

This draft is dated _____, _____, and is solely for purposes of negotiation. No contract shall exist until a final, written agreement is signed by WARF and an authorized representative of Company. This draft shall expire thirty (30) days after the above date.

RESEARCH LICENSE AND OPTION AGREEMENT

This Agreement is made effective the ___ day of _____, _____ (the "Effective Date"), by and between Wisconsin Alumni Research Foundation (hereinafter called "WARF"), a nonstock, nonprofit Wisconsin corporation and _____ (hereinafter called "Company"), a corporation organized and existing under the laws of _____.

In consideration of the mutual covenants and agreements set forth below, the parties covenant and agree as follows:

Section 1. Definitions.

The following definitions shall apply for the purposes of this Agreement:

- A. "Option Field" shall be limited to _____.
- B. "Option Period" shall mean the period commencing on the Effective Date and ending ___ (__) months thereafter.
- C. "Option Territory" shall be limited to _____.
- D. "Optioned Patents" shall refer to and mean those patents and patent applications listed on Appendix A hereto that are in countries in the Option Territory and any subsequent patent application owned by WARF in a country in the Option Territory, but only to the extent it claims an invention claimed in a patent application listed on Appendix A in such country.
- E. "Products" shall refer to and mean any and all products that employ or are in any way produced, derived or developed by the practice of an invention claimed in the Optioned Patents or that would otherwise constitute infringement of any claims of the Optioned Patents.

Section 2. Grant.

A. Research License.

WARF hereby grants to Company a non-exclusive license under the Optioned Patents to use the inventions of the Optioned Patents solely for internal evaluation purposes. Said license shall commence on the Effective Date and terminate upon the expiration of the Option Period. Company shall not sell, distribute or otherwise transfer or provide to any third party any Products without the express written consent of WARF, and shall not use the inventions of the Optioned Patents for any purpose other than evaluating its interest in licensing the Optioned Patents.

B. Option to a License.

(i) WARF hereby grants to Company an option during the Option Period to negotiate a license agreement under the Optioned Patents in the Option Field and Option Territory. Said option shall terminate at the end of the Option Period.

(ii) In order to exercise the option granted hereunder, Company must, prior to the end of the Option Period, both notify WARF in writing that it is exercising its rights and provide to WARF an acceptable development plan similar in scope to that outlined in Appendix B.

(iii) Upon WARF's receipt of Company's notice and development plan reasonably acceptable to WARF, WARF and Company shall enter into good faith negotiations regarding the terms of a license. WARF and Company shall have ninety (90) days from the date that WARF receives Company's notice pursuant to Section 2B(ii) to negotiate such a license agreement. If WARF and Company fail to enter a license within such time period, the option granted in this Agreement shall terminate, unless extended by a written agreement signed by both parties. The terms of the license shall include, without limitation, a license fee, royalties, patent reimbursement fees and other commercially reasonable terms as negotiated by the parties, and shall be substantially the same in format as those generally used in WARF's agreements with companies concerning similar technology.

C. License to WARF.

Company hereby grants WARF the option to obtain a perpetual, royalty-free, non-exclusive license, with the right to grant research sublicenses to academic and non-profit organizations, under any inventions developed by Company in the course of performing the research under Section 2A above. Disclosure of said inventions shall be by written notice to WARF within sixty (60) days of the discovery of such inventions. If WARF does not exercise its option to receive a license thereunder within six (6) months of the date of the disclosure, its option under this paragraph shall be deemed terminated (but only with respect to the invention(s) disclosed).

Section 3. Consideration.

A. As consideration for the option granted hereunder, Company shall pay to WARF an option fee of \$_____ within thirty (30) days of Company's execution of this Agreement.

B. As consideration for the evaluation license provided hereunder, Company agrees to provide to WARF within thirty (30) days of the end of the Option Period a report summarizing the results and data arising from Company's evaluation.

Section 4. Certain Warranties of WARF.

A. WARF warrants that except as otherwise provided under Section 7 of this Agreement with respect to U.S. Government interests, it is the owner of the Optioned Patents or otherwise

has the right to grant the licenses granted Company in this Agreement. Nothing in this Agreement shall be construed as:

(i) a warranty or representation by WARF as to the validity or scope of any of the Optioned Patents; or

(ii) a warranty or representation by WARF that anything made, used, sold or otherwise disposed of under the license granted herein or pursuant to this Agreement will or will not infringe patents of third parties; or

(iii) an obligation to furnish any know-how not provided for in the Optioned Patents or any services other than those specified in this Agreement.

B. WARF MAKES NO REPRESENTATIONS, EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES FOR THE FITNESS OF THE INVENTIONS GOVERNED BY THIS AGREEMENT FOR ANY PARTICULAR PURPOSE, AND ASSUMES NO RESPONSIBILITIES WHATSOEVER WITH RESPECT TO THE INVENTIONS OF THE OPTIONED PATENTS, THEIR USE, OR THEIR DISPOSITION BY COMPANY.

Section 5. Term; Termination.

This Agreement shall begin on the Effective Date and shall terminate upon the expiration of the Option Period. If Company at any time commits any breach of any covenant herein contained, or if Company commits any act of bankruptcy, becomes insolvent, is unable to pay its debts as they become due, files a petition under any bankruptcy or insolvency act, or has any such petition filed against it which cannot be dismissed prior to the termination of this Agreement, or offers any component of the Optioned Patents to its creditors, WARF may, at its option, terminate this Agreement and any license granted hereunder by giving notice of termination to Company.

