

This Software Start-up License Agreement is Non-Negotiable and is not valid until formal execution copies have been signed by all parties.

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THIS AGREEMENT (the “Agreement”) by and between YALE UNIVERSITY, a corporation organized and existing under and by virtue of a charter granted by the general assembly of the Colony and State of Connecticut and located in New Haven, Connecticut (“YALE”), and [] a [] organized and existing under the laws of the State of [], and with principal offices located in [] (“LICENSEE”) is effective as of the date of final signature below (“EFFECTIVE DATE”).

1. BACKGROUND

- 1.1. In the course of research conducted under YALE auspices, Dr. [], in the Department of [] at YALE (the “INVENTOR”), has produced an invention entitled “[]” (the “INVENTION”).
- 1.2. INVENTOR has assigned, or is obligated to assign, to YALE all of INVENTOR’s right, title and interest in and to the INVENTION and any resulting patents.
- 1.3. YALE wishes to have the INVENTION and any resulting patents commercialized to benefit the public good.
- 1.4. LICENSEE has represented to YALE to induce YALE to enter into this Agreement that it shall act diligently to develop and commercialize the LICENSED PRODUCTS for public use throughout the LICENSED TERRITORY (as defined below).
- 1.5. YALE is willing to grant a license to LICENSEE, subject to the terms and conditions of this Agreement.
- 1.6. In consideration of these statements and mutual promises, YALE and LICENSEE agree to the terms of this Agreement.

2. DEFINITIONS

The following terms used in this Agreement shall be defined as set forth below:

- 2.1. “AFFILIATE” shall mean any entity or person that directly or indirectly controls, is controlled by or is under common control with LICENSEE. For purposes of this definition, “control” means possession of the power to direct the management of such entity or person, whether through ownership of more than fifty percent (50%) of the voting securities, by contract or otherwise.

- 2.2. “CONFIDENTIAL INFORMATION” shall mean all information disclosed by one party to the other during the negotiation of or under this Agreement in any manner, whether orally, visually or in tangible form, that relates to the LICENSED INTELLECTUAL PROPERTY or the Agreement itself, unless such information is subject to the exceptions described in Section 8.2; provided, however, that CONFIDENTIAL INFORMATION that is disclosed in tangible form shall be marked “Confidential” at the time of disclosure and CONFIDENTIAL INFORMATION that is disclosed orally or visually shall be identified as confidential at the time of disclosure and subsequently reduced to writing, marked confidential and delivered to the other party within thirty (30) days of such disclosure. CONFIDENTIAL INFORMATION shall include, without limitation, materials, know-how and data, technical or non-technical, inventions, methods and processes, whether or not patentable. Notwithstanding any other provisions of this Section 2.2, CONFIDENTIAL INFORMATION of LICENSEE that is subject to Section 8 of this Agreement is limited to information that LICENSEE supplies pursuant to LICENSEE’s obligations under Sections 4, 7, and 9 of this Agreement, unless otherwise mutually agreed to in writing by the parties.
- 2.3. “DERIVATIVE WORKS” shall mean any derivative works as determined under the United States Copyright Act of 1976, or subsequent revisions thereof, specifically including, but not limited to translations, abridgments, condensations, recastings, transformations, or adaptations of the SOFTWARE, or works comprising editorial revisions, annotations, elaborations, or other modifications of the SOFTWARE, created by LICENSEE in accordance with the terms of this agreement.
- 2.4. “EFFECTIVE DATE” is defined in the introductory paragraph of this Agreement.
- 2.5. "END USER" shall mean any authorized person or other entity to whom the SOFTWARE or DERIVATIVE WORKS are distributed and who is not granted any rights to grant SUBLICENSES or distribute the SOFTWARE or DERIVATIVE WORKS to others.
- 2.6. “END USER LICENSE” means an agreement with an END USER that provides a limited SUBLICENSE of the LICENSE.
- 2.7. “FIELD” shall mean [_____].
- 2.8. “FIRST SALE” shall mean the first sale, lease or other transfer, practice or disposition to a third party of any LICENSED PRODUCT in any country.
- 2.9. “INVENTION” and “INVENTOR” are defined in Section 1.1.
- 2.10. “INVENTOR AGREEMENT” shall mean a consulting or other agreement directly between LICENSEE and an INVENTOR.
- 2.11. “INSOLVENT” shall mean that LICENSEE (i) has ceased to pay its debts in the ordinary course of business, (ii) has current assets that are insufficient to pay its current obligations, (iii) is insolvent as defined by the United States Federal Bankruptcy Law, as

amended from time to time, or (iv) has commenced bankruptcy, reorganization, receivership or insolvency proceedings, or any other proceeding under any Federal, state or other law for the relief of debtors.

