

**EXCLUSIVE PATENT LICENSE AGREEMENT**

**BETWEEN**

**THE UNIVERSITY OF TEXAS SYSTEM**

**AND**

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EXCLUSIVE PATENT LICENSE AGREEMENT  
BETWEEN THE UNIVERSITY OF TEXAS SYSTEM  
AND

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THIS Agreement (AGREEMENT) is between the Board of Regents (BOARD) of The University of Texas System (SYSTEM), an agency of the State of Texas, whose address is 201 West 7<sup>th</sup> Street, Austin, Texas 78701, on behalf of The University of Texas Southwestern Medical Center at Dallas (UT SOUTHWESTERN), a component institution of SYSTEM, and \_\_\_\_\_ (LICENSEE), a \_\_\_\_\_ corporation having a principal place of business located at \_\_\_\_\_.

**RECITALS**

- A. BOARD owns certain PATENT RIGHTS (as defined below) and TECHNOLOGY RIGHTS (as defined below) related to LICENSED SUBJECT MATTER (as defined below), which were developed at UT SOUTHWESTERN.
- B. BOARD desires to have the LICENSED SUBJECT MATTER developed and used for the benefit of LICENSEE, INVENTOR (as defined below), BOARD, and the public as outlined in BOARD'S Intellectual Property Policy.
- C. LICENSEE wishes to obtain a license from BOARD to practice LICENSED SUBJECT MATTER.

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

**1. EFFECTIVE DATE**

This AGREEMENT is effective \_\_\_\_\_ (EFFECTIVE DATE).

**2. DEFINITIONS**

As used in this AGREEMENT, the following terms have the meanings indicated:

- 2.1 **AFFILIATE** means any business entity more than 50% owned by LICENSEE, any business entity which owns more than 50% of LICENSEE, or any business entity that is more than 50% owned by a business entity that owns more than 50% of LICENSEE.
- 2.2 **FDA** means United States Food and Drug Administration.
- 2.3 **FIELD** means \_\_\_\_\_.
- 2.4 **INVENTOR** means \_\_\_\_\_.
- 2.5 **LICENSED PRODUCT** means any product or service which is covered by or is produced using LICENSED SUBJECT MATTER pursuant to this AGREEMENT.

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2.6 **LICENSED SUBJECT MATTER** means inventions, discoveries and processes covered by PATENT RIGHTS and/or TECHNOLOGY RIGHTS within FIELD.

2.7 **NET SALES** means the gross revenues received by LICENSEE, AFFILIATE and/or any sublicensee pursuant to Paragraph 4.3 from the SALE of LICENSED PRODUCTS less sales and/or use taxes actually paid, import and/or export duties actually paid, outbound transportation prepaid or allowed, and amounts allowed or credited due to returns (not to exceed the original billing or invoice amount).

2.8 **PATENT RIGHTS** means BOARD'S rights in information or discoveries covered in patents, [and/or patent applications] listed in the attached Exhibit 1, and all divisionals, continuations, and letters patent that issue thereon and reissues, reexaminations or extensions thereof, and any corresponding foreign patents and patent applications. [subject to the limitations, if any, set forth therein.] NOTE: *Please delete reference to "subject to the limitations . . ." if there are NO limitations set forth in Exhibit 1. Delete "and/or patent applications" if none at this time.*

2.9 **PHASE 1 CLINICAL STUDIES** means (a) that portion of the drug development and review process which provides for the initial introduction of an investigational new drug into humans, as more specifically defined by the rules and regulations of the FDA; or (b) a similar development milestone in any national jurisdiction.

2.10 **PHASE 2 CLINICAL STUDIES** means (a) that portion of the drug development and review process which provides for early controlled clinical studies conducted to obtain preliminary data on the effectiveness of an investigational new drug for a particular indication, as more specifically defined by the rules and regulations of the FDA; or (b) a similar development milestone in any national jurisdiction.

2.11 **PHASE 3 CLINICAL STUDIES** means (a) that portion of the drug development and review process in which expanded clinical studies are conducted to gather the additional information about the effectiveness and safety that is needed to evaluate the overall benefit-risk relationship of an investigational new drug, as more specifically defined by the rules and regulations of the FDA; or (b) a similar development milestone in any national jurisdiction.

