# 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)**: July 24, 2020

# CQENS Technologies Inc.
*(Exact name of registrant as specified in its charter)*

| **Delaware** | **000-55470** | **27-1521407** |
|---|---|---|
| *(State or other jurisdiction of incorporation or organization)* | *(Commission File Number)* | *(I.R.S. Employer Identification No.)* |

**5550 Nicollet Avenue, Minneapolis, MN 55419**
*(Address of principal executive offices)(Zip Code)*

Registrant's telephone number, including area code: **(612) 812-2037**

**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 (17 CFR 240.14d-2(b))

[ ] Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

| Title of each class | Trading Symbol(s) | Name of each exchange on which registered |
|---|---|---|
| None | n/a | n/a |

Indicate by check mark whether the registrant is an emerging growth company as defined in in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company [X]

If an emerging growth company, indicate by checkmark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section3(a) of the Exchange Act. [ ]

**Item 1.01 Entry into a Material Definitive Agreement.**

On July 24, 2020, CQENS Technologies Inc. (the "Company") entered into an Amended and Restated Operating Agreement (the "Operating Agreement") of Leap Technology LLC ("Leap Technology") with Zong Group Holdings LLC ("Zong") and Leap Management LLC ("LM"). Under the terms of the Operating Agreement and the related Contribution Agreement dated July 24, 2020 (the "Contribution Agreement"), the Company acquired a 55% membership interest in Leap Technology in exchange for the contribution of an exclusive, royalty-free license (the "License Agreement") for the use in the Asia Pacific countries listed in the Contribution Agreement of certain of our intellectual property, patents pending and patents related to our heated tobacco product technology. It is expected that Leap Technology will form additional business entities to commercialize our propriety technology in those Asia Pacific countries which include China, India, Indonesia, Vietnam, the Philippines, Thailand, Malaysia, Singapore and Hong Kong. The goal of the joint venture is the market development of the Company's intellectual property in the Asia Pacific region together with other initiatives and the formation business relationships with tobacco companies who operate in the Asia Pacific region.

Under the terms of the Operating Agreement, there will be five managers of the Leap Technology, three of whom will be designated by the Company and two of whom will be designated by Zong. Zong and LM have jointly agreed to raise equity to fund the operations of the expected additional business entities to be formed by Leap Technology as well as using their best efforts to assist the Company in raising capital. In the event ZONG and LM jointly fail to undertake their best efforts, as evidenced by failure to fulfill most of their financial obligations under the Operating Agreement, the Company may exercise a right to repurchase from Leap Technology the CQENS IP (as defined under the Operating Agreement) contributed under the Contribution Agreement for a nominal cash amount.

The foregoing terms and conditions of the Operating Agreement, the Contribution Agreement and the License Agreement are qualified in their entirety by reference to such agreements which are filed as Exhibits 10.1, 10.2 and 10.3, respectively, to this Current Report.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

| No. | Exhibit Description | Incorporated by Reference | | | Filed or Furnished Herewith |
|---|---|---|---|---|---|
| | | Form | Date Filed | Number | |
| 10.1 | Form of Amended and Restated Operating Agreement dated July 24, 2020 of Leap Technology LLC ("Leap Technology") by and between CQENS Technologies Inc., Zong Group Holdings LLC and Leap Management LLC. | | | | Filed |
| 10.2 | Form of Contribution Agreement Via Exclusive Licensing Agreement dated July 24, 2020 by and between CQENS Technologies Inc. and Leap Technology LLP | | | | Filed |
| 10.3 | Form of Intellectual Property License Agreement dated July 2, 2020 by and between CQENS Technologies Inc. and Leap Technology LLP | | | | Filed |

**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.

CQENS Technologies Inc.

Date: July 29, 2020

By: */s/ William P. Bartkowski*
William P. Bartkowski, President

**Exhibit 10.1**

**FORM OF AMENDED AND RESTATED**
**LIMITED LIABILITY COMPANY AGREEMENT**
**OF**
**LEAP TECHNOLOGY LLC**

This Amended and Restated Limited Liability Company Agreement (the "Agreement") of Leap Technology LLC, a Delaware limited liability company (the "Company") is entered into effective as of July 24, 2020 (the "Effective Date") by and among (i) Zong Group Holdings LLC, a Delaware limited liability company ("ZONG"), (ii) Leap Management LLC, a Delaware limited liability company ("LM"), and (iii) CQENS Technologies Inc., a Delaware corporation ("CQENS").

**RECITALS**

A. The Company was formed in accordance with the Act on July 13, 2020 and, since the date of its formation and through the date hereof, has been classified as a partnership for U.S. federal (and applicable state and local) income tax purposes.

B. The Company is currently governed by that certain Limited Liability Company Agreement of the Company, effective as of July 13, 2020, by LM and ZONG (the "Original LLC Agreement").

C. Pursuant to that certain Contribution Agreement, dated as of the date hereof, by and among the Company, LM, ZONG and CQENS (the "Contribution Agreement"), CQENS will acquire a 55% Membership Interest in the Company, ZONG will retain a 35% Membership Interest in the Company and LM will retain a 10% Membership Interest in the Company, in exchange for the contribution to the Company of that certain exclusive, royalty-free license agreement of all current and future patent pending intellectual property (the "CQENS IP") designed to support the configuration, design, manufacture, marketing and merchandising of a heated tobacco product with respect to each of the Asia Pacific Countries (the "HTP Asia Pacific Business"), all as more particularly set forth on Exhibit A attached to the Contribution Agreement.

D. ZONG, LM and CQENS (each a "Member" and collectively the "Members") intend that the Company will operate and manage the Asia Pacific Regional Companies, each as a Company Subsidiary, subject to tax, structuring and other legal and financial advice to be obtained after the Effective Date. In the event that Asia Pacific Regional Companies are established as Company Subsidiaries, reasonable efforts should be taken to structure the ownership of those subsidiaries consistent with the membership interests of the Company to the extent that this would be practicable.

E. The Members wish to amend and restate the Original LLC Agreement in its entirety as set forth in this Agreement.

**AGREEMENT**

In consideration of the mutual obligations set forth in this Agreement, and with the intent of being legally bound, the Original LLC Agreement is amended and restated in its entirety as set forth below and the Members agree as follows:

**ARTICLE I**

**DEFINITIONS**

When used in this Agreement, the following terms shall have the meanings set forth below. All terms used in this Agreement that are not defined in this Article I shall have the meanings set forth elsewhere in this Agreement.

"Act" means the Delaware Limited Liability Company Act, 6 Del. Code §§18-101 et seq., as amended from time to time.

"Adjusted Capital Account Balance" means, with respect to any Member, the balance in such Member's Capital Account after giving effect to the following adjustments: (i) credit to such Capital Account of such Member's share of "partnership minimum gain" and "partner nonrecourse debt minimum gain" as such terms are defined in Treasury Regulation Section 1.704-2 and any amount which such Member would be required to restore under this Agreement or otherwise; and (ii) debit to such Capital Account of the items described in Treasury Regulation Sections 1.704-1(b)(2)(ii)(d)(4), (5), and (6). The foregoing definition of Adjusted Capital Account Balance is intended to comply with the provisions of Treasury Regulation Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

"Affiliate" of the Company, any Company Subsidiary, a Member or Manager shall mean any Person, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the Company, a Company Subsidiary, a Member or Manager, as applicable. The term "control," as used in the immediately preceding sentence, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled entity whether through ownership of voting securities, by contract or otherwise.

"Asia Pacific Countries" shall mean the following: China, India, Indonesia, Pakistan, Bangladesh, Philippines, Vietnam, Thailand, Myanmar, Afghanistan, Malaysia, Nepal, Australia, , Taiwan, Sri Lanka, Cambodia, Hong Kong, Papua, New Guinea, Laos, Singapore, New Zealand, Mongolia, Timor-Leste, Fiji, Bhutan, Solomon Islands, Macau, Brunei, Maldives, New Caledonia, French Polynesia, Vanuatu, Samoa, Guam, Kiribati Federated States of Micronesia, and Tonga.

"Asia Pacific Regional Companies" shall mean those certain entities to be formed by the Company to commercialize the CQENS IP and to conduct the HTP Asia Pacific Business in the Asia Pacific Countries.

"Capital Account" has the meaning set forth in Section 3.4(a),

"Capital Contribution" means the total amount of cash and the Gross Asset Value of property (net of liabilities secured by such property that the Company is considered to assume or take subject to under Section 752 of the Code) contributed to the Company by a Member, including any Capital Call Contributions and Additional Contributions.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and the provisions of succeeding law.

"Company" shall have the meaning ascribed to that term in the preamble hereto.

"Company Subsidiary" means any direct or indirect subsidiary of the Company, including, without limitation, any of its Subsidiaries domiciled or with authority to do business in any of the Asia Pacific Countries.

"Depreciation" means, for each Fiscal Year or other relevant period, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable for federal income tax purposes with respect to an asset for such Fiscal Year or other period; provided, however, that if the Gross Asset Value of an asset differs from its adjusted tax basis at the beginning of such Fiscal Year or other period, Depreciation shall, except as otherwise required by Treasury Regulation Section 1.704-3(d), be an amount that bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization, or other cost recovery deduction with respect to such asset for such Fiscal Year or other period bears to such beginning adjusted tax basis; and provided further, that if the federal income tax depreciation, amortization, or other cost recovery deduction for such Fiscal Year or other period is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Manager.

"Dispose" or "Disposition" means, with respect to any asset (including, but not limited to, with respect to the Company, any equity interest in any Company Subsidiary or any portion thereof), a sale, assignment, transfer, conveyance, gift, Encumbrance, hypothecation, exchange, or other disposition of such asset, whether such disposition be voluntary, involuntary or by operation of law.

"Distributable Cash" means the amount of cash which the Managers deem available for distribution to the Members, taking into account all debts, liabilities, and obligations of the Company then due (including amounts owed to Members), and working capital and other amounts which the Managers deem necessary for the Company's business or to place into reserves for customary and usual claims with respect to such business.

"Encumbrance" means any lien, order, security interest, contract, easement, covenant, community property interest, equitable interest, right of first refusal (other than pursuant to Section 6.2), or restriction of any kind, including any restriction on use, voting, transfer, receipt of income, or exercise of any other attribute of ownership.

"Gross Asset Value" means, with respect to any Company asset, the Company's adjusted basis in such asset for federal income tax purposes, except as follows:

(a) the initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset, as agreed to by the contributing Member and the Managers;

(b) for purposes of "booking up" the Capital Accounts of Members to reflect increases in the value of the Company upon certain occasions, the Gross Asset Value of all Company assets shall be adjusted to equal their respective gross fair market values, as determined by the Managers, as of the following times: (i) the acquisition of an additional interest in the Company by any new or existing Member in exchange for more than a de minimis Capital Contribution or as consideration for services performed to or for the benefit of the Company; (ii) the distribution by the Company to a Member of more than a de minimis amount of Company assets as consideration for an interest in the Company; (iii) the liquidation of the Company within the meaning of Treasury Regulation Section 1.704-l(b)(2)(ii)(g); and (iv) at such other times as the Managers determine necessary or appropriate in order to comply with Treasury Regulations Sections 1.704-1(b) and 1.704-2; provided, however, that adjustments pursuant to clause (i) and clause (ii) of this sentence shall be made only if the Managers reasonably determine such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company;

(c) the Gross Asset Values of Company assets will be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Section 734(b) or Section 743(b) of the Code, but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(m), provided, however, that Gross Asset Values will not be adjusted pursuant to this subparagraph (c) to the extent that Managers determine that an adjustment pursuant to subparagraph (b) of this definition is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this subparagraph (c);

(d) the Gross Asset Value of any Company asset distributed to any Member shall be the gross fair market value of such asset on the date of distribution, as determined in good faith by the Managers; and

(e) if the Gross Asset Value of an asset has been determined or adjusted pursuant to subparagraph (a), subparagraph (b) or subparagraph (c) above, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits and Losses.

"Leap Technology China" means certain Chinese entities to be formed by the Company to commercialize the CQENS IP and to conduct the HTP Asia Pacific Business in the People's Republic of China.

"Managers" means three (3) Persons chosen by CQENS and two (2) Persons chosen by ZONG in each case with successor Managers chosen in accordance with Section 4.1 below.

"Member" means each of CQENS, ZONG and LM and any Person who (a) has been admitted to the Company as a Member in accordance with this Agreement or was an Assignee and has become a Member in accordance with Article VI, and (b) has not ceased to be a Member in accordance with Article VI or for any other reason.

