

This draft is dated _____ and will expire thirty (30) days thereafter, and is solely for purposes of negotiation. No contract will exist until a final, written agreement is signed by WARF and an authorized representative of Licensee.

EXCLUSIVE START-UP COMPANY LICENSE AGREEMENT

This Exclusive Start-Up Company License Agreement (“Agreement”) is made effective the ___ day of _____, ____ (“Effective Date”), by and between Wisconsin Alumni Research Foundation (“WARF”), a nonstock, nonprofit Wisconsin corporation, and _____ (“Licensee”), a corporation organized and existing under the laws of _____.

WHEREAS, WARF owns certain Licensed Patents, as defined below, and is willing to grant a license to Licensee any one or all of them, and Licensee desires a license under all of them, under them pursuant to the terms of this Agreement herein below.

NOW, THEREFORE, in consideration of the representations, covenants, warranties and agreements set forth below, the parties agree as follows:

Section 1. Definitions.

For the purpose of this Agreement, the Appendix A definitions will apply.

Section 2. Grant.

A. License.

WARF hereby grants to Licensee an exclusive license under the Licensed Patents to make, use, offer for sale, sell, and import Products solely in the Licensed Field and Licensed Territory.

B. Sublicenses.

(i) *Sublicensing Right.* Licensee may grant to third parties written, nonexclusive sublicenses, without the right to further sublicense, under Licensee’s rights under Section 2A. All such sublicenses shall contain terms and conditions no less restrictive than, no less protective of WARF’s rights than, and consistent with those set forth in this Agreement, shall state that the sublicense is subject to the termination of this Agreement, and shall identify WARF as a third party beneficiary thereof. No sublicense shall purport to grant any rights that extend beyond the scope of rights granted to Licensee under this Agreement. Licensee shall have the same responsibility for the activities of any sublicensee as if the activities were directly those of Licensee; any act or omission of a sublicensee which would be a breach of this Agreement if performed by Licensee shall be deemed to be a breach by Licensee.

(ii) *Access to Sublicensing Information.* Licensee shall promptly provide WARF with the name, contact information, and address of each sublicensee, as well as information regarding the number of full-time employees of each such sublicensee to allow WARF to determine whether it can maintain its small entity filing status for patent prosecution and maintenance purposes. Thereafter, Licensee shall deliver to WARF semi-annual reports, within thirty (30) days after each June 30th and

December 31st during the term of this Agreement, summarizing the business and activities of each sublicensee and containing sufficient details regarding the sublicensees' business relating to the Licensed Patents to assess when, whether, and the extent to which each sublicensee may be practicing its sublicensed rights. In addition, upon WARF's written request Licensee shall provide to WARF copies of each sublicense agreement and any amendments thereto. Licensee will ensure that WARF has audit rights for each sublicense agreement of the same scope as provided in Section 6 hereof with respect to Licensee, and shall include appropriate terms providing for such audit rights in all sublicense agreements.

C. Reservation of Rights.

In addition to the United States Government Rights identified in Section 14, WARF hereby reserves the right to grant non-profit research institutions and governmental agencies non-exclusive licenses to practice and use the inventions of the Licensed Patents for Non-Commercial Research Purposes. WARF, the University of Wisconsin and the inventors of the Licensed Patents will have the right to publish any information included in the Licensed Patents.

D. License to WARF.

Licensee hereby grants and shall require its sublicensee(s) to grant to WARF, the University of Wisconsin, the inventors of the Licensed Patents, and all non-profit, academic, and governmental research organizations a covenant not to sue under any Improvement for Non-Commercial Research activities. "Improvements" shall mean any patented modification or new use of an invention described in the Licensed Patents that (1) incorporates, employs, or requires an invention of the Licensed Patents; or (2) if not for the license granted under this Agreement, would infringe one or more claims of the Licensed Patents. For clarity, this Section 2D shall not be construed as requiring Licensee to disclose Improvements to, or otherwise enable the use of Improvements by, the foregoing parties.

Section 3. Development.