2.12 **SALE, SELL or SOLD** means the transfer or disposition of a LICENSED PRODUCT for value to a party other than LICENSEE.

2.13 **TECHNOLOGY RIGHTS** means BOARD'S rights in technical information, know-how, processes, procedures, compositions, devices, methods, formulas, protocols, techniques, software, designs, drawings or data created by INVENTOR at UT SOUTHWESTERN before the EFFECTIVE DATE and relating to \_\_\_\_\_ which are not covered by PATENT RIGHTS but which are necessary for practicing the PATENT RIGHTS (UT SOUTHWESTERN file reference UTSD:\_\_\_\_\_).

2.14 **TERRITORY** means the \_\_\_\_\_ [DELETE DEFINITION IF TERRITORY IS WORLDWIDE].

### 3. WARRANTY: SUPERIOR-RIGHTS

3.1 Except for the rights, if any, of the government of the United States of America (GOVERNMENT), as set forth below, BOARD represents and warrants (1) that it is the owner of the entire right, title, and interest in and to LICENSED SUBJECT MATTER, (2) that it has the sole right to grant licenses thereunder, and (3) its belief that it has not knowingly granted licenses thereunder to any other entity that would restrict rights granted to LICENSEE except as stated herein.

3.2 LICENSEE understands that the LICENSED SUBJECT MATTER may have been developed under a funding agreement with the GOVERNMENT and, if so, that the GOVERNMENT may have certain rights relative thereto. This AGREEMENT is explicitly made subject to the GOVERNMENT'S rights under any agreement and any applicable law or regulation. If there is a conflict between any agreement, applicable law or regulation and this AGREEMENT, the terms of the GOVERNMENT agreement, applicable law or regulation shall prevail. LICENSEE agrees that LICENSED PRODUCTS used or SOLD in the United States will be manufactured substantially in the United States, unless a written waiver is obtained in advance from the GOVERNMENT.

3.3 LICENSEE understands and acknowledges that BOARD, by this AGREEMENT, makes no representation as to the operability or fitness for any use, safety, efficacy, approvability by regulatory authorities, time and cost of development, patentability, and/or breadth of the LICENSED SUBJECT MATTER. BOARD, by this AGREEMENT, also makes no representation as to whether there are any patents now held, or which will be held, by others or by BOARD which may be dominant or subordinate to PATENT RIGHTS, nor does BOARD make any representation that the inventions contained in PATENT RIGHTS do not infringe any other patents now held or that will be held by others or by BOARD.

3.4 LICENSEE, by execution hereof, acknowledges, covenants and agrees that it has not been induced in any way by BOARD, SYSTEM, UT SOUTHWESTERN or its employees to enter into this AGREEMENT, and further warrants and represents that (1) it has conducted sufficient due diligence with respect to all items and issues pertaining to this AGREEMENT; and (2) LICENSEE has adequate knowledge and expertise, or has utilized knowledgeable and expert consultants, to adequately conduct the due diligence, and agrees to accept all risks inherent herein.

#### **4. LICENSE**

4.1 BOARD hereby grants to LICENSEE a royalty-bearing, exclusive license under LICENSED SUBJECT MATTER to manufacture, have manufactured, use and/or SELL LICENSED PRODUCTS within the TERRITORY for use within FIELD. This grant is subject to the payment by LICENSEE to BOARD of all consideration as provided herein, and is further subject to rights retained by BOARD to:

- a. publish the general scientific findings from research related to LICENSED SUBJECT MATTER subject to the terms of Article 12, Confidential Information;
- b. use LICENSED SUBJECT MATTER for research, teaching and other educationally-related purposes; and
- c. transfer LICENSED SUBJECT MATTER to academic or research institutions for non-commercial research use.

4.2 LICENSEE may extend the license granted herein to any AFFILIATE if the AFFILIATE consents in writing to be bound by this AGREEMENT to the same extent as LICENSEE. LICENSEE must deliver to BOARD a true and accurate copy of such written agreement, and any modification or termination thereof, within 30 days after execution, modification or termination.

