and Gentlemen:

I hereby exercise the Performance Option granted to me on _____, by Scio Diamond Technology Corp. (the "Corporation"), subject to all the terms and provisions thereof and of the Share Incentive Plan (the "Plan"), and notify you of my desire to purchase ___ incentive shares and ___ non-qualified shares of Common Stock of the Corporation at a price of \$_____ per share pursuant to the exercise of said Option.

Payment Amount: \$_____

Date: _____

Optionee Signature

Received by Scio Diamond Technology Corp. on

Broker Information:

Firm Name

Contact Person

Broker Address

City, State, Zip Code

Phone Number

Broker Account Number

Electronic Transfer Number:

**Scio Diamond Technology Corporation
Code of Ethics and Business Conduct**

1. Introduction.

1.1 The Board of Directors of Scio Diamond Technology Corporation (together with its subsidiaries, the "**Company**") has adopted this Code of Ethics and Business Conduct (the "**Code**") in order to:

- (a) promote honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest;
- (b) promote full, fair, accurate, timely and understandable disclosure in reports and documents that the Company files with, or submits to, the Securities and Exchange Commission (the "**SEC**") and in other public communications made by the Company;
- (c) promote compliance with applicable governmental laws, rules and regulations;
- (d) promote the protection of Company assets, including corporate opportunities and confidential information;
- (e) promote the prompt internal reporting of violations of the Code to a person or persons identified in the Code;
- (f) promote fair dealing practices;
- (g) deter wrongdoing; and
- (h) ensure accountability for adherence to the Code.

1.2 All directors, officers and employees are required to be familiar with the Code, comply with its provisions and report any suspected violations as described below in Section 10. Reporting and Enforcement.

2. Honest and Ethical Conduct.

2.1 The Company's policy is to promote high standards of integrity by conducting its affairs honestly and ethically.

2.2 Each director, officer and employee must act with integrity and observe the highest ethical standards of business conduct in his or her dealings with the Company's customers, suppliers, partners, service providers, competitors, employees and anyone else with whom he or she has contact in the course of performing his or her job.

3. Conflicts of Interest.

3.1 A conflict of interest occurs when an individual's private interest (or the interest of a member of his or her family) interferes, or even appears to interfere, with the interests of the Company as a whole. A conflict of interest can arise when an employee, officer or director (or a member of his or her family) takes actions or has interests that may make it difficult to perform his or her work for the Company objectively and effectively. Conflicts of interest also arise when an employee, officer or director (or a member of his or her family) receives improper personal benefits as a result of his or her position in the Company.

3.2 Loans by the Company to, or guarantees by the Company of obligations of, employees or their family members are of special concern and could constitute improper personal benefits to the recipients of such loans or guarantees, depending on the facts and circumstances. Loans by the Company to, or guarantees by the Company of obligations of, any director or executive officer or their family members are expressly prohibited.

3.3 Whether or not a conflict of interest exists or will exist can be unclear. Conflicts of interest should be avoided unless specifically authorized as described in Subsection 3.4.

3.4 Persons other than directors and executive officers who have questions about a potential conflict of interest or who become aware of an actual or potential conflict should discuss the matter with, and seek a determination and prior authorization or approval from, the Chief Compliance Officer (the Company's Chief Financial Officer, Charles G. Nichols).

Directors and executive officers must seek determinations and prior authorizations or approvals of potential conflicts of interest exclusively from the Board of Directors or a committee that the Board of Directors may establish to review and potentially approve conflicts of interest matters (a "Related-Party" Transactions Committee).

4. Compliance.

4.1 Employees, officers and directors should comply, both in letter and spirit, with all applicable laws, rules and regulations in the cities, states and countries in which the Company operates.

4.2 Although not all employees, officers and directors are expected to know the details of all applicable laws, rules and regulations, it is important to know enough to determine when to seek advice from appropriate personnel. Questions about compliance should be addressed to the Chief Compliance Officer.

4.3 No director, officer or employee may purchase or sell any Company securities while in possession of material non-public information regarding the Company, nor may any director, officer or employee purchase or sell another company's securities while in possession of material non-public information regarding that company. It is against Company policies and illegal for any director, officer or employee to use material non-public information regarding the Company or any other company to:

- (a) obtain profit for himself or herself; or

(b) directly or indirectly "tip" others who might make an investment decision on the basis of that information.

5. Disclosure.

5.1 The Company's periodic reports and other documents filed with the SEC, including all financial statements and other financial information, must comply with applicable federal securities laws and SEC rules.

5.2 Each director, officer and employee who contributes in any way to the preparation or verification of the Company's financial statements and other financial information must ensure that the Company's books, records and accounts are accurately maintained. Each director, officer and employee must cooperate fully with the Company's Accounting and Internal Audit Departments, as well as the Company's independent public accountants and counsel.