"Membership Interest" means a Member's entire interest in the Company, the right to vote on or participate in the management, and the right to receive information concerning the business and affairs, of the Company.

"Person" means a natural person, partnership (whether limited or general), limited liability company, trust, estate, association, corporation, custodian, nominee or any other individual or entity in its own or any representative capacity.

"Profits" and "Losses" means, for each Fiscal Year or other period, an amount equal to the Company's taxable income or loss for such Fiscal Year or period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments (without duplication):

(a) any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this definition shall be added to such taxable income or loss;

(b) any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to this definition, shall be subtracted from such taxable income or loss;

(c) gain or loss resulting from any disposition of property with respect to which gain or loss is recognized for federal tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Gross Asset Value;

(d) in lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation;

(e) to the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Sections 734(b) or 743(b) is required pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m) to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) from the disposition of the asset and shall be taken into account for the purposes of computing Profits and Losses, as applicable; and

(f) Items of income, gain, loss, or deduction allocated pursuant to Section 5.4 shall be excluded from Profits and Losses; *provided*, *that*, the amounts of the items of Company income, gain, loss, or deduction available to be specially allocated pursuant to Section 5.4 hereto shall be determined by applying rules analogous to those set forth above.

"Treasury Regulations" or "Regulations" shall, unless the context clearly indicates otherwise, mean the regulations in force as final or temporary that have been issued by the U.S. Department of Treasury pursuant to its authority under the Code, and any successor regulations.

"Sharing Ratios" means the percentages in which the Members participate in, and bear, certain items. The Sharing Ratios of the Members may be modified from time to time as provided for herein, including, without limitation, pursuant to Section 3.1(b) hereof. The initial Sharing Ratios of the Members are as follows:

| | |
|---|---|
| CQENS | 55% |
| ZONG | 35% |
| LM | 10% |
| Total | 100.00% |

**ARTICLE II**

**ORGANIZATIONAL MATTERS**

SECTION 2.1 Formation. The Company was formed as a Delaware limited liability company under the laws of the State of Delaware by the filing of a certificate of formation with the Delaware Secretary of State. The rights and liabilities of the Managers and Members shall be determined pursuant to the Act and this Agreement. To the extent that the rights or obligation of the Managers or any Member are different by reason of any provision of this Agreement than they would be in the absence of such provision, this Agreement shall, to the extent permitted by the Act, control.

SECTION 2.2 Name and Purpose. The name of the Company shall be "Leap Technology LLC." The Company's business may be conducted under that name or, upon compliance with applicable laws, any other name that the Managers deem appropriate or advisable. The purpose of the Company will be to engage in any and all business in which it may lawfully engage under applicable law, including, without limitation to directly or indirectly manage, operate or undertake acts as determined by the Managers with respect to the HTP Asia Pacific Business.

SECTION 2.3 Office and Agent. The initial registered office of the Company in Delaware shall be at 16192 Coastal Highway, Lewes, DE 19958. The name of its initial registered agent at such address is Harvard Business Services, Inc. The registered agent in Delaware may be changed by the Managers from time to time pursuant to the Act. The Company shall apply for authority to transact business in any jurisdictions as may be necessary or desirable in connection with its formation, existence and operation.

SECTION 2.4 Addresses of the Members and the Managers. The respective email addresses of the Members and of the Managers are as follows: CQENS, Attn: Bill Bartkowski e-mail: wbartkowski@cqens.com; ZONG, e-mail: ZongHoldings@Protonmail.com; and LM, e-mail: LeapManagement@Protonmail.com. Each Member and each Manager may change the Member's and Manager's address upon notice thereof to the Company.

SECTION 2.5 Tax Classification; No State Law Partnership. The Company is intended to be classified as a partnership for U.S. federal (and applicable state and local) income tax purposes. Other than for U.S. federal (and applicable state and local) income tax purposes, the Company shall not be a partnership or joint venture for any other purpose, and no Member shall, by virtue of this Agreement, be a partner or joint venturer of any other Member. Neither the Company nor the Managers shall change the classification of the Company for U.S. federal income tax purposes without the unanimous prior written consent of the Members.

## ARTICLE III

## MEMBERS; CAPITAL; CAPITAL ACCOUNTS; RESPONSIBILITIES; INDEMNIFICATION

SECTION 3.1 Capital Contributions. Each Member has made a Capital Contribution to the Company, and the Company issued to each Member a Membership Interest in the Company and assigned to each Member the Sharing Ratio set forth opposite such Member's on Schedule 1. Schedule 1 identifies the Capital Contributions that each Member has made to the Company as of the Effective Date. The Managers shall have the power and authority to update Schedule 1 from time to time without the need to amend or amend and restate this Agreement.

(a) In General. Each Member agrees to make future Capital Contributions in amounts sufficient to enable, and at times sufficient to allow, the Company or any Company Subsidiary to pay its expenses to the extent requested pursuant to Section 3.1(b) below.

(b) Capital Calls. In the event of an anticipated operating deficit, the Managers may request a Capital Contribution from each Member in an amount equal to such Member's pro-rata share of such operating deficit based on the Members' respective Sharing Ratios (the "Capital Call Contribution"). Any Capital Call Contributions will be due within thirty (30) days of the Company's notice to the Member requesting the Capital Call Contribution. If any Member fails to make its Capital Call Contribution, the Managers shall adjust the Sharing Ratios so that each Member's Sharing Ratio, on and after the date of such Capital Call Contribution, shall be the ratio that the aggregate amount of Capital Contributions made to the Company by such Member bears to the aggregate amount of Capital Contributions made by all of the Members.

SECTION 3.2 Covenants of Members ZONG, LM and CQENS.

(a) Company Subsidiary Capitalization. ZONG and LM jointly agree to raise equity capital on terms acceptable to the Managers in order to fund the operations of the Asia Pacific Regional Companies.

(b) CQENS Co-Invest. In addition to raising the initial and working capital for the Company and for potential subsidiaries, ZONG and LM jointly agree to use their best efforts to raise and/or fund, or cause to be raised and/or funded, US$50 million of equity capital for CQENS, subject to mutual agreement as to terms, conditions and pricing of such equity capital. CQENS agrees that it will not unreasonably withhold its approval of modifications to such terms and conditions once they have been agreed upon. Additionally, CQENS agrees that it will not unreasonably refuse investments from qualified investors by objecting to conditions or terms that such investors might reasonably request, provided that ZONG and LM agree that the requests are reasonable and that such conditions and terms are compliant with all relevant laws and regulations. Finally, CQENS agrees to fully cooperate with ZONG and LM in connection with their obligations hereunder, including (without limitation) providing all documentation, information and access to CQENS management reasonably requested by ZONG and/or LM.

(c) China. ZONG and LM, on behalf of Leap Technology China or another Company Subsidiary, will secure the necessary rights and approvals, either directly or indirectly, to conduct business to manufacture, distribute and sell tobacco products using the CQENS IP in the People's Republic of China.

(d) Other Funds. On terms reasonably acceptable to ZONG and LM, if in the future CQENS needs to raise additional funds, ZONG and LM jointly agree to use their respective commercially reasonable efforts to help raise the funds that are necessary for a global deployment (outside of the Asia Pacific Countries) of the CQENS IP.

(e) Repurchase Rights. In the event ZONG and LM jointly fail to undertake their best efforts, as evidenced by failure to fulfill most of the obligations under Section 3.2(b) after formally reaching mutual agreement as to the financing terms and conditions within 18 months, and/or after reasonable extensions have been provided pursuant to mutual agreement or as set forth in the last sentence hereof, after Leap Technology China obtains the licenses and permits necessary to conduct business in the People's Republic of China, then CQENS shall have the right to purchase from the Company all of the CQENS IP for $1.00 in the aggregate, which such purchase right shall be the sole and exclusive remedy of CQENS with respect to any breach of any obligations of ZONG and LM hereunder, and in no event shall ZONG or LM be liable to CQENS for any and all damages arising from or related to any breach or failure to satisfy any of their respective obligations hereunder. Notwithstanding the foregoing, due to the current worldwide COVID-19 pandemic, CQENS agrees that such 18-month period shall be reasonably and responsibly extended in light of such pandemic, which for this purpose, shall mean if the quarantine measures or restrictions being taken with respect to any international visitors entering Japan, China, South Korea or the United States are continuing after the date hereof. In the event CQENS validly exercises its right to repurchase the CQENS IP hereunder, ZONG or LM shall have the right to cause the Company to redeem all of the Membership Interests held by CQENS in the Company for $1.00 in the aggregate.

SECTION 3.3 No Interest; Return of Contributions. No Member shall be entitled to receive any interest or preferred return on its Capital Contributions or Capital Account. Except as otherwise provided in this Agreement, no Member shall have the right to receive the return of any Capital Contribution, withdraw any portion of its Capital Contributions or Capital Account, or to receive any distribution from the Company, except as expressly provided herein.

SECTION 3.4 Capital Account.

(a) General. An individual capital account (a "Capital Account") shall be established and maintained for each Member in accordance with the rules of Treasury Regulations Section 1.704-1(b)(2)(iv). Each Member's Capital Account shall be increased by (i) the amount of money contributed by such Member to the Company, (ii) the Gross Asset Value of property contributed by such Member to the Company (net of liabilities secured by the contributed property that the Company is considered to assume or take subject to under Section 752 of the Code), and (iii) allocations to such Member of Profits or items thereof (and any items in the nature of income or gain separately allocated to such Member). Each Member's Capital Account shall be decreased by (i) the amount of money distributed to such Member by the Company, (ii) the Gross Asset Value of property distributed to such Member by the Company (net of liabilities secured by the distributed property that the Member is considered to assume or take subject to under Section 752 of the Code), and (iii) allocations to such Member of Losses or items thereof (and any items in the nature of losses or deductions separately allocated to such Member). The Capital Accounts of the Members shall be increased or decreased, as appropriate, to reflect a revaluation of Company's assets pursuant to clause (ii) of the definition of Gross Asset Value in accordance with the provisions of Section 1.704-1(b)(2)(iv)(f) of the Treasury Regulations. The provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Section 1.704-1(b)(2)(iv) of the Treasury Regulations and shall be interpreted and applied in a manner consistent with such Treasury Regulations.

(b) Succession Upon Transfer. The original Capital Account established for any Substituted Member (as defined below) shall be in the same amount as, and shall replace, the Capital Account of the Member (or portion thereof) to which such Substituted Member succeeds, at the time such Substituted Member is admitted to the Company. The Capital Account of any Member shall be increased or decreased by means of the transfer to it of all or part of the Membership Interest of another Member. Any reference in this Agreement to a Capital Contribution of or distribution to a Member that has succeeded any other Member shall include any Capital Contributions or distributions previously made by or to the former Member on account of the Membership Interest of such former Member transferred to such Member. Nothing in this Section 3.4(b) shall affect the limitations on transferability of Membership Interests set forth herein. For purposes of this Section 3.4(b), the term "Substituted Member" means a transferee of a Member that is admitted as a Member of the Company.

(c) Negative Capital Accounts. No Member shall be required to pay to any other Member or the Company any deficit or negative balance which may exist from time to time in such Member's Capital Account (including, without limitation, any such deficit or negative balance as may exist upon and after dissolution of the Company).

SECTION 3.5 Partnership Audit Adjustments. Notwithstanding anything else to the contrary, for purposes of maintaining Capital Accounts, the Managers shall have the power and authority to (x) determine the characterization of any payments, Withholding Payments, and/or Imputed Underpayment Amounts contemplated by Section 5.6 and (y) allocate items of income, gain, loss, expense, or credit attributable to an adjustment to any partnership related item (within the meaning of Code Section 6241(2)(B)) to the extent such adjustment results in an "imputed underpayment" (as described in Code Section 6225(b)), in each case, in accordance with applicable Treasury Regulations.

SECTION 3.6 Financial Matters.

(a) The Managers shall cause the Company to handle all accounting matters in accordance with applicable legal and timing requirements of the Company's Members. This will include monitoring and collection of Company accounts receivable, and payment to the Members from the Company bank account of amounts owed to Members. The Managers will monitor the Company bank account. Such Company bank account will be opened at a bank mutually agreed upon by the Managers.

(b) One CQENS Manager and one ZONG Manager will be jointly and not severally authorized to sign checks with respect to the Company bank account, as described in Section 4.2.

(c) The Managers shall arrange for the regular preparation of financial statements for the Company (and the Company Subsidiaries) and will provide copies of such statements to the Members, along with copies of Company (and any Company Subsidiary) accounts receivable, cash receipts and cash disbursements registers, bank statements and any other Company (or Company Subsidiary) financial records as reasonably requested by the Members. The Company shall maintain complete and accurate records of all payments from each Company Subsidiary and by the Company to each Member.