Section 6. Product Liability; Conduct of Business.

All research and development activities, strategies, and decisions are entirely at the discretion of Company, and Company shall rely entirely on its own expertise with respect thereto. Company shall, at all times during the term of this Agreement and thereafter, indemnify, defend and hold WARF and the inventors of the Optioned Patents harmless against all claims and expenses, including legal expenses and reasonable attorneys fees, arising out of the death of or injury to any person or persons or out of any damage to property and against any other claim, proceeding, demand, expense and liability of any kind whatsoever resulting from the production, manufacture, or use of the inventions of the Optioned Patents by or on behalf of Company. WARF at all times reserves the right to select and retain counsel of its own to defend WARF's interests.

Section 7. United States Government Interests.

It is understood that if the United States Government (through any of its agencies or otherwise) has funded research, during the course of or under which any of the inventions of the Optioned Patents were conceived or made, the United States Government is entitled, as a right, under the provisions of 35

U.S.C. § 200-212 and applicable regulations of Chapter 37 of the Code of Federal Regulations, to a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced the invention of such Optioned Patents for governmental purposes. Any license granted to Company pursuant to this Agreement shall be subject to such right.

Section 8. Notices.

Any notice required to be given pursuant to the provisions of this Agreement shall be in writing and shall be deemed to have been given at the earlier of the time when actually received as a consequence of any effective method of delivery, including but not limited to hand delivery, transmission by telecopier, or delivery by a professional courier service or the time when sent by certified or registered mail addressed to the party for whom intended at the address below or at such changed address as the party shall have specified by written notice, provided that any notice of change of address shall be effective only upon actual receipt.

(a) Wisconsin Alumni Research Foundation
Attn: Contracts Manager
614 Walnut Street
Madison, Wisconsin 53726

(b) _____
Attn: _____

Section 9. Miscellaneous.

This Agreement may not be transferred or assigned by Company without the prior written consent of WARF. This Agreement shall be governed by and construed in all respects in accordance with the laws of the State of Wisconsin. The parties hereto are independent contractors and not joint venturers or partners. This Agreement does not constitute a joint research agreement. This Agreement constitutes the full understanding and entire agreement between the parties and merges all prior agreements with respect to the subject matter hereof and may be amended or extended only by express, written agreement between the parties which specifically states that it is an amendment to this Agreement.

Section 10. Confidentiality.

Both parties agree to keep any information identified as confidential by the disclosing party, confidential using methods at least as stringent as each party uses to protect its own confidential information. "Confidential Information" shall include Company's development plan and development reports, the Optioned Patents and all information concerning them and any other information marked confidential or accompanied by correspondence indicating such information is confidential exchanged between the parties hereto. Except as may be authorized in advance in writing by WARF, Company shall

grant access to the Confidential Information only to its own employees involved in research relating to the Optioned Patents and Company shall require such employees to be bound by this Agreement as well. Company agrees not to use any Confidential Information to its advantage and WARF's detriment, including but not limited to claiming priority to any application serial numbers of the Optioned Patents in Company's patent prosecution. The confidentiality and use obligations set forth above apply to all or any part of the Confidential Information disclosed hereunder except to the extent that:

- (i) Company or WARF can show by written record that it possessed the information prior to its receipt from the other party;
- (ii) the information was already available to the public or became so through no fault of the Company or WARF;
- (iii) the information is subsequently disclosed to Company or WARF by a third party that has the right to disclose it free of any obligations of confidentiality;
- (iv) the information is independently developed by Company or WARF without reference to or use of the information;
- (v) the information is required by law, rule, or regulation to be disclosed; or
- (vi) five (5) years have elapsed from the expiration of this Agreement.

Section 11. Authority.

The persons signing on behalf of WARF and Company hereby warrant and represent that they have authority to execute this Agreement on behalf of the party for whom they have signed.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the dates indicated below.

WISCONSIN ALUMNI RESEARCH FOUNDATION

By: _____ Date: _____
Michael E. Falk, General Counsel

LICENSEE

By: _____ Date: _____

Name and Title: _____

_____ – P _____ US

APPENDIX A

PATENTS AND PATENT APPLICATIONS

REFERENCE NUMBER	COUNTRY	PATENT NUMBER	ISSUE DATE	APPLICATION SERIAL NUMBER
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Title (Inventors)

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APPENDIX B

DEVELOPMENT PLAN

A development plan of the scope outlined below shall be submitted to WARF by Company upon Company's exercise of its option. In general, the plan should provide WARF with a summary overview of the activities that Company believes are necessary to bring Products to the marketplace.

Estimated

Start Date

Finish Date

- I. Development Program
 - A. Development Activities to be Undertaken
(Please break activities into subunits with the date of completion of major milestones)
 - 1.
 - 2.
 - B. Estimated Total Development Time
- II. Governmental Approval
 - A. Types of submissions required
 - B. Government agency e.g. FDA, EPA, etc.
- III. Proposed Market Approach
- IV. Competitive Information
 - A. Potential Competitors
 - B. Potential Competitive Devices/Compositions
 - C. Known Competitor's plans, developments, technical achievements
 - D. Anticipated Date of Product Launch

Total Length: approximately 2-3 pages