4.3 LICENSEE may grant sublicenses consistent with this AGREEMENT if LICENSEE is responsible for the operations of its sublicensees relevant to this AGREEMENT as if the operations were carried out by LICENSEE, including the payment of royalties whether or not paid to LICENSEE by a sublicensee. LICENSEE must deliver to BOARD a true and correct copy of each sublicense granted by LICENSEE, and any modification or termination thereof, within 30 days after execution, modification, or

termination. When this AGREEMENT is terminated, BOARD and UT SOUTHWESTERN agree to accept as successors to LICENSEE existing sublicensees in good standing at the date of termination, provided that the sublicensees consent in writing to be bound by all the terms and conditions of this AGREEMENT.

## 5. PAYMENTS AND REPORTS

5.1 In consideration of rights granted by BOARD to LICENSEE under this AGREEMENT, LICENSEE will pay BOARD the following:

- a. a non-refundable license documentation fee in the amount of \$\_\_\_\_\_, due and payable within 30 days of LICENSEE'S receipt of a fully executed AGREEMENT from BOARD;
- b. an annual license reissue fee in the amount of \$\_\_\_\_\_, due and payable on each anniversary of the EFFECTIVE DATE beginning on the first anniversary;
- c. a minimum yearly royalty of \$\_\_\_\_\_ due and payable on January 1 of each year after EFFECTIVE DATE and creditable against royalties due under 5.1d for that year;
- d. a running royalty equal to \_\_\_% of NET SALES;
- e. milestone fees according to the table below, due and payable within 30 days of each milestone event for a LICENSED PRODUCT:

<b>Milestone Event</b>	<b>Milestone Fee</b>
Initiation of PHASE 1 CLINICAL STUDIES	\$_____
Initiation of PHASE 2 CLINICAL STUDIES	\$_____
Initiation of PHASE 3 CLINICAL STUDIES	\$_____
Filing of a new drug application	\$_____
Regulatory Approval	\$_____

For the purpose of this Paragraph 5.1e, "Initiation" means the date the first patient is dosed by or on behalf of LICENSEE;

- f. \$\_\_\_\_\_ for all out-of-pocket expenses paid by UT SOUTHWESTERN prior to \_\_\_\_\_ in filing, prosecuting, enforcing and maintaining PATENT RIGHTS, and all such expenses paid by UT SOUTHWESTERN thereafter, for so long as, and in such countries as this AGREEMENT remains in effect. UT SOUTHWESTERN will invoice LICENSEE on a quarterly basis for expenses paid by UT SOUTHWESTERN after \_\_\_\_\_. The invoiced amounts will be due and payable by LICENSEE within 30 days; and
- g. a sublicense fee of 50% of all consideration, other than royalties on NET SALES and research and development money, received by LICENSEE from either (1) any sublicensee pursuant to Paragraph 4.3 above, or (2) any assignee pursuant to Article 8 below, including but not limited to, up-front payments, marketing, distribution, franchise, option, license, or documentation fees, bonus and milestone payments and equity securities within 30 days of LICENSEE'S receipt of any such consideration. The value of any equity securities will be calculated as the average market value of the class of stock involved for 5 consecutive days preceding the transfer to LICENSEE. In cases where the sublicense or assignment agreement

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calls for payment to LICENSEE of a premium over the market value, BOARD will also share 50% of the premium paid to LICENSEE.

5.2 In the event of late payments to BOARD due under Article 5, a penalty of 10% of the amount due will be assessed and due additionally from LICENSEE for each such late payment.

5.3 During the term of this AGREEMENT and for 1 year thereafter, LICENSEE agrees to keep complete and accurate records of its and its sublicensees' SALES and NET SALES under the license granted in this AGREEMENT in sufficient detail to enable the royalties payable hereunder to be determined. LICENSEE agrees to permit BOARD or its representatives, at BOARD'S expense and with 14 days written notice, to periodically examine its books, ledgers, and records during regular business hours for the purpose of and to the extent necessary to verify any report required under this AGREEMENT. If the amounts due to BOARD are determined to have been underpaid, LICENSEE will pay the cost of the examination and all overdue amounts with accrued interest at the highest allowable rate.

5.4 Within 30 days after March 31, June 30, September 30, and December 31 of each year of the valid term of this AGREEMENT, beginning immediately after the EFFECTIVE DATE, LICENSEE must deliver to BOARD a true and accurate written report, even if no payments are due BOARD, giving the particulars of the business conducted by LICENSEE and its sublicensee(s), if any exist, during the preceding 3 calendar months under this AGREEMENT as are pertinent to calculating payments hereunder. Such reports will be on a per-country and per-product basis and presented substantially in the form as shown in Exhibit 2. Simultaneously with the delivery of each report, LICENSEE must pay to BOARD the amount due, if any, for the period of each report.