SECTION 3.7 Indemnification. The Company will, to the fullest extent to which it is empowered to do so by the Act, as the same now exists or may hereafter be amended (but, in the case of any such amendment only to the extent that such amendment permits the Company to provide broader indemnification rights than the Company may provide immediately prior to such amendment), indemnify and hold harmless each Member, each Manager, the Partnership Representative, the Designated Individual, each officer, each manager, director and officer of any Company Subsidiary (to the extent appointed to such positions by the Company) and each Member's direct and indirect owners, members, shareholders, partners, managers, directors, officers, trustees, employees, agents and Affiliates (each an "Indemnified Person"), from and against all losses, damages, liabilities and expenses (including reasonable expenses of investigation and reasonable attorneys' fees and expenses) (collectively, "Damages") incurred or suffered by such Indemnified Person arising from or in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, arising in connection with the Company or any Company Subsidiary; provided, however, that (unless the Managers otherwise consent) no Indemnified Person will be indemnified for any Damages incurred or suffered that are attributable to such Indemnified Person's fraud, gross negligence, willful misconduct, willful breach of this Agreement, knowing violation of the law or bad faith violation of the implied contractual covenant of good faith and fair dealing or that result from transactions in which such Member, Manager, the Partnership Representative, the Designated Individual, or officer derived an improper personal benefit or committed a material breach of this Agreement. Notwithstanding anything else contained in this Agreement, the indemnity obligations of the Company under this Section 3.6(b) (A) extend upon the same terms and conditions to the directors, officers, employees, partners, stockholders, managers, members and agents of each Indemnified Person, (B) are binding upon and inure to the benefit of any successors, assigns, heirs and personal representatives of each Indemnified Person, and (C) are limited to the assets of the Company. This Section 3.6 will be binding upon any successor to the Company, whether by way of merger, consolidation, liquidation, dissolution or otherwise.

SECTION 3.8 Nature of Interests. The Membership Interests shall for all purposes be personal property. No Member has any interest in specific Company property. Each Member hereby waives any and all rights such Person may have to initiate or maintain any suit or action for partition of the Company's assets.

## ARTICLE IV

## MANAGEMENT AND CONTROL OF THE COMPANY

SECTION 4.1 Election of the Managers. The Company shall have five (5) Managers. Unless otherwise agreed by the Members, CQENS shall have the right to elect three (3) Managers (the "CQENS Managers"), and ZONG shall have the right to elect two (2) Managers (the "ZONG Managers"). The Managers may use the title "Managing Directors." Unless a Manager resigns or is removed, the Manager shall hold office until a successor is elected and qualified.

(a) Any Manager may resign at any time by giving written notice to the Members, without prejudice to the rights, if any, of the Company under any contract to which the Manager is a party. The resignation of any Manager shall take effect upon receipt of that notice or at such later time as shall be specified in the notice. Unless otherwise specified in the notice, the acceptance of the resignation shall not be necessary to make it effective. The resignation of a Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of a Member.

(b) Any Manager may be removed at any time, with or without cause, by the Member who elected or is entitled to elect such Manager. Any removal shall be without prejudice to the rights, if any, of the Manager under any employment contract and, if the Manager is also a Member, shall not affect the Manager's rights as a Member or constitute a withdrawal of a Member. The Member who is represented by a departing Manager, may name his successor.

(c) Any vacancy occurring for any reason in the position of Manager may be filled by the affirmative vote or written consent of the Member entitled to elect the Person whose cessation to act as Manager caused the vacancy to occur.

SECTION 4.2 Management of the Company by the Managers.

(a) The business and affairs of the Company shall be managed exclusively by the Managers, acting by unanimous vote at a meeting where all five managers are present or by unanimous written consent of the Managers, with each Manager having one (1) vote. The Managers shall have the power to do any and all acts necessary or convenient to or for the furtherance of the purposes of the Company described herein. Annual meetings of the Managers shall not be required.

(b) Notwithstanding anything in this Agreement (including this Section 4.2) to the contrary, all decisions that are subject to the approval, consent or discretion of the Company or any Company Subsidiary under or pursuant to the Contribution Agreement shall be made solely by ZONG and LM in their sole discretion.

SECTION 4.3 Performance of Duties; Liability of Managers. A Manager shall not be liable to the Company, to any Company Subsidiary or to any Member for any loss or damage sustained by the Company, any Company Subsidiary or any Member, unless the Manager has failed to comply with the good faith standard of this Section 4.3 or the loss or damage shall have been the result of **fraud, gross negligence, willful misconduct, willful breach of this Agreement, knowing violation of law or any act or omission that constitutes a bad faith violation of the implied contractual covenant of good faith and fair dealing or any liabilities resulting from transactions in which such Manager derived an improper personal benefit or committed a material breach of this Agreement**. A Manager shall perform the Manager's managerial duties in good faith, in a manner the Manager reasonably believes to be in the best interests of the Company and its Members, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. A Manager who so performs the duties of Manager shall not have any liability by reason of being or having been a Manager of the Company.

SECTION 4.4 Devotion of Time. The Managers, in the capacity as Managers, shall devote whatever time, effort, and skill as the Managers deem appropriate for the operation of the Company.

SECTION 4.5 Competing Activities; Business Opportunities.

(a) Fiduciary and Other Duties. Notwithstanding any other provision of this Agreement, it will constitute a breach of fiduciary or other duty for the Managers, any Member, or any Affiliate of any Member, to engage in activities of the type conducted directly or indirectly by the Company, whether in direct or indirect competition with the Company or any Company Subsidiary, including without limitation, the development, management, and operation of the HTP Asia Pacific Business.

(b) Business Opportunities. The Members, the Managers and any Affiliates of the Members or the Managers shall be obligated to present any investment opportunity and any new ideas to the Company related to the HTP Asia Pacific Business, even if the opportunity only indirectly relates to the HTP Asia Pacific Business.

SECTION 4.6 Transactions between the Company and the Managers. The Managers may, and may cause their Affiliates to, engage in any transaction with the Company or any Company Subsidiary (including, without limitation, the purchase, sale, lease, or exchange of any property; the rendering of any service; borrowing or loaning money; or the establishment of any salary, other compensation, or other terms of employment) only if the Managers affirmatively vote or consent in writing to approve the transaction.

SECTION 4.7 Officers. The Managers may appoint officers at any time. The officers shall serve at the pleasure of the Managers, subject to all rights, if any, of an officer under any contract of employment. The officers shall exercise such powers and perform such duties as shall be determined from time to time by the Managers.

SECTION 4.8 Members' Meetings; Voting; Liability. Annual meetings of the Members shall not be required. In all matters in which a vote, approval or consent of the Members is required under the Act and while there are three (3) Members, each Member shall be entitled to one (1) vote. Unless otherwise specified in this Agreement, approval of all of the Members shall be required to authorize or approve any matter requiring the vote, approval or consent of the Members. The Members shall not have any liability for the obligations or liabilities of the Company except to the extent provided in the Act.

SECTION 4.9 Effect of Member's Bankruptcy. If a Member files for voluntary bankruptcy or a petition for involuntary bankruptcy is filed against it and is not dismissed within sixty (60) days, such Member (and the Manager designated by such Member pursuant to this Agreement) shall have no right to vote or participate in the management of the Company's business, property and affairs or to exercise any rights of a Member (or Manager, in the case of the Manager designated by such Member).

## ARTICLE V

## DISTRIBUTIONS and ALLOCATIONS OF PROFITs AND LOSS

SECTION 5.1 Distributions of Distributable Cash by the Company. The Managers may elect from time to time to distribute Distributable Cash to the Members. Any Distributable Cash which the Managers elect to distribute shall be distributed to the Members in proportion to their respective Sharing Ratios.

SECTION 5.2 Form of Distribution. A Member, regardless of the nature of the Member's Capital Contribution, has no right to demand and receive any distribution from the Company in any form other than money. Except as may be required upon dissolution of the Company, no Member may be compelled to accept from the Company a distribution of any asset in kind. If any assets of the Company are distributed in kind pursuant to this Agreement, such assets shall be distributed to the Members entitled thereto in the same proportions as the Members would have been entitled to cash distributions if such property had been sold for cash at its fair market value and the net proceeds thereof distributed to the Members. If assets of the Company other than money are distributed to a Member in liquidation of the Company, or if assets of the Company other than money are distributed to a Member in kind, in order to reflect unrealized gain or loss, the Capital Accounts of the Member will be adjusted for the hypothetical "book" gain or loss that would have been realized by the Company if the distributed assets had been sold for their Book Values in a cash sale. Upon the liquidation of a Member's interest in the Company, in order to reflect unrealized gain or loss, the Capital Accounts of the Members will be adjusted for the hypothetical "book" gain or loss that would have been realized by the Company if all Company assets had been sold for their Gross Asset Values in a cash sale.

SECTION 5.3 Allocations of Profits and Losses.

(a) Subject to Section 5.3(b) and Section 5.4, Profits and Losses for any Fiscal Year or portion thereof shall be allocated among the Members in a manner such that the Capital Account balances for each Member, increased by (x) such Member's share of partnership minimum gain (as determined according to Treasury Regulation Section 1.704-2(g)), (y) such Member's partner nonrecourse debt minimum gain (as defined in Treasury Regulation Section 1.704-2(i)(5)), and (z) any amount which such Member is obligated to restore for any deficit balance in its Capital Account or is deemed obligated to restore pursuant to Treasury Regulation Section 1.704-1(b)(2)(ii)(c), shall, as nearly as possible, be equal to the aggregate distributions that would be made to the Members pursuant to Section 5.1 in the priority and manner provided therein upon a hypothetical liquidation of the Company. In determining the amounts distributable to the Members under Section 5.1 it shall be assumed that (i) all of the Company's remaining assets are sold at their respective Book Values, (ii) payments to any holder of a nonrecourse debt are limited to the Gross Asset Value of the assets securing repayment of such debt, and (iii) the proceeds of such hypothetical sale are applied and distributed (after provision for the payment of all creditors of the Company as required by Section 8.3 as limited by clause (ii) hereof) in accordance with Section 5.1

(b) The parties intend that the allocation provisions of this Section 5.3 shall produce Capital Account balances of the Members that will be consistent with the distribution provisions of Section 5.1 and the liquidation provisions of Section 8.3. Notwithstanding anything to the contrary in this Agreement, to the extent the Managers determines that the allocation provisions of this Section 5.3 may fail to produce such Capital Account balances, (i) such provisions shall be amended by the Managers to the extent necessary to produce such result and (ii) Profits and Losses and other items of income, gain, loss, credit and deduction of the Company for the most recent open year shall be reallocated among the Members to the extent it is not possible to achieve such results with allocations of Profits and Losses (and other items of income, gain, loss, credit and deduction of the Company) for the current year and future years, as determined by the Managers.

SECTION 5.4 Special Allocations.

(a) Minimum Gain Chargeback. Except as otherwise provided in Treasury Regulation Section 1.704-2(f), notwithstanding any other provision of this Agreement, if there is a net decrease in "partnership minimum gain" (as defined in the Treasury Regulations) during any Fiscal Year, each Member shall be specially allocated items of Company income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Member's share of the net decrease in partnership minimum gain, determined in accordance with Treasury Regulation Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Treasury Regulation Sections 1.704-2(f)(6) and 1.704-2(j)(2). This Section 5.4(a) is intended to comply with the minimum gain chargeback requirement in Treasury Regulation Section 1.704-2(f) and shall be interpreted consistently therewith.