A. Licensee agrees to, represents that it intends to, and warrants that it will diligently develop, seek any necessary regulatory approval for, manufacture, market, and sell Products in each Licensed Field and Licensed Territory throughout the term of this Agreement. Such activities will include, without limitation, those activities listed in Licensee's Development Plan attached hereto as Appendix E. Licensee agrees that said Development Plan is reasonable and that it will take all reasonable steps to meet the development program as set forth therein.

B. Beginning in calendar year 20__ and until the Date of First Commercial Sale, Licensee will provide WARF with a written Development Report summarizing its development activities since the last Development Report and any necessary adjustments to the Development Plan. Licensee will submit Development Reports on a semi-annual basis within thirty (30) days of June 30 and December 31 of each calendar year and include sufficient detail to enable WARF to determine Licensee's progress toward the Development Plan. Licensee's books and records regarding its development activities with respect to the Licensed Patents will be subject to the obligations and audit procedures set forth in Section 6.

C. Licensee further agrees to and warrants that it will meet the following Milestones:

(i) Licensee will submit a revised business plan to WARF within ___ months of the Effective Date.

(ii) Licensee will hire a qualified Chief Executive Officer (“CEO”) within _____ () months of the Effective Date. For the purposes of this Agreement, “Qualified CEO” shall refer to and mean an individual having the experience and expertise sufficient to serve as the CEO of Licensee and/or other similar companies in the _____ industry.

(iii) Licensee will obtain at least \$ _____ in equity financing within _____ () year of the Effective Date.

Section 4. Consideration.

A. License Fee.

In lieu of the license fees that would traditionally be charged for the license granted hereunder, Licensee agrees to issue to WARF _____ percent (__ %) of Licensee’s outstanding equity securities under the terms of the Equity Agreement between the parties.

B. Royalty.

In addition to the equity granted under Section 4A, Licensee agrees to pay to WARF as “earned royalties” a royalty calculated as a percentage of the Selling Price of Products in accordance with the terms and conditions of this Agreement. The royalty will remain fixed while this Agreement is in effect at the rate of __ percent (__ %) of the Selling Price of Products. The royalty is deemed earned as of the earliest of the date (i) the Product is sold, leased, or otherwise transferred for consideration, (ii) an invoice is sent by Licensee or its sublicensee(s) with respect to such Product, or (iii) the Product is transferred to a third party without charge or at a discount.

C. Sublicensing Royalties and Fees.

(i) With respect to sublicenses granted by Licensee under Section 2B, Licensee will pay to WARF an amount equal to what Licensee would have been required to pay to WARF had Licensee sold the amount of Products sold by such sublicensee.

(ii) In addition, if Licensee receives any fees, minimum royalties, or other payments in consideration for any rights granted under a sublicense, or option to sublicense, or other similar rights and such payments are not based directly upon the amount or value of Products sold by the sublicensee (hereinafter “Sublicense Fees”), then Licensee will pay WARF fifty percent (50%) of such payments within thirty (30) days of receipt of such payments, and otherwise in the manner specified in Section 4F, with the amounts due to WARF being deemed earned as of the date they are received by Licensee. Licensee will not receive from its sublicensees anything of value in lieu of cash payments in consideration for any sublicense granted under this Agreement without the express prior written consent of

WARF. Additionally, Licensee will not agree to postpone the payment date of any Sublicense Fee in exchange for any payment or other consideration not itself accounted for as part of the Sublicense Fee. No payments owed for Sublicense Fees will be prorated, whether the sublicense to the Licensed Patents is bundled with other licenses or sublicenses or not, without WARF's written consent.

D. Minimum Royalty.

Licensee further agrees to pay to WARF a minimum royalty of _____ per calendar year or part thereof during which this Agreement is in effect, the first of which will be due for calendar year _____, against which any earned royalty paid for the same calendar year will be credited. The minimum royalty for a given year will be due at the time payments are due for the calendar quarter ending on December 31. It is understood that the minimum royalties will apply on a calendar year basis, and that sales of Products requiring the payment of earned royalties made during a prior or subsequent calendar year will have no effect on the annual minimum royalty due WARF for any other given calendar year.