5.5 On or before each anniversary of the EFFECTIVE DATE, irrespective of having a first SALE or offer for SALE, LICENSEE must deliver to BOARD a written progress report as to LICENSEE'S (and any sublicensee's) efforts and accomplishments during the preceding year in diligently commercializing LICENSED SUBJECT MATTER in the TERRITORY and LICENSEE'S (and sublicensee's) commercialization plans for the upcoming year.

5.6 All amounts payable here by LICENSEE must be paid in United States dollars without deductions for taxes, assessments, fees, or charges of any kind. Royalties accruing on SALES in countries other than the United States must be paid in United States dollars in amounts based on the rate of exchange as quoted in the Wall Street Journal (WSJ) as of the last business day of the reporting period. If the WSJ does not publish any such rate, a comparable rate publication will be agreed upon from time to time by the parties, and with respect to each country for which such rate is not published by the WSJ or in a comparable publication, the parties will use the prevailing rate for bank cable transfers for such date, as quoted by leading United States banks in New York City dealing in the foreign exchange market.

5.7 All payments must be payable to UT SOUTHWESTERN and sent to the address listed in Paragraph 15.2.

## **6. TERM AND TERMINATION**

6.1 The term of this AGREEMENT is from the EFFECTIVE DATE to the full end of the term or terms for which PATENT RIGHTS have not expired or, if only TECHNOLOGY RIGHTS are licensed and no PATENT RIGHTS are applicable, then for a period of 20 years.

6.2 Any time after 1 year from the EFFECTIVE DATE, BOARD and UT SOUTHWESTERN have the right to terminate this license in any national political jurisdiction within the TERRITORY if

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LICENSEE, within 90 days after receiving written notice from UT SOUTHWESTERN of the intended termination, fails to provide written evidence satisfactory to UT SOUTHWESTERN that LICENSEE or its sublicensee(s) has:

- a. SALES in such jurisdiction; or
- b. an effective, ongoing and active research, development, manufacturing, marketing or sales program as appropriate, directed toward obtaining regulatory approval, and/or production and/or SALES in any jurisdiction in accordance with LICENSEE'S business, legal, medical and scientific judgment and LICENSEE'S normal practices and procedures for products having similar technical and commercial potential.

6.3 This AGREEMENT will earlier terminate:

- a. automatically if LICENSEE becomes bankrupt and/or if the business of LICENSEE is placed in the hands of a receiver, assignee, or trustee, whether by voluntary act of LICENSEE or otherwise; or
- b. upon 7 days written notice from BOARD if LICENSEE becomes insolvent unless, before the end of the 7 day period, LICENSEE provides BOARD with evidence of its solvency; or
- c. upon 30 days written notice from BOARD if LICENSEE breaches or defaults on its obligation to make payments (if any are due) or reports, in accordance with the terms of Article 5 hereunder, unless, before the end of the 30 day period, LICENSEE has cured the breach or default and so notifies BOARD, stating the manner of the cure; or
- d. upon 90 days written notice if LICENSEE breaches or defaults on any other obligation under this AGREEMENT, unless, before the end of the 90 day period, LICENSEE has cured the breach or default and so notifies BOARD, stating the manner of the cure; or
- e. at any time by mutual written agreement between LICENSEE, UT SOUTHWESTERN and BOARD, upon 30 days written notice to all parties and subject to any terms herein which survive termination; or
- f. under the provisions of Paragraph 6.2 if invoked.

6.4 If this AGREEMENT is terminated for any cause:

- a. nothing herein will be construed to release either party of any obligation matured prior to the effective date of the termination;
- b. after the effective date of the termination, LICENSEE will provide BOARD with a written inventory of all LICENSED PRODUCTS in process of manufacture, in use or in stock. LICENSEE may SELL any such LICENSED PRODUCTS within the 90 day period following such termination if it pays earned royalties thereon, and any other amount due pursuant to the terms of Article 5; and
- c. LICENSEE will be bound by the provisions of Articles 10 (Indemnification And Insurance), 11 (Use Of Name), and 12 (Confidential Information) of this AGREEMENT.