(b) Partner Minimum Gain Chargeback. Except as otherwise provided in Treasury Regulation Section 1.704-2(i)(4), notwithstanding any other provision of this Section 5.4, other than Section 5.4(a) which shall be applied first, if there is a net decrease in "partner nonrecourse debt minimum gain" (as defined in the Treasury Regulations) attributable to a partner nonrecourse debt during any Fiscal Year, each Member who has a share of the partner nonrecourse debt minimum gain attributable to such partner nonrecourse debt, determined in accordance with Treasury Regulation Section 1.704-2(i)(5), shall be specially allocated items of income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Member's share of the net decrease in partner nonrecourse debt minimum gain attributable to such partner nonrecourse debt, determined in accordance with Treasury Regulation Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Treasury Regulation Section 1.704-2(i)(4) and 1.704-2(j)(2). This Section 5.4(b) is intended to comply with the minimum gain chargeback requirement in Treasury Regulation Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

(c) Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulation Sections 1.704-1(b)(2)(ii)(d)(4), (d)(5), or (d)(6), items of Company income and gain shall be specially allocated to each such Member in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, the negative Adjusted Capital Account Balance of such Member as quickly as possible, provided that an allocation pursuant to this Section 5.4(c) shall be made if and only to the extent that such Member would have a negative Adjusted Capital Account Balance after all other allocations provided for in Section 5.4 have been tentatively made as if this Section 5.4(c) were not a term of this Agreement. This Section 5.4(c) is intended to constitute a "qualified income offset" provision as described in Treasury Regulation Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(d) Gross Income Allocation. In the event any Member has a negative Capital Account at the end of any Fiscal Year which is in excess of the amount such Member is obligated to restore pursuant to this Agreement or is otherwise deemed to be obligated to restore pursuant to the penultimate sentences of Treasury Regulation Sections 1.704-2(g)(1) and 1.704-2(i)(5) or Treasury Regulation Section 1.704-1(b)(2)(ii)(c), each such Member shall be specially allocated items of Company income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this Section 5.4(d) shall be made if and only to the extent that such Member would have a negative Capital Account in excess of such sum after all other allocations provided for in this Section 5.04 have been tentatively made as if this Section 5.4(d) and Section 5.4(c) hereof were not in the Agreement.

(e) Member Nonrecourse Deductions. Any "partner nonrecourse deductions" (within the meaning of Treasury Regulation Section 1.704-2(i)(2)) will be allocated to the Member that bears the economic risk of loss for the Member nonrecourse debt to which such deductions relate as provided in Treasury Regulation Section 1.704-2(i)(1).

(f) Nonrecourse Deductions. Any "nonrecourse deductions" (within the meaning of Treasury Regulations Section 1.704-2(c)) will be allocated to the Members, pro rata among them based on their respective Sharing Ratios.

(g) Curative Allocations. The allocations set forth in Sections 5.4(a)-(f) (collectively, the "Regulatory Allocations") are intended to comply with requirements of the Treasury Regulations. The Regulatory Allocations may not be consistent with the manner in which the Members intend to divide Company distributions. Accordingly, the Managers are authorized to further allocate Profits, Losses, and other items among the Members so as to prevent the Regulatory Allocations from distorting the manner in which Company distributions would be divided among the Members under Sections 5.1 and 8.3 but for application of the Regulatory Allocations. In general, the reallocation will be accomplished by specially allocating other Profits, Losses and items of income, gain, loss and deduction, to the extent they exist, among the Members so that the net amount of the Regulatory Allocations and the special allocations to each Member is zero. The Managers will have discretion to accomplish this result in any reasonable manner that is consistent with Code Section 704 and the related Treasury Regulations. In exercising its discretion under this Section 5.4(g), the Managers shall take into account future Regulatory Allocations under Sections 5.4(a) and 5.4(b) that, although not yet made, are likely to offset other Regulatory Allocations previously made under Sections 5.4(e) and 5.4(f).

(h) Reallocation. To the extent Losses allocated to a Member would cause such Member to have a negative Adjusted Capital Account Balance at the end of any Fiscal Year, the Losses will be reallocated to other Members in proportion to the excess of each such Member's Capital Account balance over the amount of such allocations that would cause such Member to have a negative Adjusted Capital Account Balance. If any Member receives an allocation of Losses otherwise allocable to another Member in accordance with this Section 5.4(h), such Member shall be allocated Profits in subsequent Fiscal Years necessary to reverse the effect of such allocation of Losses. Such allocation of Profits (if any) shall be made before any allocations under Section 5.3 but after any other allocations under Section 5.4(h).

(i) Recapture Allocation. If a Member's Membership Interest is reduced (provided that the reduction does not result in a complete termination of the Member's interest in the Company), the Member's share of the Company's "unrealized receivables" and "substantially appreciated inventory" (within the meaning of Code Section 751) shall not be reduced, so that, notwithstanding any other provision of this Agreement to the contrary, that portion of Profits otherwise allocable under this Agreement upon a liquidation or dissolution of the Company which is taxable as ordinary income (recaptured) for U.S. federal income tax purposes shall, to the extent possible without increasing the total gain to the Company or any Member, be specially allocated among the Members in proportion to the deductions (or basis reductions treated as deductions) giving rise to such recapture.

SECTION 5.5 Tax Allocations.

(a) Allocations Generally. The income, gains, losses and deductions of the Company will be allocated for federal, state and local income tax purposes among the Members in accordance with the allocation of such income, gains, losses and deductions among the Members for computing their Capital Accounts; except that if any such allocation is not permitted by the Code or other applicable law, the Company's subsequent income, gains, losses, deductions and credits will be allocated among the Members so as to reflect as nearly as possible the allocation set forth herein in computing their Capital Accounts.

(b) Code Section 704(c) Allocations. Items of the Company taxable income, gain, loss and deduction with respect to any property contributed to the capital of the Company shall be allocated among the Members in accordance with Code Section 704(c) so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its Gross Asset Value. In addition, if the Book Value of any Company asset is adjusted in accordance with this Agreement, then subsequent allocations of items of taxable income, gain, loss and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in in accordance with Code Section 704(c). The Managers shall determine all allocations pursuant to this Section 5.5(b) using a method that is permitted under Treasury Regulation Section 1.704-3.

(c) Effect of Allocations. Allocations pursuant to this Section 5.5 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Profits, Losses, distributions or other Company items pursuant to any provision of this Agreement.

(d) Allocation Between Assignor and Assignee. The portion of the income, gain, losses, credits, and deductions of the Company for any Fiscal Year during a portion of a Fiscal Year in which a Member's Membership Interest is assigned by such Member (or by an assignee or successor in interest to a Member) that is allocable with respect to such Membership Interest will be apportioned between the assignor and the assignee on whatever reasonable, consistently applied basis is selected by the Managers and permitted by the applicable Treasury Regulations under Section 706 of the Code.

(e) Profit Shares. Solely for purposes of determining a Member's proportionate share of the Company's "excess nonrecourse liabilities," as defined in Treasury Regulation Section 1.752-3(a), the Members' Membership Interests in Company profits shall be held by the Members, pro rata among them based on their respective Sharing Ratios.

SECTION 5.6 Withholding.

(a) The Company shall be entitled at all times to make payments with respect to any Member in amounts required to discharge any obligation of the Company to withhold from a distribution or make payments to any governmental authority with respect to any foreign, federal, state, or local tax liability of such Member arising as a result of such Member's interest in the Company (a "***Withholding Payment***"). Any Withholding Payment made from funds withheld upon a distribution will be treated as distributed to such Member for all purposes of this Agreement. Any other Withholding Payment will be deemed to be a recourse loan by the Company to the relevant Member. The amount of any Withholding Payment treated as a loan, plus interest thereon from the date of each such Withholding Payment until such amount is repaid to the Company at the prime rate of interest in effect as of such date (as reported by JPMorgan Chase Bank, or is successors) plus two percent (2%) per annum, shall be repaid to the Company upon demand by the Company; *provided, however*, that in the Managers' reasonable discretion, any such amount may be repaid by deduction from any distributions payable to such Member pursuant to this Agreement (with such deduction treated as an amount distributed to the Member) as determined by the Managers in their reasonable discretion.

(b) In addition to, and without limitation of, the provisions of Section 7.4, if an audit results in an "imputed underpayment" within the meaning of Code Section 6225 that is paid by the Company (together with any interest or penalties related thereto, an "***Imputed Underpayment Amount***") as a result of an adjustment with respect to any item of Company income, gain, loss, deduction, or credit, the Company shall reasonably determine the portion of such Imputed Underpayment Amount that is attributable to each Member (including a former Member and such former Member's assignee(s) or transferee(s)). An Imputed Underpayment Amount shall include any "imputed underpayment" within the meaning of Code Section 6225 paid (or payable) by any entity treated as a partnership for U.S. federal income tax purposes in which the Company holds (or has held) a direct or indirect interest, other than through entities treated as corporations for U.S. federal income tax purposes, to the extent that the Company bears the economic burden of such amounts, whether by law or agreement. The Company shall be entitled to recover a Member's allocable portion of the Imputed Underpayment Amount in the same manner as the Company may recover a Withholding Payment in Section 5.6(a) above. If the Company determines that an Imputed Underpayment Amount might be reduced as a result of a Member's tax status and such Member timely provides any information or documentation requested by the Company to make such determination, the Company shall use commercially reasonable efforts to pursue available procedures, if any, to reduce such Imputed Underpayment Amount on account of such Member's tax status, and any such reduction with respect to a Member actually obtained by the Company shall be taken into account in determining the portion, if any, of the Imputed Underpayment Amount attributable to such Member.

## ARTICLE VI

## TRANSFER AND ASSIGNMENT OF INTERESTS

SECTION 6.1 Restrictions on Transfer of Interests. Each Member may Dispose of the Member's Membership Interest or otherwise allow the Disposition of an ownership interest in such Member or an indirect equity ownership interest in such Member so long as (a) the Disposition complies with applicable securities laws, and (b) unless otherwise consented to by the Managers, the Disposition will not (i) cause the Company to be considered for purposes of Treasury Regulations Section 1.7704-(h)(1)(ii) to have more than 100 Members at any time during any taxable year, (ii) be deemed effected on or through an "established securities market" or a "secondary market or the substantial equivalent thereof," as such terms are used in Treasury Regulations Section 1.7704-1, and (iii) otherwise cause the Company to be treated as a "publicly traded partnership" (as defined in Code Section 7704) for U.S. federal income tax purposes. Any Disposition by any Member of any Membership Interests or other interests in the Company in contravention of this Agreement shall be void and ineffectual and shall not bind or be recognized by the Company or any other party, and the purported transferee of any such Disposition shall not have any interest of the Company.

## ARTICLE VII

## ACCOUNTING, RECORDS, REPORTING BY MEMBERS

SECTION 7.1 Books and Records; Accounting Method; Fiscal Year. The Company's (and each Company Subsidiary's) books and records shall be kept, and the financial position and the results of its operations recorded, in accordance with the method of accounting followed by the Company for U.S. federal income tax purposes. The annual accounting period of the Company (and each Company Subsidiary) for tax and accounting purposes shall be the calendar year unless otherwise required the Code (such period being the "Fiscal Year"). The Company's (and each Company Subsidiary's) books and records shall reflect all the Company (or the Company Subsidiary's) transactions and shall be appropriate and adequate for the Company's (or the Company Subsidiary's) business.

SECTION 7.2 Access to Accounting and Other Records.

(a) Each Manager and each Member has the right, upon reasonable request for purposes reasonably related to the interest of the Person as Member, Manager or Assignee, to: inspect and copy during normal business hours any of the Company's (and any Company Subsidiary's) books and records;

(b) obtain from the Managers, promptly after their becoming available, a copy of the Company's (and each Company Subsidiary's) federal, state, and local income tax or information returns for each fiscal year; and

(c) discuss with the Company's management and its agents, the affairs of the Company (and the Company Subsidiaries), subject to such reasonable confidentiality restrictions as may be imposed by the Managers.

SECTION 7.3 Bank Accounts. The Managers initially shall maintain the Company's (and each Company Subsidiary's) funds in one bank account in the Company's (or the Company Subsidiary's, as applicable) name, and shall not permit the Company's (or any Company Subsidiary's) funds to be commingled in any fashion with the funds of any other Person (other than the Company).

SECTION 7.4 Partnership Representative.

(a) Designation of the Partnership Representative. The Managers shall designate a Person to serve (i) if applicable for state or local income tax purposes, as the "tax matters partner" (as defined in Code Section 6231, as in effect prior to the effective date of the Bipartisan Budget Act of 2015, Pub. L. No. 114-74) of the Company, and (ii) as the "partnership representative" (as defined in Code Section 6223) of the Company (the Person designated in foregoing clauses (i) and (ii) being the "**Partnership Representative**"). The Partnership Representative may be removed, and a new Partnership Representative appointed, by the Managers in accordance with the Code and the Treasury Regulations. If the Partnership Representative is not a natural person, then the Partnership Representative shall have the authority to designate an officer, employee, or other representative (who may or may not be an employee) of the Partnership Representative as the "designated individual" within the meaning of Treasury Regulation Section 301.6223-1(b)(3) (the "**Designated Individual**") to act on behalf of the Partnership Representative, and such Designated Individual shall be subject to replacement by the Partnership Representative in accordance with Section 301.6223-1 of the Treasury Regulations. Any Person that the Partnership Representative designates as the Designated Individual to act on behalf of the Partnership Representative and interact with the Internal Revenue Service shall be treated as, and subject to the benefits, requirements and obligations of, the Partnership Representative for purposes of this Section 7.4. The Partnership Representative shall give prompt notice to the Managers and Members of any and all notices it receives from any taxing authority in its capacity as Partnership Representative concerning the Company, including any notice of audit, any notice of action with respect to a revenue agent's report, any notice of a thirty (30) day appeal letter and any notice of a deficiency in tax concerning the Company's federal income tax return. Following commencement of any audit, examination, or proceeding that could result in an adjustment to the tax items recognized by any Member (including as a result of having an impact on a subsequent year), the Partnership Representative and/or the Managers shall keep each such Member reasonably and promptly informed of any significant matter, event, or proceeding in connection with such audit, examination, or proceeding (including periodic updates regarding the status of any negotiations between the applicable taxing authority and the Company). Each Member hereby consents to the designation in this Section 7.4(a) and agrees that, upon the request of the Managers, it will execute, certify, acknowledge, deliver, swear to, file, and record at the appropriate public offices such documents as may be necessary or appropriate to evidence such consent.