E. Patent Prosecution and Costs.

(i) Licensee agrees to reimburse WARF for all costs incurred by WARF in filing, prosecuting and maintaining the Licensed Patents ("Patent Costs"), including those Patent Costs incurred prior to ("Past Patent Costs") and after ("Future Patent Costs") the Effective Date, within thirty (30) days of receiving an invoice from WARF. WARF will issue an invoice for Past Patent Costs upon execution of this Agreement and for Future Patent Costs as such costs are incurred. If Licensee fails to pay any amount owed under this Section 4E by the invoice due date, WARF will have the right, at its sole discretion, to abandon and/or remove from this Agreement the applicable Licensed Patent(s).

(ii) WARF is not obligated to make or maintain any foreign filing or continuing United States application of the Licensed Patents. If Licensee desires WARF to make or maintain such foreign filings or continuing U.S. applications, Licensee must notify WARF in writing three (3) months prior to the expiration of the deadline for making such filings, indicating either those countries in which Licensee desires WARF to pursue foreign patent protection or the type of continuing U.S. application Licensee desires WARF to file. Any country for which WARF files for such patent protection at Licensee's request and expense shall be included in the Licensed Territory under this Agreement. WARF reserves the right to file a patent application (including a foreign filing or any continuing U.S. application), at its own expense, in any countries not requested by Licensee pursuant to this Section 4E. Licensee acknowledges 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 Licensed 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 make and maintain foreign filings in those countries not selected by Licensee and/or WARF.

(iii) Unless Licensee is in breach of any term or condition of this Agreement (including, without limitation for failure to timely reimburse WARF for Patent Costs hereunder), WARF will prosecute all applications it files at Licensee's request pursuant to this Section 4E until WARF determines that continued prosecution is unlikely to result in the issuance of a patent. If WARF decides to abandon prosecution or maintenance of any patent or patent application under the Licensed Patents which

Licensee has requested WARF to make and maintain, WARF shall provide Licensee notice of WARF's intent to abandon such application or patent and the parties will determine in good faith how to proceed, taking into account the Patent Costs already expended.

F. Accounting; Payments.

(i) Amounts owing to WARF under Section 4B and Section 4C will be paid on a quarterly basis, with such amounts due and received by WARF within thirty (30) days of the end of the calendar quarter ending on March 31, June 30, September 30 or December 31 in which such amounts were earned. A full accounting showing how such amounts have been calculated will be submitted to WARF on the date of each such payment. For royalties, such accounting will be on a per country and product line, model, or tradename basis and will be summarized on the form shown in Appendix C of this Agreement, which will include a quarterly royalty forecast. In the event no payment is owed to WARF, a statement setting forth that fact will be supplied to WARF. Any payments not made when due will bear interest at the lower of (a) the Prime Rate published in the Wall Street Journal plus 200 basis points, or (b) the maximum rate permitted by law. However, in no event will this interest provision be construed as a grant of permission for any payment delays.

(ii) Except as otherwise directed, all amounts owing to WARF under this Agreement will be paid in U.S. dollars using the address provided in Section 15(a) or paid via wire transfer if agreed upon. All royalties and fees stated in currencies other than U.S. dollars will be converted at the rate that is the arithmetic average of the rate shown in the Wall Street Journal, New York Edition on the last business day of each month of the calendar quarter on the day preceding the payment due date. WARF is exempt from paying income taxes under U.S. law. Therefore, all payments due under this Agreement will be made without deduction for taxes, assessments, or other charges of any kind which may be imposed on WARF by any government outside of the United States or any political subdivision of such government with respect to any amounts payable to WARF pursuant to this Agreement. All such taxes, assessments, or other charges that may reduce WARF's net royalties, such as bank transfer fees, will be assumed by Licensee or its sublicensee(s).

Section 5. Certain Warranties.

