

# **EXHIBIT 2**

TO

## **SECOND AMENDED COMPLAINT**

Unsigned Mutual Confidentiality and Non-Disclosure Agreement Between  
David M. Semas and Chemetall North America

## **MUTUAL CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT**

This Mutual Confidentiality and Non-Disclosure Agreement ("Agreement") is made this \_\_\_\_\_ day of November, 2014 ("Effective Date") by and between David M. Semas, an individual ("Semas") and President/CEO of METALAST® International, Inc., a Nevada corporation ("MII") and President/CEO of Metalast®, Inc. a Nevada corporation ("MTI") whose mailing addresses are P.O. Box 618, Genoa, NV 89411 (collectively "the Semas entities") and Chemetall North America, a New Jersey corporation whose mailing address is 675 Central Avenue, New Providence, NJ 07974 ("Chemetall").

### **I. RECITALS**

WHEREAS, the Semas entities and Chemetall desire to commence discussions and negotiations regarding the purchase of the Semas entities legal ownership to the United States Patent and Trademark Office ("USPTO") registered trademarks and service marks identified as USPTO serial numbers: 85358730, 78290394, 78267465, 77480705, 75139979, 75153242, 75030599 and 75030598 ("SEMAS TRADEMARK") and the USPTO awarded Patent No. 8,486,203 B2 issued on July 16<sup>th</sup>, 2013 titled "*Conversion Coating and Anodizing Sealer with No Chromium*" ("SEMAS PATENT") or collectively ("SEMAS IP"). The SEMAS IP is for the public and private application in the field of use in commerce for the name and likeness of the word "METALAST®" for industries involved in the pre-treatment and post-treatment of specialty chemicals on all ferrous and non-ferrous metals. The use in commerce includes but is not limited to metal coating corrosion control and rust preventative products, metal finishing electrochemical processing chemicals, anodizing chemicals, electrochemical plating chemicals, galvanizing chemicals, metal coatings and/or any form of metal surface treatment of products; and

WHEREAS, Metalast Surface Technology, a Nevada corporation ("MST") and its owners Dean and Madylon Meiling ("Meiling") own all other remaining METALAST® related intellectual property and assets formerly owned by METALAST® International, LLC, a Nevada limited liability founded by Semas in December of 1994 hereinafter identified as METALAST® Property; and

WHEREAS, on November 4<sup>th</sup>, 2013 free and clear from all liens, encumbrances and financial obligations of any kind MST and Meiling acquired all other METALAST® related intellectual property and assets from MILLC including but limited to licensing agreements with the U.S. Navy and United Technologies Corporation (Pratt & Whitney), other partnership and distributors agreements, various contracts, receivables, a 7,000 square foot commercial/industrial real estate building located in Minden, Nevada, a complete line of metal finishing and metal coating speciality chemical products including but not limited to METALAST® TCP-HF, METALAST® TCP-HF SP, METALAST® TCP-HF EPA, METALAST® AA-200™ anodizing additive, METALAST® OCP 6800™ - Zero Chrome" and other METALAST® cleaners, etchants, deoxidizers, sealants, dyes, additives and other pre-treatment, primary-treatment and post-treatment METALAST® chemical products ("METALAST® Property"); and

WHEREAS, Semas represents to Chemetall that MST, independent of Chemetall is also subcontracting the manufacturing of the METALAST<sup>®</sup> Property and marketing, advertising, distributing, selling and providing technical support of the METALAST<sup>®</sup> Property using the SEMAS TRADEMARK and the SEMAS PATENT, and are therefore presently and without authorization or approval of the Semas entities unlawfully using the name and likeness of the SEMAS IP; and

WHEREAS, the Semas entities acknowledge that Chemetall, relying on representations and warranties given by MST is unknowingly manufacturing and selling the SEMAS TRADEMARK and products the known as METALAST<sup>®</sup> TCP-HF, METALAST<sup>®</sup> TCP-HF SP and METALAST<sup>®</sup> TCP-HF EPA; and