(b) Powers and Obligations of the Partnership Representative. With the prior written consent of the Managers and subject to Section 7.6, the Partnership Representative is authorized to take such actions and to execute and file all statements and forms on behalf of the Company, which may be permitted or required by the applicable provisions of the Code or Treasury Regulations, issued thereunder. The Partnership Representative shall have full and exclusive power and authority on behalf of the Company to represent the Company (at the Company's expense) in connection with all audits and examinations of the Company's affairs by tax authorities. Notwithstanding anything else to the contrary, the Partnership Representative and Designated Individual shall have fiduciary duties to the Company and each Member. With the prior consent of the Managers, the power and authority of the Partnership Representative shall include (without limitation) the power and authority (i) to extend the statute of limitations, (ii) to file a request for administrative adjustment, (iii) to file suit concerning any Company tax matter, (iv) to enter into a settlement agreement relating to any Company tax matter, (iv) to cause the Company to pay, and the manner of payment of, any imputed underpayment arising out of a final partnership adjustment under Code Section 6225, (v) subject to the Member consent described in subsection (c) below, to cause the Company and the Members to utilize the procedures described in Code Section 6225(c)(2)(A) or Code Section 6225(c)(2)(B), or (vi) to cause the Company to elect under Code Section 6226 to allocate the adjustment to the Members. The Partnership Representative and Designated Individual shall be entitled to be reimbursed by the Company for all costs and expenses incurred by such Person in their capacity as the Partnership Representative or Designated Individual and to be indemnified by the Company (solely out of Company assets) with respect to any action or inaction taken (or not taken) by such Person in their capacity as the Partnership Representative or Designated Individual.

(c) Member Indemnity and Member Obligations. The parties intend that no Member shall indirectly bear through its economic interest in the Company any tax deficiency paid or payable by the Company in excess of the portion allocable to such Member (as reasonably determined by the Partnership Representative with the consent of the Managers) with respect to an audited or reviewed taxable year for which such Member was a Member (for the avoidance of doubt, including any applicable interest and penalties). Accordingly, each Member hereby agrees to indemnify and hold harmless the Company and each other Member from and against any liability with respect to its share of any tax deficiency paid or payable by the Company that is allocable to the Member (as reasonably determined by the Partnership Representative with the consent of the Managers) with respect to an audited or reviewed taxable year for which such Member was a Member (for the avoidance of doubt, including any applicable interest and penalties). Notwithstanding anything else to the contrary in this Agreement, a Member shall not be required to file an amended tax return pursuant to Code Section 6225(c)(2)(A) unless such Member consents thereto (such consent may be withheld in such Member's sole and absolute discretion). No Member shall file a notice with the Internal Revenue Service under Section 6222(b) of the Code in connection with such Member's intention to treat an item on such Member's federal income tax return in a manner which is inconsistent with the treatment of such item on the Company's federal income tax return.

(d) Prohibition on Self-Dealing. In any case in which the Partnership Representative (or Designated Individual) considers any decision involving any proposed or possible settlement or resolution with any taxing authority that involves both issues principally or disproportionately affecting the Partnership Representative and its Affiliates (or the Designated Individual and its Affiliates ) and other issues principally or disproportionately affecting other Members, neither the Partnership Representative nor the Designated Individual shall engage in self-dealing.

(e) Non-Federal Tax Matters. To the extent permitted by applicable law, the provisions of this Section 7.4 shall also apply, mutatis mutandis, in connection with state and local income tax matters.

SECTION 7.5 Survival. The obligations set forth in this Section 7.4 will survive each Member's ceasing to be a Member of the Company and/or the termination, dissolution, liquidation, and winding up of the Company.

SECTION 7.6 Tax Returns. The Company shall cause to be prepared and filed on a timely basis all federal, state and local tax returns required of the Company. The Company will furnish or will cause to be furnished to each Member an Internal Revenue Service Schedule K-l with respect to such Member. The Company shall use its commercially reasonable efforts to deliver such K-1 to each Member within ninety (90) days of the end of each Fiscal Year (and in no event later than April 15 of the following Fiscal Year). Without limitation of the foregoing April 15 requirement, in the event that such K-1's cannot be provided within (90) days of the end of each Fiscal Year, the Company will instead deliver to each Member, according to the same timeframe, an estimate of the annual tax information for the applicable Fiscal Year, including an estimated Internal Revenue Service Schedule K-l.

SECTION 7.7 Material Tax Decisions. Notwithstanding anything else to the contrary in this Agreement, the prior written consent of each Member shall be required with respect to: (a) any change in the tax classification of the Company or any Subsidiary for U.S. federal (and applicable state and local) income tax purposes; (b) any material action taken or proposed to be taken by the Partnership Representative or Designated Individual (including, without limitation, with respect to the settlement of any tax audit or examination) (for the avoidance of doubt, the foregoing limitation shall not apply with respect to an election under Section 6226 of the Code); and (c) any other decision, election, or other action related to taxes to the extent that such decision, election, or other action could reasonably be expected to have an adverse impact on such Member.

## ARTICLE VIII

## DISSOLUTION AND WINDING UP

SECTION 8.1 Dissolution. The Company shall be dissolved, its assets shall be disposed of, and its affairs wound up on the first to occur of (a) the entry of a decree of judicial dissolution pursuant to Section 18-803 of the Act; or (b) the sale of all or substantially all of the assets of Company.

SECTION 8.2 Winding Up. Upon the occurrence of any event specified in Section 8.1, the Company shall continue solely for the purpose of winding up its affairs in an orderly manner, liquidating its assets, and satisfying the claims of its creditors. The Managers or Manager remaining, if there is only one Manager, or, if there are no Managers, the Members, shall be responsible for overseeing the winding up and liquidation of Company, shall take full account of the liabilities of Company and assets, shall either cause its assets to be sold or distributed, and if sold as promptly as is consistent with obtaining the fair market value thereof, shall cause the proceeds therefrom, to the extent sufficient therefor, to be applied and distributed as provided in Section 8.3. The Persons winding up the Company's affairs shall give written notice of the commencement of winding up by mail to all known creditors and claimants whose addresses appear on the Company's records. The Managers or Members winding up the Company's affairs shall be entitled to reasonable compensation for such services.

SECTION 8.3 Order of Payment Upon Dissolution. After determining that all known debts and liabilities of the Company, including, without limitation, the reimbursement of any liabilities to Members who are creditors of the Company, have been paid or adequately provided for, the remaining assets shall be distributed to the Members in accordance with Section 5.1.

SECTION 8.4 Liability for Return of Capital Contributions. Each Member, by its execution of this Agreement, agrees that liability for the return of its Capital Contribution is limited to the Company's assets and, in the event of an insufficiency of such assets to return the amount of its Capital Contribution, hereby waives any and all claims whatsoever, including any claim for additional contributions that it might otherwise have, against any of the Company's agents or representatives (in each case unless there has been fraud, gross negligence or intentional misconduct) by reason thereof. Each Member shall look solely to the Company and its assets for all distributions with respect to the Company and his, her or its Capital Contribution thereto, and shall have no recourse therefor (upon dissolution or otherwise) against any of the Company's agents or representatives (in each case unless there has been fraud, gross negligence or intentional misconduct).

## ARTICLE IX

## MISCELLANEOUS

SECTION 9.1 Complete Agreement. This Agreement constitutes the complete and exclusive statement of agreement among the Members with respect to the subject matter herein and therein and replace and supersede all prior written and oral agreements or statements by and among the Members or any of them.

SECTION 9.2 Binding Effect. Subject to the provisions of this Agreement relating to transferability, this Agreement will be binding upon and inure to the benefit of the Members, and their respective successors and assigns.

SECTION 9.3 Parties in Interest. Except as expressly provided in the Act, nothing in this Agreement shall confer any rights or remedies under or by reason of this Agreement on any Persons other than the Members and the Managers and their respective successors and assigns nor shall anything in this Agreement relieve or discharge the obligation or liability of any third person to any party to this Agreement, nor shall any provision give any third person any right of subrogation or action over or against any party to this Agreement.

SECTION 9.4 Governing Law. This Agreement and all actions contemplated hereby, and all disputes and controversies arising out of or related to this Agreement, will be governed by and construed and enforced in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of laws of any other jurisdiction.

SECTION 9.5 Severability. If any provision of this Agreement is held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Agreement are not affected or impaired in any way and the parties agree to negotiate in good faith to replace such invalid, illegal and unenforceable provision with a valid, legal and enforceable provision that achieves, to the greatest lawful extent under this Agreement, the economic, business and other purposes of such invalid, illegal or unenforceable provision.

SECTION 9.6 Additional Documents and Acts. Each Member agrees to execute and deliver such additional documents and instruments and to perform such additional acts as may be necessary or appropriate to effectuate, carry out and perform all of the terms, provisions, and conditions of this Agreement and the transactions contemplated hereby.

SECTION 9.7 Notices. Any notice to be given or to be served upon the Company or any party hereto in connection with this Agreement must be in writing and shall be mailed by first-class, registered or certified mail, return receipt requested, postage prepaid, or transmitted by hand delivery or electronic transmission (i.e. e-mail) and will be deemed to have been given and received when delivered to the address specified by the party to receive the notice or, in the case of an electronic transmission, when transmitted by electronic transmission to the e-mail address specified by the party to receive the notice and upon written confirmation of receipt (including, for the avoidance of doubt, via a “delivery receipt”). Such notices will be given to a Member or the Managers at the address specified in Section 2.4 hereto. Any party may, at any time by giving five (5) days’ prior written notice to the other parties, designate any other address in substitution of the foregoing address to which such notice will be given.

SECTION 9.8 Amendments. All amendments to this Agreement will be in writing and signed by all of the Members. In the absence of any opinion of counsel as to the effect thereof, no amendment to this Agreement shall be made which violates the Act.

SECTION 9.9 Multiple Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

SECTION 9.10 Remedies Cumulative. Except as provided in Section 3.2(e), the remedies under this Agreement are cumulative and shall not exclude any other remedies to which any Person may be lawfully entitled.

SECTION 9.11 Confidentiality. Each Member will hold, and will use commercially reasonable efforts to cause its Affiliates, officers, managers, directors, partners, members, shareholders, employees, agents, representatives and advisors to hold, in confidence all documents and information concerning the Company or the Company Subsidiaries, or the other Members and their Affiliates, furnished to such Member in connection with this Agreement or the ongoing operations of the Company, except to the extent that such information can be shown to have been (a) previously known on a non-confidential basis by the Member or any of its Affiliates, officers, managers, directors, partners, members, shareholders, employees, agents, representatives or advisors, (b) in the public domain through no fault of the Member or any of its Affiliates, officers, managers, directors, partners, members, shareholders, employees, agents, representatives or advisors, (c) later lawfully acquired by the Member or any of its Affiliates on a non-confidential basis from sources other than the Company, any Company Subsidiary or the other Member or any of its Affiliates or (d) independently developed by the Member or any of its Affiliates, officers, managers, directors, partners, members, shareholders, employees, agents, representatives or advisors without reference to any such documents or information. Except with respect to press releases and public filings required to be made by any competent legal or regulatory authority or any securities exchange on which such Member's or one of its Affiliate's securities are listed, each Member shall notify each other Member of its or its Affiliate's intent to issue any press release or other public announcement with respect to the Company and its activities and shall not issue any such release or announcement without first obtaining the prior consent of the other Members, which consent may not be unreasonably withheld, conditioned or delayed. Such consent shall not, however, be required in order for a Member or its Affiliates to include a reference to its percentage interest in the Company in its annual reports and similar publications nor shall any consent be required for the Company to issue public relations or marketing materials in the ordinary course of its business.