5.3 Each director, officer and employee who is involved in the Company's disclosure process must:

(a) be familiar with and comply with the Company's disclosure controls and procedures and its internal control over financial reporting; and

(b) take all necessary steps to ensure that all filings with the SEC and all other public communications about the financial and business condition of the Company provide full, fair, accurate, timely and understandable disclosure.

6. Protection and Proper Use of Company Assets.

6.1 All directors, officers and employees should protect the Company's assets and ensure their efficient use. Theft, carelessness and waste have a direct impact on the Company's profitability and are prohibited.

6.2 All Company assets should be used only for legitimate business purposes, though reasonable incidental personal use is or may be permitted. Any suspected incident of fraud or theft should be reported for investigation immediately.

6.3 The obligation to protect Company assets includes the Company's proprietary information. Proprietary information includes intellectual property such as trade secrets, patents, trademarks, and copyrights, as well as business and marketing plans, engineering and manufacturing ideas, designs, databases, records and any non-public financial data or reports. Unauthorized use or distribution of this information is prohibited and could also be illegal and result in civil or criminal penalties.

7. Corporate Opportunities. All directors, officers and employees owe a duty to the Company to advance its interests when the opportunity arises. Directors, officers and employees are prohibited from taking for themselves personally (or for the benefit of friends or family members) opportunities that are discovered through the use of Company assets, property, information or position. Directors, officers and employees may not use Company assets, property, information or position for personal gain (including gain of friends or family members). In addition, no director, officer or employee may compete with the Company.

8. Confidentiality. Directors, officers and employees should maintain the confidentiality of information entrusted to them by the Company or by its customers, suppliers or partners, except when disclosure is expressly authorized or legally required. Confidential information includes all non-public information (regardless of its source) that might be of use to the Company's competitors or harmful to the Company or its customers, suppliers or partners if disclosed.

9. Fair Dealing. Each director, officer and employee must deal fairly with the Company's customers, suppliers, partners, service providers, competitors, employees and anyone else with whom he or she has contact in the course of performing his or her job. No director, officer or employee may take unfair advantage of anyone through manipulation, concealment, abuse or privileged information, misrepresentation of facts or any other unfair dealing practice.

10. Reporting and Enforcement.

10.1 Reporting and Investigation of Violations.

(a) Actions prohibited by this code involving directors or executive officers must be reported to the Board of Directors or, if applicable, to the Related-Party Transactions Committee.

(b) Actions prohibited by this code involving any other person must be reported to the Chief Financial Officer.

(c) After receiving a report of an alleged prohibited action, the Chief Financial Officer must promptly take all appropriate actions necessary to investigate.

(d) All directors, officers and employees are expected to cooperate in any internal investigation of misconduct.

10.2 Enforcement.

(a) The Company must ensure prompt and consistent action against violations of this Code.

(b) If, after investigating a report of an alleged prohibited action by a director or executive officer, the Related-Party Transactions Committee determines that a violation of this Code has occurred, the Related-Party Transactions Committee will report such determination to the Board of Directors.

(c) If, after investigating a report of an alleged prohibited action by any other person, the Chief Financial Officer determines that a violation of this Code has occurred, the Chief Financial Officer will report such determination to the Chief Executive Officer.

(d) Upon receipt of a determination that there has been a violation of this Code, the Board of Directors or the Chief Executive Officer will take such preventative or disciplinary action as it deems appropriate, including, but not limited to, reassignment, demotion, dismissal and, in the event of criminal conduct or other serious violations of the law, notification of appropriate governmental authorities.

10.3 Waivers.

(a) Each of the Board of Directors, the Related-Party Transactions Committee (in the case of a violation by a director or executive officer), and the Chief Executive Officer (in the case of a violation by any other person) may, in its discretion, waive any violation of this Code.

(b) Any waiver for a director or an executive officer shall be disclosed as required by SEC and any applicable stock market rules.

10.4 Prohibition on Retaliation.

The Company does not tolerate acts of retaliation against any director, officer or employee who makes a good faith report of known or suspected acts of misconduct or other violations of this Code.

ACKNOWLEDGMENT OF RECEIPT AND REVIEW

To be signed and returned to the Chief Compliance Officer (the Company's Chief Financial Officer).

I, _____, acknowledge that I have received and read a copy of the Scio Diamond Technology Corporation Code of Ethics and Business Conduct. I understand the contents of the Code and I agree to comply with the policies and procedures set out in the Code.

I understand that I should approach the Chief Compliance Officer if I have any questions about the Code generally or any questions about reporting a suspected conflict of interest or other violation of the Code.

[NAME]

[PRINTED NAME]

[DATE]