WHEREAS, the parties further agree that in order to continue further discussions and purchase negotiations it will be necessary for Semas to disclose to Chemetall and Chemetall to disclose to Semas mutually Confidential Information regarding the use of the SEMAS IP and the METALAST<sup>®</sup> Property and Chemetall confidential information relating to its products, sales, customers and overall business operations (“CHEMETALL PROPERTY”); and

WHEREAS, a party disclosing any such Confidential Information shall be referred to herein as a “Disclosing Party,” and the party receiving any such Information shall be referred to herein as a “Receiving Party”; and

WHEREAS, the parties agree that the term “Confidential Information” includes, but is not limited to the SEMAS TRADEMARK, SEMAS PATENT, SEMAS IP, the METALAST<sup>®</sup> Property and the CHEMETALL PROPERTY and all such information relating to the development of either the METALAST<sup>®</sup> Property or the CHEMETALL PROPERTY shall remain Confidential Information. The Confidential Information shall include product development and distribution plans, sources of content, licensing and royalty arrangements, profits, sales, pricing policies, discounts, costs, operating methods, business affairs and methods, business records and plans, blueprints, methods, business information, product formulation and specifications, marketing plans and strategies, financial statements, customer lists and records, technical information, products, inventions, product design information, computer programs and listings, “Nonpublic Personal Information” as that term is defined under the Gramm-Leach-Bliley Act of 1999, 15 U.S.C. Section 6801, as amended from time to time, source code or object code, intellectual property (patents, trademarks, copyrights, trade secrets, and know how), and any and all related information which is not readily available to the public; and

WHEREAS, the parties further agree that the execution of this Agreement is necessary in order to protect the Confidential Information of both parties.

NOW, THEREFORE, for valuable consideration and the mutual promises contained herein, the parties agree as follows:

## **II. TERMS AND CONDITIONS**

- A. Scope of the Agreement.** This Agreement shall apply to any and all Confidential Information disclosed by and on behalf of Disclosing Party to Receiving Party and its personnel during the term hereof.
- B. Term of Agreement.** This Agreement shall be for a term of five (5) years from the date of its execution.
- C. Limited Use.** Receiving Party is granted a personal, non-assignable, non-exclusive, fully revocable license to inspect the Confidential Information delivered to Receiving Party and to use the Confidential Information furnished to Receiving Party during the term of this Agreement for the sole purpose of determining whether Receiving Party wishes to proceed with discussions and negotiations with Disclosing Party.
- D. Assignment.** Receiving Party hereby covenants, agrees and warrants that during the term of this Agreement, it shall not in any way attempt to assign, in whole or in part, any interest it may have in this Agreement.
- E. Title.** Receiving Party acknowledges that the Confidential Information includes commercially valuable, substantial trade secrets of Disclosing Party, the design and development of which reflect the effort of skilled development experts and required the investment of considerable amounts of time and money. Receiving Party further acknowledges that Disclosing Party has treated such Confidential Information as confidential and secret information that Disclosing Party entrusts to Receiving Party in confidence to use only for the purpose of evaluation whether Receiving Party wishes to proceed with discussions and negotiations with Disclosing Party. Receiving Party also acknowledges that Disclosing Party claims and reserves all rights and benefits afforded under United States and international intellectual property law in all Confidential Information furnished to Receiving Party. This Agreement does not affect (or reflect) any transfer of title in or to the Confidential Information of Disclosing Party, or any other materials produced or furnished by Disclosing Party hereunder.

### **Protection of Confidential Information.**

- 1. Obligations of Confidentiality; Limitations of Use.** Receiving Party shall neither disclose nor disseminate the Confidential Information to: (1) any other person, firm or organization not directly affiliated or associated with the Receiving Party or (2) any employee or agent of Receiving Party who does not need to obtain access thereto for the sole purpose of permitting Receiving Party to review and evaluate the Confidential Information.

In the event Receiving Party needs to disclose the Confidential Information to an employee or agent, Receiving Party shall have that individual execute a confidentiality agreement containing terms that are substantially similar to, and no less restrictive than, the terms of this Agreement. Receiving Party shall ensure that all persons afforded access to the Confidential Information refrain from any unauthorized use, copying or disclosure. Under no circumstances may Receiving Party copy, modify, decompile, or reverse engineer the Confidential Information.