## **7. INFRINGEMENT BY THIRD PARTIES**



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7.1 LICENSEE, at its expense, must enforce PATENT RIGHTS against infringement in the FIELD by third parties and is entitled to retain recovery from such enforcement. Any recovery for damages and/or a reasonable royalty in lieu thereof will be considered NET SALES and subject to royalty payments pursuant to Paragraph 5.1d. If LICENSEE does not file suit against a substantial infringer of PATENT RIGHTS within 6 months of knowledge thereof, then BOARD may enforce PATENT RIGHTS on behalf of itself and LICENSEE, BOARD retaining all recoveries from such enforcement and/or reducing the license granted hereunder to non-exclusive.

7.2 In any infringement suit or dispute, the parties agree to cooperate fully with each other. At the request and expense of the party bringing suit, the other party will permit access to all relevant personnel, records, papers, information, samples, specimens, etc., during regular business hours.

## **8. ASSIGNMENT**

Except in connection with the sale of substantially all of LICENSEE'S assets to a third party with written notice to UT SOUTHWESTERN, LICENSEE may not assign this AGREEMENT without the prior written consent of BOARD, which will not be unreasonably withheld.

## **9. PATENT MARKING**

LICENSEE must permanently and legibly mark all products, packaging and documentation manufactured or SOLD by it under this AGREEMENT with a patent notice as may be permitted or required under Title 35, United States Code.

## **10. INDEMNIFICATION AND INSURANCE**

10.1 LICENSEE agrees to hold harmless and indemnify BOARD, INVENTOR, SYSTEM, UT SOUTHWESTERN, its Regents, officers, employees and agents from and against any claims, demands, or causes of action whatsoever, including without limitation those arising on account of any injury or death of persons or damage to property caused by, or arising out of, or resulting from, the exercise or practice of the license granted hereunder by LICENSEE, its AFFILIATES or their officers, employees, agents or representatives.

10.2 In no event will BOARD be liable for any indirect, special, consequential or punitive damages (including, without limitation, damages for loss of profits or expected savings or other economic losses, or for injury to persons or property) arising out of or in connection with this AGREEMENT or its subject matter, regardless of whether BOARD knows or should know of the possibility of such damages. BOARD'S aggregate liability for all damages of any kind relating to this AGREEMENT or its subject matter will not exceed the amounts paid by LICENSEE to BOARD under this AGREEMENT during the one year period preceding the date of the event which gave rise to the liability. The foregoing exclusions and limitations will apply to all claims and actions of any kind, whether based on contract, tort (including, but not limited to, negligence), or any other grounds.

10.3 Beginning at the time when any LICENSED PRODUCT is being distributed or SOLD (including for the purpose of obtaining regulatory approvals) by LICENSEE or by a sublicensee, LICENSEE will, at its sole cost and expense, procure and maintain commercial general liability insurance in amounts not less than \$2,000,000 per incident and \$2,000,000 annual aggregate, and LICENSEE will use reasonable efforts to have the BOARD, SYSTEM, UT SOUTHWESTERN, its officers, employees and agents named as additional insureds. Such commercial general liability insurance will provide (i) product liability coverage; (ii) broad form contractual liability coverage for LICENSEE'S indemnification under this AGREEMENT; and (iii) coverage for litigation costs. The minimum amounts of insurance coverage

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required will not be construed to create a limit of LICENSEE'S liability with respect to its indemnification under this AGREEMENT.

10.4 LICENSEE will provide BOARD with written evidence of such insurance upon BOARD'S request. LICENSEE will provide BOARD with written notice of at least 15 days prior to the cancellation, non-renewal or material change in such insurance.

10.5 LICENSEE will maintain such commercial general liability insurance beyond the expiration or termination of this AGREEMENT during (i) the period that any LICENSED PRODUCT developed pursuant to this AGREEMENT is being commercially distributed or SOLD by LICENSEE or by a sublicensee or agent of LICENSEE; and (ii) the 5 year period immediately after such period.