2.12. "LICENSE" refers to the license granted under Section 3.1.

2.13. "LICENSED INTELLECTUAL PROPERTY" shall mean: **[[if patented]** a) the United States or foreign patent application(s) and patents(s) listed in Appendix A of this Agreement, together with any patents or patent applications claiming priority to the foregoing, including any continuations, divisional applications, and continuations-in-part (to the extent the claims of any such patent or patent application are directed to subject matter specifically described in the patent applications listed on Appendix A); any reissues, re-examinations, or extensions thereof, or substitutes therefor; and the relevant international equivalents of any of the foregoing; and/or **[if not patented]** b) the SOFTWARE, trademarks, URL, or copyrighted materials that are listed in Appendix A; and/or c) the concepts, processes, materials, devices, information, data, know-how, and the like that are owned or co-owned by YALE as of the EFFECTIVE DATE, discovered solely in or on behalf of the laboratory of the INVENTOR (including, without limitation, by outsourced third parties and consultants), and necessary or useful for the discovery, development, manufacture, use or sale of LICENSED PRODUCTS, or for the practice of the LICENSED METHODS, as listed in Appendix A (the "LICENSED INFORMATION"). Appendix A is incorporated into this Agreement.

"LICENSED PRODUCT" shall mean: any product or service that incorporates or makes use of, in whole or in part, the LICENSED INTELLECTUAL PROPERTY or DERIVATIVE WORKS.

2.14. "LICENSED TERRITORY" shall mean [_____].

2.15. "LIQUIDITY EVENT" shall mean:

(a) any consolidation, merger, combination, reorganization, stock sale, share exchange or other transaction in which the holders of LICENSEE's outstanding equity interests immediately prior to such transaction do not immediately thereafter retain in excess of fifty percent (50%) of the voting power of LICENSEE, other than a transaction or series of related transactions by LICENSEE principally for bona fide equity financing purposes; or

(b) LICENSEE's first underwritten public offering of its common stock under the Securities Act of 1933, as amended, or a reverse merger whereby LICENSEE or its successor has a class of equity securities registered under the Securities Exchange Act of 1934, as amended; or

(c) a sale or other disposition of all or substantially all of the assets of the LICENSEE.

- 2.16. "SOFTWARE" shall mean the software or computer program or programs known as [____], in both object code and source code form, as described in YV[____], and any related user documentation listed in APPENDIX A, in the form it exists on the EFFECTIVE DATE.
- 2.17. "REASONABLE COMMERCIAL EFFORTS" shall mean documented efforts that are consistent with those utilized by companies of similar size, maturity, and type that have successfully developed products and services similar to LICENSED PRODUCTS.
- 2.20 "SUBLICENSE" shall mean a grant of rights, pursuant to an agreement (or series of related agreements) with a third party by LICENSEE or an AFFILIATE conferring any of the rights granted to LICENSEE herein, including but not limited to by an option, sublicense, cross-license, revenue-sharing agreement, discovery partnership, or co-development partnership. "SUBLICENSE" shall include, without limitation, the grant of any license, privilege, or immunity to make, have made, use, sell, have sold, distribute, practice, import or export LICENSED PRODUCTS, or any of the foregoing grants in this definition of SUBLICENSE by LICENSEE or AFFILIATE to a third party to practice a LICENSED METHOD or to use any LICENSED INFORMATION or other asset of YALE's that is the subject of a right granted by YALE under this AGREEMENT. Grants of rights to END USERS, though in fact sublicenses under the LICENSE, shall be excluded from the defined term "SUBLICENSES," and are instead referred to herein as "END USER licenses"
- 2.21 "SUBLICENSEE" shall mean any third party granted a SUBLICENSE by LICENSEE or an AFFILIATE.
- 2.22 "TERM" is defined in Section 3.4.
- 2.23 ["VALID CLAIM" shall mean a pending, issued or unexpired claim of patent or patent application within the LICENSED INTELLECTUAL PROPERTY so long as such claim shall not have been irrevocably abandoned or declared to be invalid in an unappealable decision of a court or other authority of competent jurisdiction through no fault or cause of LICENSEE. Notwithstanding the foregoing, if a claim is pending for more than seven (7) years from the EFFECTIVE DATE, it shall no longer be considered a VALID CLAIM, unless such claim shall issue, in which case it shall be considered a VALID CLAIM as of the date of such issuance.]