A. WARF warrants that except as otherwise provided under Section 14 of this Agreement with respect to U.S. Government interests, it is the owner of the Licensed Patents or otherwise has the right to grant the licenses granted to Licensee in this Agreement. However, nothing in this Agreement will be construed as: (i) a warranty or representation by WARF as to the validity or scope of any of the Licensed Patents; (ii) a warranty or representation that any product or process made, used, sold, or otherwise disposed of under or in association with the license granted in this Agreement is or will be free from any claim of infringement or misappropriation of any intellectual property rights other than the Licensed Patents; or (iii) an obligation to furnish any know-how not provided in the Licensed Patents or any services other than those specified in this Agreement.

B. WARF MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND WHATSOEVER, EITHER EXPRESS OR IMPLIED, INCLUDING NO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-

INFRINGEMENT, MARKETABILITY, REGULATORY APPROVAL, SAFETY, OR ACCURACY. WARF ASSUMES NO RESPONSIBILITIES AND MAKES NO PROMISES WHATSOEVER WITH RESPECT TO THE USE, SALE, OR OTHER DISPOSITION BY LICENSEE, ITS SUBLICENSEE(S), OR THEIR VENDEES OR OTHER TRANSFEREES, OF PRODUCTS OR ANY OTHER PRODUCTS OR SERVICES EMPLOYING, EMPLOYED IN, INCORPORATING, OR MADE BY USE OF INVENTIONS LICENSED UNDER THIS AGREEMENT.

C. Unless a valid waiver is obtained from the applicable funding agency at Licensee's written request, Licensee represents and warrants that all Products that are used or sold in the United States under the license granted herein (or any sublicense thereunder) will be manufactured substantially in the United States to the extent required by 35 U.S.C § 204 and applicable regulations of Chapter 37 of the Code of Federal Regulations.

Section 6. Recordkeeping.

A. Licensee and its sublicensee(s) will keep books and records sufficient to verify the accuracy and completeness of Licensee's and its sublicensee(s)'s commercialization activities and accounting referred to above, including, without limitation, invoices for studies advancing the development of Products, laboratory notebooks, internal job cost records, inventory, purchase, and invoice records relating to the Products or their development or manufacture. Such books and records will be preserved for a period not less than six (6) years after they are created during and after the term of this Agreement.

B. Licensee and its sublicensee(s) will take all steps necessary so that WARF may, via a WARF employee, attorney or registered CPA designee and upon reasonable notice and during regular business hours within thirty (30) days of its request, review and copy all the books and records at a single U.S. location to allow WARF to verify the accuracy of Licensee's royalty reports and Development Reports, the royalty reports of its sublicensee(s), and any applicable Sublicense Fees. If a payment deficiency is determined, Licensee and its sublicensee(s), as applicable, will pay the deficiency outstanding within thirty (30) days of receiving written notice thereof, plus interest on outstanding amounts as described in Section 4F. In cases where the deficiency exceeds the lesser of five percent (5%) of the royalties paid for that year or fifty thousand dollars (\$50,000), then Licensee or its sublicensee(s) will be responsible for paying WARF's out-of-pocket expenses incurred with respect to such review.

Section 7. Term and Termination.

A. The term of this license and Agreement will begin on the Effective Date and continue until the earliest of the date that: (1) this Agreement is terminated as provided for herein; (2) no Licensed Patent remains pending, enforceable, or appealed; or (3) the payment of earned royalties under Sections 4B and 4C, once begun, ceases for more than one calendar year.

B. Licensee may terminate this Agreement at any time by giving at least ninety (90) days' written and unambiguous notice of such termination to WARF, which will include a statement of the reasons for termination. WARF may terminate this Agreement upon ninety (90) days' written notice to Licensee if the Date of First Commercial Sale does not occur on or before _____, 20__.

C. In the event that Licensee fails to meet any Milestone set forth in Section 3C, WARF may terminate this Agreement by giving Licensee at least thirty (30) days' written notice of such termination. The termination of this Agreement under this Section 7C will in no way be understood to provide Licensee the right to receive a refund of the equity securities provided as a license fee under Section 4A or relieve Licensee of its obligation to provide such equity securities to WARF as provided in the Equity Agreement.