## **11. USE OF NAME**

LICENSEE may not use the name of UT SOUTHWESTERN, SYSTEM, INVENTOR or BOARD without express written consent from UT SOUTHWESTERN and/or SYSTEM except as required by governmental law, rule or regulation. Consent should be requested in writing at least 5 business days in advance and sent to:

Roy Bode  
Vice President for Public Affairs  
UT Southwestern Medical Center at Dallas  
5323 Harry Hines Blvd.  
Dallas, Texas 75390-8588  
Email: Roy.Bode@UTSouthwestern.edu  
Phone: 214-648-7500  
Fax: 214-648-7503

## **12. CONFIDENTIAL INFORMATION**

12.1 The parties agree that all information forwarded to one by the other for the purposes of this AGREEMENT (1) are to be received in strict confidence, (2) are to be used only for the purposes of this AGREEMENT, and (3) are not to be disclosed by the recipient party, its agents or employees without the prior written consent of the other party, except to the extent that the recipient party can establish competent written proof that such information:

- a. was in the public domain at the time of disclosure;
- b. later became part of the public domain through no act or omission of the recipient party, its employees, agents, successors or assigns;
- c. was lawfully disclosed to the recipient party by a third party having the right to disclose it;
- d. was already known by the recipient party at the time of disclosure;
- e. was independently developed by the recipient; or
- f. is required by law or regulation to be disclosed, provided however, that the disclosing party shall first give the other party written notice and adequate opportunity to object to such order for disclosure or to request confidential treatment.

12.2 Information shall not be deemed to be available to the public or to be in the recipient's possession merely because it:

- a. includes information that falls within an area of general knowledge available to the public or to the recipient (i.e., it does not include the specific information provided by the other party); or
- b. can be reconstructed in hindsight from a combination of information from multiple sources that are available to the public or to the recipient, if not one of those sources actually taught or suggested the entire combination, together with its meaning and importance.

12.3 Each party's obligation of confidence hereunder shall be fulfilled by using at least the same degree of care with the other party's confidential information as it uses to protect its own confidential information. This obligation shall exist while this AGREEMENT is in force and for a period of 3 years thereafter.

### **13. PATENTS AND INVENTIONS**

If, after consultation with LICENSEE, both parties agree that a patent application should be filed for LICENSED SUBJECT MATTER, then BOARD will prepare and file the appropriate patent application, and LICENSEE will pay the cost of searching, preparing, filing, prosecuting and maintaining same and this application will be considered PATENT RIGHTS. If LICENSEE notifies BOARD that it does not intend to pay such costs, or if LICENSEE does not respond or make an effort to agree with BOARD on the disposition of rights in the subject invention, then BOARD may file an application at its own expense and LICENSEE will have no rights to such invention. BOARD shall retain the sole right to select the attorney responsible for filing, prosecution and maintenance of any patents based on technology invented at UT SOUTHWESTERN. BOARD will provide LICENSEE a copy of any patent application for which LICENSEE has paid the cost of filing, as well as copies of any documents received or filed with the respective patent office during the prosecution thereof.

### **14. ALTERNATE DISPUTE RESOLUTION**

Any dispute or controversy arising out of or relating to this AGREEMENT, its construction or its actual or alleged breach will be decided by mediation. If the mediation does not result in a resolution of such dispute or controversy, it will be finally decided by an appropriate method of alternate dispute resolution, including without limitation, arbitration, conducted in the city of Dallas, Texas in accordance with the Commercial Arbitration Rules and Mediation Procedures of the American Arbitration Association. The arbitration panel will include members knowledgeable in the evaluation of \_\_\_\_\_ technology. Judgment upon the award rendered may be entered in the highest court or forum having jurisdiction, state or federal. The provisions of this Article 14 will not apply to decisions on the validity of patent claims or to any dispute or controversy as to which any treaty or law prohibits such arbitration. The decision of the arbitration must be sanctioned by a court of law having jurisdiction to be binding upon and enforceable by the parties.

### **15. GENERAL**

15.1 This AGREEMENT constitutes the entire and only agreement between the parties for LICENSED SUBJECT MATTER and all other prior negotiations, representations, agreements, and understandings are hereby superseded. No agreements altering or supplementing these terms may be made except by a written document signed by both parties.