**2. Obligations of Parties Having Access.** Receiving Party shall limit use of and access to the Confidential Information to such Receiving Party personnel as are directly involved with the evaluation thereof. Receiving Party shall be liable for any misappropriation of the Confidential Information by Receiving Party's personnel, employees, agents or independent contractors.

**3. Return of Confidential Information.** Receiving Party shall return all Confidential Information in its possession, custody or control to Disclosing Party within thirty (30) days of receiving notice of termination.

**4. Marking of Confidential Information.** To retain the confidentiality of Confidential Information, the Disclosing Party shall mark all such Confidential Information with a "Confidential" designation.

**5. Oral Communications.** In the event the parties engage in oral communications regarding any Confidential Information, the parties shall document the content of such communications in writing and mark such document with a "Confidential" designation. The Disclosing Party shall then provide Receiving Party with that written document for its records subject to the terms of this Agreement.

**F. Injunctive and Legal Relief.** Receiving Party acknowledges that the value of the Confidential Information is unique and substantial, but may be difficult to assess in monetary terms. Accordingly, in the event of an actual or threatened violation of this Agreement, Receiving Party expressly consents to an expedited hearing before a court with appropriate jurisdiction as defined herein to determine the enforcement of this Agreement by injunctive relief or specific performance without proof of actual damages, but upon proof of all other requirements for the grant of such relief, in addition to any and all other remedies available to Disclosing Party. In addition to the equitable relief described above, Disclosing Party and/or its affiliates shall be entitled to request legal relief in the event of an actual or threatened violation of this Agreement.

**G. Costs.** Receiving Party shall bear all of its own overhead, direct expenses, third party expenses and other related costs to perform any analysis and review of the Confidential Information described in this Agreement.

- H. No Waiver.** No delay or omission by either party hereto to exercise any right or power occurring upon any noncompliance or default by the other party with respect to any of the terms of this Agreement shall impair any such right or power or be construed to be a waiver thereof.
- I. Attorney's Fees and Costs.** In the event litigation arises between Disclosing Party and Receiving Party, regarding the rights and obligations of the parties under this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs.
- J. Governing Law: Choice of Forum.** This Agreement shall be governed in all respects by the substantive laws of the State of Nevada, and where applicable, the laws of the United States. Each of the parties hereby submits to the jurisdiction of the courts of the State of Nevada and of the United States in the District of Nevada. The parties agree that this is a mandatory forum selection clause.
- K. Successors.** The rights and obligations of the parties to this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors, executors, administrators and heirs.
- L. Counterparts.** This Agreement may be executed in counterparts, and all so executed shall constitute one agreement, binding on all of the parties hereto, notwithstanding that all of the parties are not signatories to the original.
- M. Notices.** All notices and other communications required or permitted under this Agreement shall be validly given, made, or served if in writing and delivered personally, sent by registered mail, receipted commercial courier, or by electronic email receipt (acknowledged in like manner by the intended recipient) facsimile transmission to the parties at the following addresses:

**SEMAS, MII and MTI:**

David M. Semas, President/CEO  
P. O. Box 618  
Genoa, NV 89411  
Telephone: (775) 790-8324  
Email: david@sierradorado.com

**CHEMETALL:**

Julia Murray, Vice President Technical Marketing  
Chemetall North America  
675 Central Avenue  
New Providence, RI 07974  
Telephone: (908) 464-6900  
Email: julia.murray@chemetall.com

- N. Severability.** Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of this Agreement.
- O. Entire Agreement.** This Agreement sets forth the entire understanding of the parties hereto and supersedes all prior agreements, communications, representations, warranties, whether oral or written, by any party hereto.
- P. Time of the Essence.** Time shall be of the essence in the performance of the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by a duly authorized representative as of the date set forth below.

**SEMAS, MII AND MTI**

**CHEMETALL NORTH AMERICA**

David M. Semas, an individual  
David M. Semas, President/CEO

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date