D. If Licensee at any time defaults in the timely payment of any monies due to WARF, fails to timely provide to WARF any Development Report or provides any false information with respect thereto, fails to actively pursue the Development Plan, or commits any breach of any other covenant, representation, or warranty herein contained, and Licensee fails to remedy any such breach or default within ninety (90) days after written notice thereof by WARF, or if Licensee 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 is not dismissed within sixty (60) days, or if Licensee or its sublicensee(s) offer any component of the Licensed Patents to their creditors, WARF may, at its option, terminate this Agreement immediately by giving notice of termination to Licensee.

E. Upon the effective termination of this Agreement, Licensee and its sublicensee(s) will remain obligated to provide an accounting for and to pay to WARF within thirty (30) days of termination all amounts owed under this Agreement, including without limitation royalties earned up to the date of the termination, and any minimum royalties due, which amount will be prorated as of the date of termination by the number of days elapsed in the applicable calendar year.

F. Waiver by either party of a single breach or default, or a succession of breaches or defaults, will not deprive such party of any right to terminate this Agreement in the event of any subsequent breach or default.

Section 8. Assignability.

This Agreement may not be transferred or assigned by Licensee, whether pursuant to a change-of-control event or otherwise, without the prior written consent of WARF. Any transfer or assignment in breach of this Section 8 will be deemed null and void, and immediately ineffective.

Section 9. Contest of Validity.

A. Licensee must provide WARF at least three (3) months prior written notice before filing any proceeding that contests the validity of any Licensed Patent during the term of this Agreement. In the event Licensee files any such proceeding, Licensee agrees to pay to WARF, directly and not into any escrow or other account, all royalties and other amounts due in view of Licensee's activities under the Agreement during the period of challenge. Should the outcome of such contest determine that any claim of a Licensed Patent challenged by Licensee is valid, Licensee will thereafter, and for the remaining term of this Agreement, pay a royalty rate of three (3) times the royalty rate specified in Section 4B of this Agreement and the entirety of WARF's legal (including attorney) fees and costs incurred during such proceeding.

Section 10. Enforcement.

WARF intends to protect the Licensed Patents against infringers or otherwise act to eliminate infringement, when, in WARF's sole judgment, such action may be necessary, proper, and justified and makes reasonable business sense considering all factors. In the event that Licensee or its sublicensee(s) believe there is infringement of any Licensed Patent under this Agreement which is to its substantial detriment, Licensee will provide WARF with notification and reasonable evidence of such infringement. Upon request by WARF, Licensee will provide WARF with such assistance and information as may be useful to WARF in connection with WARF's taking such action (if the cause of action arose during the term of this Agreement and WARF reimburses Licensee for Licensee's reasonable out-of-pocket expenses). For clarity, in no event will Licensee or any sublicensee have the right to demand that WARF initiate or join in any suit for infringement.

Section 11. Patent Marking.

Licensee and its sublicensee(s) will mark all Products or Product packaging or advertising and invoices in the case of Products that are services with the appropriate patent number reference in compliance with the requirements of 35 U.S.C. § 287.

Section 12. Product Liability; Conduct of Business.

A. Licensee will, at all times during the term of this Agreement and thereafter, indemnify, defend, and hold harmless the inventors of the Licensed Patents, WARF and the University of Wisconsin-Madison, and their respective employees, trustees, contractors, and agents 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, loss, and liability of any kind whatsoever resulting from each of the following: (1) the development, design, production, manufacture, sale, use, lease, consumption, marketing, import/export, or advertisement of Products, (2) the exercise of any right or the performance or non-performance of any obligation of Licensee or its sublicensee(s) hereunder, or (3) the negligent, reckless, or willful actions or omissions of Licensee. WARF at all times reserves the right to select and retain counsel of its own to defend WARF's interests.

B. Licensee warrants that it will, on or before the launch of its first Product, maintain and will continue to maintain liability insurance coverage appropriate to the risk involved in marketing the Products subject to this Agreement and that such insurance coverage lists WARF and the inventors of the Licensed Patents as additional insureds. Upon WARF's request, Licensee will present evidence to WARF that such coverage is being maintained.