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15.2 Any payments required by this AGREEMENT must be payable to UT SOUTHWESTERN and sent to:

UT Southwestern Medical Center at Dallas  
Office for Technology Development  
5323 Harry Hines Boulevard  
Dallas, Texas 75390-9094  
ATTENTION: Director for Technology Transfer

15.3 Any notice required by this AGREEMENT must be given by email or facsimile transmission confirmed by personal delivery (including delivery by reputable messenger services such as Federal Express) or by prepaid, first class, certified mail, return receipt requested, addressed in the case of BOARD and UT SOUTHWESTERN to:

UT Southwestern Medical Center at Dallas  
Office for Technology Development  
5323 Harry Hines Boulevard  
Dallas, Texas 75390-9094  
ATTENTION: Director for Technology Transfer  
Email: TechnologyDevelopment@UTSouthwestern.edu  
Phone: (214) 648-1888  
Fax: (214) 648-1889

or in the case of LICENSEE to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
ATTENTION: \_\_\_\_\_  
Email: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_

or other addresses as may be given from time to time under the terms of this notice provision.

15.4 LICENSEE must comply with all applicable national, state and local laws and regulations in connection with its activities pursuant to this AGREEMENT.

15.5 This AGREEMENT will be construed and enforced in accordance with the laws of the United States of America and of the State of Texas. The Texas state courts of Dallas County, Texas (or, if there is exclusive federal jurisdiction, the United States District Court for the Northern District of Texas) shall have exclusive jurisdiction and venue over any dispute arising out of this AGREEMENT, and LICENSEE hereby consents to the jurisdiction of such courts.

15.6 Failure of BOARD to enforce a right under this AGREEMENT will not act as a waiver of that right or the ability to later assert that right relative to the particular situation involved.

15.7 Headings are included herein for convenience only and shall not be used to construe this AGREEMENT.

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15.8 If any part of this AGREEMENT is for any reason found to be unenforceable, all other parts nevertheless remain enforceable.

15.9 Neither party shall be held liable or responsible to the other party nor be deemed to have defaulted under or breached this AGREEMENT for failure or delay in fulfilling or performing any term of this AGREEMENT when such failure or delay is caused by or results from causes beyond the reasonable control of the affected party, including, without limitation, fire, floods, earthquakes, natural disasters, embargoes, war, acts of war (whether war is declared or not), insurrections, riots, civil commotions, strikes, lockouts or other labor disturbances, acts of God or acts, omissions or delays in acting by any governmental authority.

**IN WITNESS WHEREOF**, the parties hereto have caused their duly authorized representatives to execute this AGREEMENT.

BOARD OF REGENTS OF  
THE UNIVERSITY OF TEXAS SYSTEM

LICENSEE

By \_\_\_\_\_  
John A. Roan  
Executive Vice President for Business Affairs  
UT Southwestern Medical Center at Dallas

By \_\_\_\_\_  
Name:  
Title:

Date \_\_\_\_\_

Date \_\_\_\_\_

Approved as to Content:

By \_\_\_\_\_  
Dennis K. Stone, M.D.  
Vice President for Technology Development  
UT Southwestern Medical Center at Dallas

Date \_\_\_\_\_

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EXHIBIT 1

PATENT RIGHTS

U.S. Patent Application Number \_\_\_\_\_, filed \_\_\_\_\_, entitled  
“\_\_\_\_\_” (UT SOUTHWESTERN file reference UTSD:\_\_\_\_\_).

EXHIBIT 2

ROYALTY REPORT

Period:  /  through  /

Licensee: \_\_\_\_\_

Agreement #: **UTSW Patent License.50162**

⌘ If license covers several product lines, please prepare a separate report for each product line. Then combine all product lines into a summary report. ⌘

Report Type:  Single Product Line Report: \_\_\_\_\_  
(Product Name)

Multi-Product Summary Report (Page 1 of \_\_\_\_ pages)

Country	Quantity Produced	Gross Sales (\$)	*Less Allowances	Net Sales (\$)	Royalty Rate	Conversion Rate (if applicable)	Royalties Due this period(US\$)
USA							
Canada							
Japan							
Other:							
Sublicensees:							
_____							
_____							

Subtotal: \_\_\_\_\_

Less Advanced Royalty Balance (if any): \_\_\_\_\_

**TOTAL ROYALTIES DUE THIS PERIOD: \_\_\_\_\_**

\* Please indicate in the following space the specific types of deductions and the corresponding amounts used to calculate Allowances: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Prepared by -- Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Mail completed report and royalty payment (make checks payable to: UT SOUTHWESTERN) to:

UT Southwestern Medical Center at Dallas  
 Office for Technology Development  
 5323 Harry Hines Boulevard  
 Dallas, Texas 75390-9094  
 ATTN: Director for Technology Development