3. LICENSE GRANT AND TERM

- 3.1. Subject to all the terms and conditions of this Agreement YALE hereby grants to LICENSEE an exclusive license, subject to the reservation of rights by YALE under Section 3.3, under the LICENSED INTELLECTUAL PROPERTY, to prepare DERIVATIVE WORKS and to make, have made, use, execute, reproduce, modify,

display, perform, transmit, distribute internally or externally, sell, import, and export LICENSED PRODUCTS within the FIELD and the LICENSED TERRITORY. Any sale or transfer of a LICENSED PRODUCT shall be pursuant to an END USER license or SUBLICENSE. within the FIELD in the LICENSED TERRITORY (the "LICENSE"). The LICENSE does not include rights to future versions of the SOFTWARE that may be developed by YALE, nor does it include any form of technical support for the SOFTWARE. **[Notwithstanding the foregoing, any grant of a license to LICENSED INFORMATION shall be non-exclusive].** [If LICENSED INFORMATION is granted]

- 3.2. To the extent that any invention included within the LICENSED INTELLECTUAL PROPERTY has been funded in whole or in part by the United States government, the United States government retains certain rights in such invention as set forth in 35 U.S.C. §200-212 and all regulations promulgated thereunder, as amended, and any successor statutes and regulations (the "Federal Patent Policy"). As a condition of the license granted hereby, LICENSEE acknowledges and shall comply with all aspects of the Federal Patent Policy applicable to the LICENSED INTELLECTUAL PROPERTY, including the obligation that LICENSED PRODUCTS used or sold in the United States be manufactured substantially in the United States. Nothing contained in this Agreement obligates or shall obligate YALE to take any action that would conflict in any respect with its past, current or future obligations to the United States Government under the Federal Patent Policy with respect to the LICENSED INTELLECTUAL PROPERTY.
- 3.3. The LICENSE is expressly made subject to YALE's reservation of the right, on behalf of itself and all other non-profit academic and/or research institutions, to make, use and practice the LICENSED INTELLECTUAL PROPERTY and LICENSED PRODUCTS (including DERIVATIVE WORKS) for research, clinical, teaching or other non-commercial purposes, including publication, and not for purposes of commercial development, use, manufacture or distribution. Upon written request, LICENSEE shall provide YALE with any DERIVATIVE WORKS, which YALE may use for the aforementioned purposes in this Section 3.3.
- 3.4. Unless terminated earlier as provided in Section 13, the term of this Agreement (the "TERM") shall commence on the EFFECTIVE DATE and shall automatically expire[, on a country-by-country basis, on the later of: a) the date on which the last of the claims of the patents described in the LICENSED INTELLECTUAL PROPERTY in such country expires, lapses or is declared to be invalid by a non-appealable decision of a court or other authority of competent jurisdiction through no fault or cause of LICENSEE, or b)] twenty (20) years from the EFFECTIVE DATE. Nothing in this Agreement shall be construed to grant by implication, estoppel or otherwise any licenses under patents of YALE other than the LICENSED INTELLECTUAL PROPERTY. Except as expressly provided in this Agreement, under no circumstances will LICENSEE, as a result of this Agreement, obtain any interest in or any other right to any technology, know-how, patents, patent applications, materials or other intellectual or proprietary property of YALE. Although the SOFTWARE may be used or useful in connection with third party software, this Agreement does not grant LICENSEE any rights to any third party software or the intellectual property rights therein, and LICENSEE remains solely

responsible for obtaining any license rights necessary for LICENSEE or its AFFILIATES, SUBLICENSEES, or END USERS to use any third party software.