Section 13. Use of Names.

Neither Licensee nor its sublicensee(s) will use WARF's name, or any derivation thereof, the name of any inventor of inventions governed by this Agreement, or the name of the University of Wisconsin in sales promotion, advertising, or any other form of publicity without the prior written approval of the entity or person whose name is being used.

Section 14. 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 Licensed 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 Licensed Patents for governmental purposes. Any license granted under this Agreement to Licensee or any of its sublicensees will be subject to such right.

Section 15. Notices.

Any notice required to be given pursuant to the provisions of this Agreement will be in writing and will 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 or electronic transmission, i.e., email, 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 will have specified by written notice, provided that any notice of change of address will be effective only upon actual receipt.

(a) **Error! Reference source not found.**

Attn: Contracts Manager
614 Walnut Street
Madison, Wisconsin 53726
Phone: (608) 263-2500
Email: contracts@warf.org

(b) Licensee

Attn: _____

Phone: _____
Email: _____

Section 16. Confidentiality.

A. The parties hereto 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" will include the terms of this Agreement, Licensee's Development Plan and Development Reports, Royalty Reports and forecasts, sublicensees, the Licensed Patents and all information concerning them (including without limitation all know-how, research results and similar information held by WARF) and any other information either (i) marked confidential or accompanied by correspondence indicating such information is exchanged in confidence between the parties, or (ii) that is, or should be, reasonably understood to be otherwise proprietary or confidential to a party. Except as may be authorized in advance in writing by WARF, Licensee will only grant access to

WARF's Confidential Information to its sublicensee(s) and those employees of Licensee and its sublicensee(s) involved in research relating to the Licensed Patents. Licensee will require its sublicensee(s) and all such employees to be bound by terms of confidentiality no less restrictive than those set forth in this Section 16. Licensee and its sublicensee(s) will not use any Confidential Information to WARF's detriment, including, but not limited to, claiming priority to the Licensed Patents in any patent prosecution.

B. The confidentiality obligations set forth above apply to all or any part of the Confidential Information disclosed hereunder except to the extent that: (i) the receiving party can show by competent evidence that it possessed the information prior to its receipt from the disclosing party; (ii) the information was already available to the public or became so through no fault of the receiving party; (iii) the information is subsequently disclosed to the receiving party by a third party that has the right to disclose it free of any obligations of confidentiality; (iv) the information is required by law, rule, regulation, or judicial process to be disclosed (if such requirement arises, the receiving party will, prior to any such disclosure, promptly notify the disclosing party and provide assistance in any reasonable effort to obtain confidential treatment with respect to such disclosure); or (v) five (5) years have elapsed from the expiration or termination of this Agreement.

Section 17. Miscellaneous.

This Agreement will be governed by and construed in all respects in accordance with the laws of the State of Wisconsin. If any provisions of this Agreement are or will come into conflict with the laws or regulations of any jurisdiction or any governmental entity having jurisdiction over the parties or this Agreement, those provisions will be deemed automatically deleted, if such deletion is allowed by relevant law, and the remaining terms and conditions of this Agreement will remain in full force and effect. If such a deletion is not so allowed or if such a deletion leaves terms thereby made clearly illogical or inappropriate in effect, the parties agree to substitute new terms as similar in effect to the present terms of this Agreement as may be allowed under the applicable laws and regulations. The parties hereto are independent contractors and not joint venturers or partners.

Section 18. Integration; Execution.

A. This Agreement constitutes the full understanding between the parties with reference to the subject matter hereof, and no statements or agreements by or between the parties, whether orally or in writing made prior to or at the signing hereof, will vary or modify the written terms of this Agreement. Neither party will claim any amendment, modification, or release from any provisions of this Agreement by mutual agreement, acknowledgment, or otherwise, unless such mutual agreement is in writing, signed by the other party, and specifically states that it is an amendment to this Agreement.