**[Signature Pages Immediately Following]**

The following Member of Leap Technology LLC, a Delaware limited liability company, has executed this Agreement, effective as of the Effective Date.

**CQENS TECHNOLOGIES INC.**

By: _____

Name: _____

Title: _____

The following Member of Leap Technology LLC, a Delaware limited liability company, has executed this Agreement, effective as of the Effective Date.

**ZONG GROUP HOLDINGS LLC**

By: _____

Name: _____

Title: _____

The following Member of Leap Technology LLC, a Delaware limited liability company, has executed this Agreement, effective as of the Effective Date.

**LEAP MANAGEMENT LLC**

By: _____

Name: _____

Title: _____

**Schedule 1**

**Capital Contributions; Sharing Ratios**

As of July 23, 2020

| Member Name | Capital Contribution | Membership Interest/Sharing Ratio |
|---|---|---|
| CQENS | $ 550 | 55% |
| ZONG | $ 350 | 35% |
| LM | $ 100 | 10% |
| ***Total:*** | $ 1,000 | 100% |

**Exhibit 10.2**

**FORM OF CONTRIBUTION AGREEMENT**
**VIA EXCLUSIVE TERRITORIAL LICENSING**
**BY AND BETWEEN**
**CQENS TECHNOLOGIES INC.**
**AND**
**LEAP TECHNOLOGY LLC**

**(Re: IP Assets)**

THIS CONTRIBUTION AGREEMENT, dated as of July 24, 2020 (this "**Agreement**"), is entered into by and between CQENS Technologies Inc., a Delaware corporation ("**CQENS**"), and Leap Technology LLC, a Delaware limited liability company ("**LEAP**").

WHEREAS, CQENS and LEAP are entering into this Agreement in connection with CQENS, LEAP and certain other Affiliates of LEAP entering into that certain Amended and Restated Limited Liability Company Agreement of LEAP dated as of date hereof (as amended, the "**LLC Agreement**), pursuant to which CQENS will receive a 55.00% membership interest in LEAP (the "**CQENS Membership Interest**");

WHEREAS, as of the Effective Time, CQENS owns and holds the following assets with respect to the configuration, design, manufacture, marketing, sales, and merchandising of a heated tobacco product (collectively, the "**IP Assets**"):

(A) trademark and service mark common law rights, pending trademark and service mark applications and registrations including intention to use trademark and service mark rights in the Asia Pacific Countries, and related goodwill ("**Trademarks**"), including (without limitation) those Trademarks listed in Exhibit A attached hereto and any Trademarks developed in the future (which shall be included in an updated Exhibit A);

(B) inventions, patents and patent applications in the Asia Pacific Countries ("**Patents**"), including (without limitation) those Patents listed in Exhibit A attached hereto and any Patents developed in the future (which shall be included in an updated Exhibit A); and

(C) any other intellectual property rights (including future intellectual property rights).

WHEREAS, in consideration for the CQENS Membership Interest, CQENS hereby agrees to license to LEAP on an exclusive, royalty-free basis all of CQENS's rights, including all future rights in the IP Assets in the Asia Pacific Countries (collectively, the "**Contributed Assets**"), all of which such current and future rights shall be listed and updated on Exhibit A;

WHEREAS, with the exclusive rights, it is intended that the contribution contemplated by this Agreement will constitute a contribution of property within the meaning of Section 721 of the Internal Revenue Code of 1986, as amended, pursuant to which no gain or loss shall be recognized; and

WHEREAS, capitalized terms used but not defined herein shall have the definitions given to them in the LLC Agreement.

NOW, THEREFORE, in consideration of the mutual agreements contained herein and of other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

**1. Contribution of License**.

(a) Effective as of 12:01 a.m. on the date hereof, (the "**Effective Time**"), CQENS hereby grants an exclusive, royalty free license to LEAP, its successors and assigns forever, to make, use, offer to sell, and sell and for any other business purpose in the Asia Pacific Countries products and services disclosed, claimed or comprising any of the Contributed Assets, including any future developed IP Assets which shall become a part of this Agreement and shall be deemed to be included in the Contributed Assets for all purposes hereunder (the "**License**"). CQENS acknowledges and agrees that any of its IP Assets (including any IP Assets developed by its Affiliates) that are developed at any time after the date of this Agreement shall be subject to this Agreement, and that LEAP shall have the sole and exclusive right to use such IP Assets (including any future IP Assets) for any business purpose in the Asia Pacific Countries. In no event shall CQENS attempt to circumvent or adversely affect the rights of LEAP to be the sole and exclusive beneficiary of any rights relating to the use of the IP Assets in the Asia Pacific Countries. For the avoidance of doubt, this exclusive license does not cover the use of the IP Assets anywhere outside of the Asia Pacific Countries, including (without limitation) the United States of America.

(b) As between CQENS and LEAP, LEAP is granted the sole right to sue and collect damages and/or profits for both past and present infringements of and any breach of Contract or other Claims (as applicable) relating to the Contributed Assets in the Asia Pacific Countries. If LEAP becomes aware of potential infringement of any of the Contributed Assets, LEAP shall provide CQENS with written notice of any such infringement within 90 days of learning of such infringement, and similarly, if CQENS becomes aware of any infringement of any IP Asset, CQENS must provide written notice to LEAP of such potential infringement within 90 days of learning of such infringement (both notices referred to as the "**Infringement Notice**"). If LEAP elects by written notice to CQENS to not enforce LEAP's rights within 60 days of the Infringement Notice to CQENS, then CQENS shall have the sole right to sue and collect all damages for the infringement.

(c) In the event litigation is instituted against a third party for infringement of the Contributed Assets under this Agreement in the Asia Pacific Countries, the party instituting the lawsuit shall bear the cost of the litigation and shall control the litigation proceedings. The party who did not institute the lawsuit will cooperate with the party who did institute the lawsuit at the expense of the party who instituted the lawsuit. The party who did not institute the lawsuit can be represented by counsel of its choice at its own expense.

(d) LEAP may grant sublicenses under this Agreement on terms acceptable to LEAP in its sole discretion, subject to the Sublicensee being bound by this Agreement.

**2. Termination.** This Agreement shall terminate if, and only if, the Contributed Assets are repurchased by CQENS pursuant to and in accordance with the terms of the LLC Agreement. Upon termination of this Agreement, LEAP shall thereafter immediately cease all further manufacture, sale, or use of the Contributed Assets, and all rights granted to LEAP or its Sublicensees under this Agreement shall forthwith terminate and immediately revert to CQENS.

**3. Ownership Interest in LEAP.** In consideration for the Contribution, LEAP hereby issues to CQENS, as of the Effective Time, the CQENS Membership Interest.

**4. Representations and Warranties of CQENS**. CQENS hereby represents and warrants to LEAP as follows:

(a) **Authority; Binding Obligation**.

(i) CQENS has all requisite power and authority to execute and deliver this Agreement, and to perform its obligations under this Agreement.

(ii) The execution delivery and performance of this Agreement by CQENS and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action on the part of CQENS.

(iii) CQENS has duly and validly executed and delivered this Agreement. Assuming the due authorization, execution and delivery of this Agreement by LEAP, this Agreement constitutes the valid and binding obligation of CQENS, enforceable against CQENS in accordance with its terms, subject to applicable laws of general application relating to bankruptcy, insolvency and the relief of debtors.

(b) **No Conflict.** Neither the execution, delivery and performance of this Agreement by CQENS, nor the consummation by CQENS and its Affiliates of the transactions contemplated by this Agreement, will (i) conflict with or violate the Governing Documents of CQENS or any of its Affiliates; (ii) result in a breach or default under, or create in any Person the right to terminate, cancel, accelerate or modify, or require any notice, consent or waiver under, any Contract or Permit to which CQENS or any of its Affiliates is party; (iii) violate any Law or Judgment applicable to CQENS or any of its Affiliates; or (iv) require CQENS or any of its Affiliates to obtain any Governmental Authorization or make any filing with any Governmental Authority. Each of CQENS and its Affiliates has obtained all necessary consents, authorizations, approvals and orders, and has made all registrations, qualifications, designations, declarations or filings with all third parties, including all federal, state, or other relevant Governmental Authorities, as may be required to be obtained or made, as applicable, by CQENS or any of its Affiliates in connection with the consummation of the transactions contemplated by this Agreement.

(c) **Title to the Contributed Assets**. All of the IP Assets of CQENS and its Affiliates are set forth on Exhibit A. CQENS has good and defensible title, or in the case of each Contract, a valid contractual interest therein, to the Contributed Assets, free and clear of any Claims whatsoever, and upon execution of this Agreement, LEAP will acquire good and defensible license thereto.

(d) **IP Assets**. CQENS has procured and continues to procure IP Assets in the Asia Pacific Countries and, to the knowledge of CQENS, the IP Assets in the Asia Pacific Countries will be valid and enforceable; and CQENS owns or possesses or believes it can acquire on commercially reasonable terms sufficient legal rights to all IP Assets without any known conflict with, or infringement of, the rights of others, including prior employees or consultants, with which any of them may be affiliated now or may have been affiliated in the past. To the knowledge of CQENS, no product or service, contemplated under this Agreement, marketed or sold (or proposed to be marketed or sold) by CQENS violates or will violate any license or infringes or will infringe any intellectual property rights of any other party. CQENS has not received any communications alleging that CQENS has violated, or by conducting its business, would violate any of the patents, trademarks, service marks, tradenames, copyrights, trade secrets, mask works or other proprietary rights or processes of any other Person. It will not be necessary to use any inventions of any of its employees or consultants (or persons it currently intends to hire) made prior to their employment by CQENS, including prior employees or consultants, with which any of them may be affiliated now or may have been affiliated in the past. Each employee and consultant has assigned to CQENS all intellectual property rights he or she owns that are related to the business of CQENS as now conducted and as presently proposed to be conducted, and all intellectual property rights that he, she or it solely or jointly conceived, reduced to practice, developed or made during the period of his, her or its employment or consulting relationship with CQENS that (i) relate, at the time of conception, reduction to practice, development, or making of such intellectual property right, to the business of CQENS as then conducted or as then proposed to be conducted, (ii) were developed on any amount of work time with CQENS or with the use of any of the equipment, supplies, facilities or information of CQENS, or (iii) resulted from the performance of services for CQENS.

(e) **Litigation**. There is no Proceeding pending or currently threatened (i) against CQENS or to its knowledge, any shareholder or employee of CEQNS that would reasonably be expected to have, either individually or in the aggregate, an adverse effect on the IP Assets. Neither CQENS nor, to its knowledge, any employee is a party or is named as subject to the provisions of any order, writ, injunction, judgment or decree of any court or government agency or instrumentality (in the case of Key Employees, such as would affect the Company). There is no Proceeding by CQENS pending, or which it intends to initiate. The foregoing includes, without limitation, Proceeding pending or threatened in writing (or, to the knowledge of CQENS, any basis therefore) involving the prior employment of any of its employees, their services provided in connection with the business of CQENS, any information or techniques allegedly proprietary to any of their former employers or their obligations under any agreements with prior employers. There are no Judgments outstanding against CQENS or any of the IP Assets.

(f) **Other**.

(i) CQENS (A) has been furnished with sufficient information about the Company and the CQENS Membership Interests; (B) has made its own independent inquiry and investigation into, and based thereon has formed an independent judgment concerning, the Company and the CQENS Membership Interests; (C) has adequate means of providing for its current needs and possible individual contingencies and is able to bear the economic risks of its investment in LEAP and has a sufficient net worth to sustain a loss of its investment in LEAP in the event such loss should occur; (D) has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of an investment in LEAP; and (E) is an “accredited investor” within the meaning of “accredited investor” under Regulation D of the Securities Act of 1933, as amended.

(ii) CQENS is an informed and sophisticated investor, and has engaged expert advisors, experienced in the evaluation and investment in companies such as the investment in LEAP as contemplated hereunder. CQENS AGREES THAT AT THE CLOSING, CQENS SHALL ACCEPT THE CQENS MEMBERSHIP INTERESTS BASED UPON CQENS'S OWN KNOWLEDGE, INSPECTION, EXAMINATION AND DETERMINATION WITH RESPECT THERETO AS TO ALL MATTERS, AND WITHOUT RELIANCE UPON ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES OF ANY NATURE (EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN SECTION 4 OF THIS AGREEMENT), WHETHER IN WRITING, ORALLY OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY OPINION, INFORMATION, PROJECTION, OR ADVICE THAT MAY HAVE BEEN PROVIDED TO CQENS BY ANY DIRECTOR, OFFICER, EMPLOYEE, AGENT, CONSULTANT, OR REPRESENTATIVE OF THE COMPANY OR ANY AFFILIATE THEREOF.