B. The persons signing on behalf of WARF and Licensee hereby warrant and represent that they have authority to execute this Agreement on behalf of the party for whom they have signed. This Agreement may be executed in one or more counterparts by the parties by signature of a person having authority to bind the party, each of which when executed and delivered by facsimile, electronic transmission, or by mail delivery, will be an original and all of which will constitute but one and the same Agreement. The parties agree this Agreement may be electronically signed and that the electronic signatures appearing on this Agreement are the same as handwritten signatures for the purposes of validity,

enforceability and admissibility. No agreement between the parties will exist unless the duly authorized representatives of Licensee and WARF have signed this document within sixty (60) days of the Effective Date written on the first page of this Agreement.

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

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By: _____ Date: _____,
Appropriate WARF representative, Title

LICENSEE

By: _____ Date: _____,

Name and Title: _____

WARF Ref: _____ - P _____

APPENDIX A

A. “Date of First Commercial Sale” means the date when Licensee's cumulative earned royalties paid to WARF pursuant to Section 4B exceeds \$_____.

B. “Development Report” means a written account of Licensee’s progress under the Development Plan having at least the information specified on Appendix D to this Agreement.

C. “Equity Agreement” means the Equity Agreement of even date herewith entered into by the parties hereto.

D. “Licensed Field” is limited to the field of _____.

E. “Licensed Patents” means those patents and patent applications listed on Appendix B attached hereto, and any divisional, continuation (but not continuation-in-part) or reexamination application thereof, and each patent that issues or reissues from any patent application included on Appendix B, but solely to the extent Licensee timely reimburses WARF for the Patent Costs related thereto as outlined in Section 4E.

F. “Licensed Territory” is limited to the United States and those countries or regions for which Licensee has paid to WARF the Patent Costs as required under Section 4E above.

G. “Non-Commercial Research Purposes” means use for academic research purposes or other not-for-profit or scholarly purposes not involving the performance of services for a fee or the production or manufacture of products for sale to third parties.

H. “Products” means any and all products that incorporate, comprise, employ or are in any way produced by the practice of an invention claimed in the Licensed Patents, or the manufacture, use, sale, offer for sale, importation, or marketing of which would otherwise constitute infringement of any claims of the Licensed Patents.

I. “Selling Price” means, in the case of Products that are sold, leased or otherwise transferred, the invoice price to the end user of Products (regardless of uncollectible accounts) less any shipping costs, allowances because of returned Products, or sales taxes. The “Selling Price” for a Product that is transferred to a third party without charge or at a discount will be the average invoice price to the end user of that type of Product during the applicable calendar quarter.

APPENDIX D

DEVELOPMENT REPORT

- A. Date development plan initiated and time period covered by this report.
- B. Development Report (4-8 paragraphs).
 - 1. Activities completed since last report including the object and parameters of the development, when initiated, when completed and the results.
 - 2. Activities currently under investigation, i.e., ongoing activities including object and parameters of such activities, when initiated, and projected date of completion.
- C. Future Development Activities (4-8 paragraphs).
 - 1. Activities to be undertaken before next report including, but not limited to, the type and object of any studies conducted and their projected starting and completion dates.
 - 2. Estimated total development time remaining before a product will be commercialized.
- D. Changes to Development Plan submitted to WARF (2-4 paragraphs).
 - 1. Reasons for change.
 - 2. Variables that may cause additional changes.
- E. Items to be provided if applicable:
 - 1. Information relating to Product that has become publicly available, e.g., published articles, competing products, patents, etc.
 - 2. Development work being performed by third parties other than Licensee to include name of third party, reasons for use of third party, planned future uses of third parties including reasons why and type of work.
 - 3. Update of competitive information trends in industry, government compliance (if applicable) and market plan.

PLEASE SEND DEVELOPMENT REPORTS TO:

Error! Reference source not found.

Attn.: Contracts Coordinator
614 Walnut Street
P.O. Box 7365
Madison, WI 53707 7365

APPENDIX E

DEVELOPMENT PLAN

(To be provided by Licensee prior to execution)