**5. Representations and Warranties of LEAP**. LEAP hereby represents and warrants to CQENS as follows:

(a) **Due Organization and Authority**. LEAP is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, and has the right, power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby.

(b) **Authorization and Validity of Agreement**. LEAP has taken all action necessary in order to authorize, execute and deliver this Agreement and to consummate the transactions contemplated hereby. Upon execution, this Agreement shall have been duly executed and delivered by LEAP and shall be a valid and binding obligation of LEAP enforceable against it in accordance with its terms.

**6. Further Assurance**. Each party covenants and agrees to execute such additional instruments and take such actions as may be reasonably requested from time to time by the other party to confirm, perfect or otherwise carry out the intent and purposes of this Agreement.

**7. Governing Law.** THE VALIDITY, PERFORMANCE, AND ENFORCEMENT OF THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF DELAWARE, WITHOUT GIVING EFFECT TO THE PRINCIPLES OF CONFLICTS OF LAW OF SUCH STATE.

**8. No Third-Party Beneficiaries**. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon, or give to, any person, firm, corporation or other entity other than the parties hereto and their respective successors and assigns any remedy or claim under or by reason of this Agreement or any terms, covenants or conditions hereof, and all of the terms, covenants, conditions, promises and agreements contained in this Agreement shall be for the sole and exclusive benefit of the parties hereto and their respective successors and assigns.

**9. Counterparts**. This Agreement may be executed in one or more counterparts (including by facsimile or electronic transmission), each of which shall be an original and all of which, when taken together, shall constitute one and the same instrument.

**10. Construction**. Any reference in this Agreement to a "Section" or "Exhibit" refers to the corresponding Section or Exhibit of or to this Agreement unless the context indicates otherwise. The headings of Articles and Sections are provided for convenience only and are not intended to affect the construction or interpretation of this Agreement. All words used in this Agreement are to be construed to be of such gender or number as the circumstances require. The words "including," "includes," or "include" are to be read as listing non-exclusive examples of the matters referred to, whether or not words such as "without limitation" or "but not limited to" are used in each instance. Where this Agreement states that a party "shall", "will" or "must" perform in some manner or otherwise act or omit to act, it means that the party is legally obligated to do so in accordance with this Agreement. Any reference to a statute is deemed also to refer to any amendments or successor legislation as in effect at the relevant time. Any reference to a Contract or other document as of a given date means the Contract or other document as amended, supplemented and modified from time to time through such date.

**11. Definitions**. For purposes of this Agreement:

"Affiliate" means, with respect to a specified Person, a Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, the specified Person. For purposes of this definition, the term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by Contract or otherwise. For all purposes hereunder, Xten Group Inc. (f/k/a Chong Corporation) and its Affiliates are each an Affiliate of CQENS.

"Asia Pacific Countries" shall mean the following: China, India, Indonesia, Pakistan, Bangladesh, Philippines, Vietnam, Thailand, Myanmar, Afghanistan, Malaysia, Nepal, Australia, Taiwan, Sri Lanka, Cambodia, Hong Kong, Papua, New Guinea, Laos, Singapore, New Zealand, Mongolia, Timor-Leste, Fiji, Bhutan, Solomon Islands, Macau, Brunei, Maldives, New Caledonia, French Polynesia, Vanuatu, Samoa, Guam, Kiribati Federated States of Micronesia, and Tonga.

"Claims" means any lien, charges, mortgages, pledges, security interests, escrows, options, rights of first refusal, indentures, security agreements, deed of trust, deed to secure debt, assignment, purchase money security interest, vendor's lien, levy, purchase option, call, right of first refusal, preemptive or similar right of a third Person or other encumbrances, claims, agreements, arrangements or commitments of any kind or character and whether or not relating in any way to credit or the borrowing of money.

"Contract" means any and all written and unwritten assignments, deeds, contracts, agreements, franchises, understandings, obligations, letters of intent, indemnification agreements, arrangements, purchase orders, leases, subleases, licenses, registrations, authorizations, easements, servitudes, rights-of-way, mortgages, credit agreements or documents, bonds, notes, indentures, documents, and other instruments and interests therein, and all amendments thereof, including any contract, arrangement or circumstances granting to any Person a right of refusal, right of offer, option or similar preferential right to purchase or acquire any right, asset or property, but excluding any governmental permits, licenses or approvals.

"Governing Documents" means, with respect to any particular Person: (a) if a corporation, the articles or certificate of incorporation and the bylaws; (b) if a general partnership, the partnership agreement and any statement of partnership; (c) if a limited partnership, the limited partnership agreement and the certificate of limited partnership; (d) if a limited liability company, the articles or certificate of organization or formation and operating agreement; (e) if another type of Person that is an entity, any other charter or similar document adopted or filed in connection with the creation, formation, or organization of the Person; (f) all equityholders' agreements, voting agreements, voting trust agreements, joint venture agreements, registration rights agreements, or other agreements or documents relating to the organization, management or operation of any Person or relating to the rights, duties, and obligations of the equityholders of any Person; and (g) any amendment or supplement to any of the foregoing.

"Governmental Authority" means any (a) nation, region, state, county, city, town, village, district or other jurisdiction; (b) federal, state, local, municipal, foreign or other government; (c) governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department or other entity and any court or other tribunal); (d) multinational organization exercising judicial, legislative or regulatory power; or (e) body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power of any nature of any federal, state, local, municipal, foreign or other government.

"Governmental Authorization" means any approval, consent, ratification, waiver, license, permit, registration or other authorization issued or granted by any Governmental Authority.

"Judgment" means any order, injunction, judgment, decree, ruling, assessment or arbitration award of any Governmental Authority or arbitrator.

"Law" means any federal, state, local, municipal, foreign, international, multinational, or other constitution, law, statute, treaty, rule, regulation, ordinance or code.

"Permit" means any permit, license (including liquor licenses), franchise, approval, certificate, consent, ratification, permission, confirmation, endorsement, waiver, certification, registration, qualification or other authorization issued, granted, given or otherwise made available by or under the authority of any Governmental Authority or pursuant to any applicable Law.

"Person" means an individual or an entity, including a corporation, limited liability company, general or limited partnership, trust, association or other business or investment entity, or any Governmental Authority.

"Proceeding" means any action, arbitration, audit, assessment, examination, investigation, hearing, litigation or suit (whether civil, criminal, administrative, judicial or investigative, whether formal or informal, and whether public or private) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Authority or arbitrator.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed on the date first above written.

**CQENS TECHNOLOGIES INC.**,
a Delaware corporation

By: _____

**LEAP TECHNOLOGY LLC**,
a Delaware limited liability company

By: _____

**EXHIBIT A**

The following Trademarks, Patents and patent applications are exclusively licensed to LEAP in the Asia Pacific Countries:

1. USPTO TRADEMARK Registration for CQENS
2. PEOPLES' REPUBLIC OF CHINA TRADEMARK Registration for CQENS
3. US PATENT APPLICATION No. 16/022482
4. PCT PATENT APPLICATION No. PCT/US 19/12204

*National Phase Applications for Heat-not-Burn Device and Method in the following countries, to be filed on or about July 3, 2020:*

Peoples' Republic of China
India
Indonesia
Vietnam
Philippines
Thailand
Malaysia
Singapore
Hong Kong

This Exhibit A is as of June 23, 2020 and shall be updated regularly, as applicable, as described in the Contribution Agreement.

**Exhibit 10.3**

**FORM OF INTELLECTUAL PROPERTY LICENSE AGREEMENT BETWEEN**

**CQENS TECHNOLOGIES INC. AND LEAP TECHNOLOGY LLC-**

This Intellectual Property License Agreement (this "Agreement") is made as of July 24, 2020, by and between

CQENS Technologies Inc. a corporation organized under the laws of the State of Delaware, with its principal place of business at 5550 Nicollet Avenue, Minneapolis, MN 55419 ("CQENS"), and

LEAP TECHNOLOGY LLC, a limited liability company, organized under the laws of the State of Delaware, with its registered agent at 16192 Coastal Highway, Lewes, DE 19958. The name of its initial registered agent at such address is Harvard Business Services, Inc.

**WHEREAS:**

(a) CQENS is the assignee of the following assets with respect to the configuration, design, manufacture, marketing, sales, and merchandising of a heated tobacco product (collectively, the "**IP Assets**"):

(i) trademark and service mark common law rights, pending trademark and service mark applications and registrations including intention to use trademark and service mark rights in the Asia Pacific Countries, and related goodwill ("**Trademarks**"), including (without limitation) those Trademarks listed in Exhibit 1 attached hereto and any Trademarks developed in the future (which shall be included in an updated Exhibit 1);

(ii) inventions, patents and patent applications in the Asia Pacific Countries ("**Patents**"), including (without limitation) those Patents listed in Exhibit 1 attached hereto and any Patents developed in the future (which shall be included in an updated Exhibit 1); and

(iii) any other intellectual property rights (including future intellectual property rights).

(b) CQENS wishes to provide exclusive licenses to LEAP, and LEAP wishes to obtain exclusive licenses from CQENS for the IP Assets for the countries and jurisdictions of China, India, Indonesia, Pakistan, Bangladesh, Philippines, Vietnam, Thailand, Myanmar, Afghanistan, Malaysia, Nepal, Australia, Taiwan, Sri Lanka, Cambodia, Hong Kong, Papua, New Guinea, Laos, Singapore, New Zealand, Mongolia, Timor-Leste, Fiji, Bhutan, Solomon Islands, Macau, Brunei, Maldives, New Caledonia, French Polynesia, Vanuatu, Samoa, Guam, Kiribati Federated States of Micronesia, and Tonga (collectively, the "Asia Pacific Countries").

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and promises contained herein, the parties agree as follows:

**ARTICLE 1 INTERPRETATION**

**1.01 Definitions**

The following terms will have the following meanings:

(a) **The IP Assets** shall mean all rights in the Asia Pacific Countries for all appropriate and lawful uses.

(b) **"Business Day"** shall mean Monday to Friday inclusive, except statutory or civic holidays observed in the State of Delaware.

(c) **"Product"** means the purposes for which the license is granted and refers specifically to the use of the IP Assets in any product or embodiment where the IP Asset is employed and/or cited in the label.

(d) **"Territory"** shall mean the Asia Pacific Countries as defined herein.

(e) **"Term"** shall mean the term of this Agreement as provided in Article 7.00 hereof.

**1.02 Construction of Agreement**

In this Agreement:

(a) words denoting the singular include the plural and vice versa;

(b) words importing the use of any gender shall include all genders;

(c) the word" **include", " includes"** or" **including "** shall mean " **include/includes/including without limitation ";**

(d) when calculating the period of time within which or following which any act is to be done or step taken, the date which is the reference day in calculating such period shall be excluded. If the last day of such period is not a Business Day, the period shall end on the next Business Day;

(e) the division of this Agreement into separate articles, sections, subsections and exhibits, are for convenience of reference only and shall not affect the construction or interpretation of this Agreement; and

(f) words or abbreviations which have well known or trade meanings are use d herein in accordance with their recognized meanings.

**ARTICLE 2 THE LICENSE**

**2.01 Grant of License**

Subject to the terms and conditions of this Agreement, CQENS hereby grants to LEAP an exclusive license for the IP Assets for the purpose of sublicensing and/or producing and marketing products under the license or a granted sublicense within the Territory during the term, and LEAP may grant sublicenses under this Agreement on terms acceptable to LEAP in its sole discretion, subject to the Sublicensee being bound by this Agreement. With the consent of CQENS, LEAP shall be permitted to sublicense the patent to any other party and such sublicense shall be honored by CQENS in the event that LEAP or its legal successor is dissolved, declares bankruptcy or is otherwise no longer able or willing to pursue to the normal and anticipated course of its business activities. For the avoidance of doubt, should CQENS develop additional IP Assets that are related to the heat not burn technology, those IP Assets will be added to Exhibit 1 and the exclusive license granted herein will extend to those additional IP Assets.

**2.02 Proprietary Rights**

Subject to the rights granted herein, CQENS retains all of its rights, title and interests in and to all trademark, patent rights, inventions, copyrights, know-how, and trade secrets relating to the IP Assets outside of the Asia Pacific Countries except as otherwise expressly agreed between the parties. CQENS shall not sell, dispose, or alienate in any way this Agreement without respecting LEAP's legal rights hereunder, and requiring any assignee to assume CQENS's obligations hereunder in a form satisfactory to LEAP.

## ARTICLE 3 CQENS REPRESENTATIONS AND WARRANTIES

### 3.01 Representations and Warranties Generally

CQENS hereby makes the representations and warranties contained in this Article 3.00 to LEAP and acknowledges that LEAP is relying upon the accuracy of each such representation and warranty in connection with its entering into this Agreement.

### 3.02 Power and Authority

CQENS has the right, full corporate power, and absolute authority to enter into this Agreement and to grant the rights herein described to LEAP in the manner herein contemplated. CQENS has taken all necessary or desirable actions, steps, and corporate or other proceedings to approve or authorize, validly and effectively, the entering in to, and the execution, delivery, and performance of this Agreement and the granting of the rights herein described. This Agreement is a legal, valid, and binding obligation of CQENS, enforceable against CQENS and LEAP in accordance with its terms.

### 3.03 Intellectual Property

CQENS is the exclusive assignee of the Trademarks, Patents and Applications in Exhibit 1 and is authorized to license the Trademarks, Patents and Applications. CQENS has not received any notice, complaint, threat, or claim alleging infringement of the Trademarks, Patents and Application in Exhibit 1 or other intellectual property or proprietary right of any other person in connection with the Trademarks, Patents and Patent Applications. There are no charges, encumbrances, pledges, security interests, liens, actions, claims, demands or equities of any nature or kind, nor any rights or privileges capable of becoming any of the foregoing, affecting the Trademarks, Patents and Patent Applications.

### 3.04 No Other Obligations

No person has or has made any claim or notification to CQENS alleging any written or oral agreement, understanding or commitment, or any right or privilege (whether by law or contractual) capable of becoming an agreement or commitment, to obtain rights in and to the Trademarks, Patents and Patent Applications that would conflict with the rights herein granted to LEAP.

### 3.05 Warranty Disclaimer

CQENS makes and LEAP receives no warranties of any kind, either expressed or implied, statutory or otherwise. CQENS specifically disclaims any and all implied warranties or conditions of merchantability, satisfactory quality or fitness for a particular purpose.

### 3.06 Infringement Actions

(a) As between CQENS and LEAP, LEAP is granted the sole right to sue and collect damages and/or profits for both past and present infringements of and any IP Assets in the Asia Pacific Countries. If LEAP becomes aware of potential infringement of any of the IP Assets, LEAP shall provide CQENS with written notice of any such infringement within 90 days of learning of such infringement, and similarly, if CQENS becomes aware of any infringement of any IP Asset, CQENS must provide written notice to LEAP of such potential infringement within 90 days of learning of such infringement (both notices referred to as the “Infringement Notice”). If LEAP elects by written notice to CQENS to not enforce LEAP’s rights within 60 days of the Infringement Notice to CQENS, then CQENS shall have the sole right to sue and collect all damages for the infringement.

(b) In the event litigation is instituted against a third party for infringement of the IP Assets under this Agreement in the Asia Pacific Countries, the party instituting the lawsuit shall bear the cost of the litigation and shall control the litigation proceedings. The party who did not institute the lawsuit will cooperate with the party who did institute the lawsuit at the expense of the party who instituted the lawsuit. The party who did not institute the lawsuit can be represented by counsel of its choice at its own expense.

**ARTICLE 4 LEAP COVENANTS**

**4.01 Covenants Generally**

LEAP hereby makes the covenants contained in this Article 4.00 to CQENS and acknowledges that CQENS is relying upon the accuracy of such covenant in connection with its entering into this Agreement.

**4.02 No Competing**

LEAP hereby agrees to not market any products in competition with the IP Assets.

**4.03 Patent Marking**

LEAP will mark all products sublicensed, manufactured or sold pursuant to this Agreement with the relevant numbers indicating the Trademarks, Patents or Patent Applications. The marking will be in conformance with the patent laws and other laws of the country of manufacture or sale.

**ARTICLE 5 ROYALTIES**

**5.01 Royalty Consideration**

In consideration for the rights it has been granted, CQENS has received value it deems sufficient and appropriate and will not charge LEAP royalties nor will LEAP be required to pay royalties in connection with the licenses and rights extended. In no event shall LEAP be obligated to make any payment or other remuneration to CQENS in connection with this Agreement; it being acknowledged and agreed that all such remuneration has been paid to CQENS in connection with that certain Contribution Agreement entered into by and between the parties as of the date hereof (the "Contribution Agreement").

## ARTICLE 6 INDEMNIFICATIONS

### 6.01 CQENS Indemnity

CQENS agrees to indemnify and hold LEAP harmless from and against all claims, demands, proceedings, losses, damages, liabilities, deficiencies, costs and expenses (including all legal and other professional fees and disbursements, interest, penalties and amounts paid in settlement) suffered or incurred by LEAP as a result of or arising directly or indirectly out of or in connection with:

(a) any breach by CQENS of or any material inaccuracy of any representation or warranty of CQENS contained in this Agreement;

(b) any breach or non-performance by CQENS of any covenant to be performed by it that is contained in this Agreement; and

(c) infringement of any third party intellectual property rights in respect of the IP Assets, other than any claim arising as a result of modifications to the product performed by or on behalf of LEAP.

Notwithstanding the foregoing but subject to Section 3.06, in the event that the IP Assets, or any part thereof is held to constitute an infringement on the intellectual property of any third party, CQENS, at its option and expense, may either (a) indemnify LEAP as above or (b) indemnify LEAP from and against any damages for such pre-existing infringement, and (i) amend the Patent and/or Patent Application to make it non-infringing, (ii) procure for LEAP the right to use the infringing materials, and/or (iii) replace the infringing Patent or Patent Applications with other suitable non-infringing rights having functionality that is substantially the same in all material respects to those held to infringe.

### 6.02 LEAP Indemnity

LEAP agrees to indemnify and hold CQENS harmless from and against all claims, demands, proceedings, losses, damages, liabilities, deficiencies, costs and expenses (including all legal and other professional fees and disbursements, interest, penalties and amounts paid in settlement) suffered or incurred by the Licensor as a result of or arising directly or indirectly out of or in connection with:

(a) any material breach or non-performance by LEAP of any covenant to be performed by it that is contained in this Agreement;

(b) any breach arising from or relating to any use and distribution of the product by LEAP other than as expressly provided herein; and

(c) infringement of any third party intellectual property rights which infringement arises from modifications to the Product performed by or on behalf of LEAP, except to the extent such claim is covered under Section 6.01.

### 6.03 Indemnification Procedure

Any party seeking indemnification under Article 6.00 (the “Indemnitee”) in respect of a third party claim shall (i) promptly notify the indemnifying party (the “Indemnitor”) of such claim, (ii) provide the Indemnitor sole control over the defense and/or settlement thereof, and (iii) at the Indemnitor’s request and expense, provide full information and reasonable assistance to Indemnitor with respect to such claims. Without limiting the foregoing, with respect to third party claims brought under Sections 6.01 and 6.02, the Indemnitee, at its own expense, shall have the right to participate with counsel of its own choosing in the defense and/or settlement of any such claims.

## ARTICLE 7.00 TERM AND TERMINATION

### 7.01 Term

The term of this Agreement shall be for the life of the patent commencing on the date of execution of this Agreement and shall continue in full force and effect unless terminated in accordance with this Article 7.00.

### 7.02 Termination for Cause

Either party may terminate this Agreement for cause as follows:

#### 7.02.1 Nonperformance re: Other Relevant Agreement

Notwithstanding the terms and conditions of the license, this Agreement shall be terminated if the IP Assets are repurchased by CQENS pursuant to and in accordance with the terms of that certain Amended and Restated Limited Liability Company Agreement of LEAP dated as of date hereof (the "LLC Agreement").

#### 7.02.2 Breach of Agreement

If any representation or warranty provided for herein proves to be materially inaccurate, or if either party material breaches any covenant provided for herein and such breach is not cured within thirty (30) days (if capable of being cured within that time) after the non-breaching party gives written notice to the breaching party of such breach, the non-breaching party shall have the right to terminate this Agreement immediately upon the expiration of such thirty (30) day period. If the nature of the breach is such that more than thirty (30) days are required for cure, the non-breaching party shall have the right to terminate upon written notice if the breaching party fails to commence efforts to cure such default within the thirty (30) day period and in any event such cure is not completed within a reasonable period of time after the commencement of such 30 day period.

## ARTICLE 8 GENERAL

### 8.01 Governing Law and Jurisdiction

This Agreement shall be governed by and construed under the laws of the State of Delaware, without reference to conflict of laws principles. The parties agree that any dispute arising under this Agreement or out of the negotiation of or the relationship that is being formed pursuant to this Agreement will only be venued in the State or Federal Courts of Delaware, and hereby consent to such jurisdiction and venue.

### 8.02 Assignment

This Agreement may not be assigned by either party without the prior written consent of the other party (not to be unreasonably withheld, conditioned or delayed). This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

**8.03 Notices**

Any notice, demand, or other communication ( “Notice” ) required or permitted to be given or made shall be in writing and shall be sufficiently given or made if delivered in person, sent by facsimile transmission, or sent by prepaid first class registered mail during normal business hours on a Business Day and addressed as follows:

**8.04 Entire Agreement**

The parties hereto acknowledge that this Agreement and its Schedules, the Contribution Agreement and the LLC Agreement set forth the entire agreement and understanding of the parties hereto as to the subject matter hereof, and supersedes all prior discussions, agreements and writings in respect hereto, including the Letter of intent.

**8.05 Counterparts**

This Agreement may be executed in any number of counterparts and when so executed and delivered shall have the same force and effect as though all signatures appeared on one document.

**8.06 Further Assurances**

Each party covenants and agrees to do and cause all things to be done and execute and deliver all such documents as may be required in order to carry out the provisions of this Agreement.

**8.07 Severability**

The provisions of this agreement shall be severable, and if any provision of this Agreement shall be held or declared to be illegal, invalid, or unenforceable, such illegal, invalid or unenforceable provision shall be severed from this Agreement and the remainder of this Agreement shall remain in full force and effect, and the parties shall negotiate a substitute, legal, valid and enforceable provision that most nearly reflect the parties’ intent in entering into this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties, by their duly authorized representatives, have entered into this Agreement.

**CQENS TECHNOLOGIES INC.**

By: _____

Name: _____

Title:

**LEAP TECHNOLOGY LLC**

By: _____

Name: _____

Title:

**Exhibit 1**

**INTELLECTUAL PROPERTY LICENSED PURSUANT TO THIS AGREEMENT**

**The following IP Assets are exclusively licensed by the assignee, CQENS, and by virtue of the document to which this exhibit is attached in the countries of China, India, Indonesia, Pakistan, Bangladesh, Philippines, Vietnam, Thailand, Myanmar, Afghanistan, Malaysia, Nepal, Australia, Taiwan, Sri Lanka, Cambodia, Hong Kong, Papua, New Guinea, Laos, Singapore, New Zealand, Mongolia, Timor-Leste, Fiji, Bhutan, Solomon Islands, Macau, Brunei, Maldives, New Caledonia, French Polynesia, Vanuatu, Samoa, Guam, Kiribati Federated States of Micronesia, and Tonga.**

1. USPTO TRADEMARK Registration for CQENS

2. PEOPLES' REPUBLIC OF CHINA TRADEMARK Registration for CQENS

3. US PATENT APPLICATION No. 16/022482

4. PCT PATENT APPLICATION No. PCT/US 19/12204

*National Phase Applications for Heat-not-Burn Device and Method in the following countries filed 7/03.2020.*

| COUNTRY | DATE FILED | APPLICATION NO. |
|---|---|---|
| Peoples' Republic of China | 7/03/2020 | TBD |
| India | 7/03/2020 | TBD |
| Indonesia | 7/03/2020 | TBD |
| Vietnam | 7/03/2020 | TBD |
| Philippines | 7/03/2020 | TBD |
| Thailand | 7/03/2020 | TBD |
| Malaysia | 7/03/2020 | TBD |
| Singapore | 7/03/2020 | TBD |
| Taiwan | 7/03/2020 | TBD |
| Hong Kong | 7/03/2020 | TBD |

This Exhibit 1 is as of the date hereof and may be updated regularly as additional trademarks, patents are issued and patent applications are submitted and numbers are assigned. For the avoidance of doubt, should CQENS develop additional IP Assets in the Territory that are related to the heat not burn technology, those IP Assets will be added to Exhibit 1 and the exclusive license granted herein will extend to those additional IP Assets.