4. DUE DILIGENCE

- 4.1. LICENSEE has designed a plan for developing and commercializing the LICENSED INTELLECTUAL PROPERTY that includes a description of research and development, testing, government approval, manufacturing, marketing and sale or lease of LICENSED PRODUCTS (“PLAN”). The PLAN shall also describe LICENSEE’s plans to establish and maintain substantial business operations in the United States. A copy of the PLAN is attached to this Agreement as Appendix B and incorporated herein by reference.
- 4.2. LICENSEE shall use REASONABLE COMMERCIAL EFFORTS, within sixty (60) days after the EFFECTIVE DATE of this Agreement, to begin to implement the PLAN at its sole expense and thereafter to fully implement the PLAN and to diligently commercialize and develop markets for the LICENSED PRODUCTS. One (1) year after the EFFECTIVE DATE of this Agreement, and on each anniversary of the EFFECTIVE DATE until the end of the TERM, LICENSEE shall provide YALE with a progress report which shall indicate LICENSEE’s progress and problems to date in development and commercialization of LICENSED PRODUCTS and a forecast and schedule of major events required to market the LICENSED PRODUCTS.
- 4.3. LICENSEE shall immediately send YALE a notice of abandonment if at any time LICENSEE (a) abandons or suspends its research, development or marketing of the LICENSED PRODUCTS, or its intent to research, develop and market LICENSED PRODUCTS, or (b) fails to comply with its obligations under this Section for a period exceeding ninety (90) days.
- 4.4. LICENSEE agrees that YALE shall be entitled to terminate this Agreement pursuant to Section 13 upon the occurrence of any of the following:
 - (a) LICENSEE shall fail to provide the written reports as provided in Section 4.2.
 - (b) LICENSEE shall fail to use REASONABLE COMMERCIAL EFFORTS to develop and commercialize LICENSED PRODUCTS in accordance with this Section, or otherwise fails to fulfill any of its obligations under this Section 4; or
 - (c) LICENSEE gives notice pursuant to Section 4.4 (which shall be deemed a material breach not capable of being cured); or
 - (d) Upon the occurrence of any of the events set forth in Section 4.4.

5. REIMBURSEMENT OF EXPENSES FOR LICENSED INTELLECTUAL PROPERTY;
LICENSE MAINTENANCE FEES; EQUITY

5.1. **[IF ANY IP Expenses]** LICENSEE shall reimburse YALE for expenses incurred prior to the EFFECTIVE DATE for the filing, prosecution, and maintenance of the LICENSED INTELLECTUAL PROPERTY, in an amount estimated but not limited to [\$\$], according to the following schedule:

5.1.1. One Third (1/3) shall be due upon the first (1st) anniversary of the EFFECTIVE DATE; and

5.1.2. One Third (1/3) shall be due upon the second (2nd) anniversary of the EFFECTIVE DATE; and

5.1.3. The remainder shall be due upon the third (3rd) anniversary of the EFFECTIVE DATE.

Expenses incurred by YALE on or after the EFFECTIVE DATE for the filing, prosecution, and maintenance of the LICENSED INTELLECTUAL PROPERTY shall be reimbursed by LICENSEE according to Section 10.

5.2. During the TERM of this Agreement, LICENSEE agrees to pay to YALE an annual License Maintenance Fee (“LMF”) commencing on the second (2nd) anniversary of the EFFECTIVE DATE and every anniversary thereafter until the end of the TERM according to the following schedule:

Anniversaries of the EFFECTIVE DATE	LMF
Anniversary 2	\$2,000
Anniversary 3	\$4,000
Anniversary 4	\$6,000
Anniversary 5	\$8,000
Anniversary 6 and each Anniversary thereafter during the TERM	\$20,000

5.3. Within thirty (30) days of the EFFECTIVE DATE, LICENSEE shall issue to YALE shares of common stock equity in LICENSEE in an amount equivalent to Three Percent

(Three %) of the fully diluted common stock of LICENSEE as of the date of issuance. LICENSEE will further issue to YALE any additional shares of common stock as are necessary to ensure that the number of shares issued pursuant to this Section 5.4 does not represent less than Three Percent (3%) of the capital stock of LICENSEE on a fully diluted basis at any time through the completion of financing of an aggregate of at least Two Million Dollars (\$2,000,000) from qualified investors. Such equity interest shall take into account issued, reserved, or presently planned management restricted stock, options, and warrants, but shall exclude subsequently issued, reserved or planned equity, common stock, preferred shares, options, and warrants issued to investors subsequent to the EFFECTIVE DATE.

5.4. **Participation in Future Private Equity Offerings.** If the LICENSEE proposes to sell any equity securities or securities that are convertible into equity securities of the LICENSEE, then YALE and/or its Assignee (as defined below) will have the right to purchase up to 4% of the securities issued in each offering on the same terms and conditions as are offered to the other purchasers in each such financing. For purposes of this paragraph, the term "Assignee" means (a) any entity to which YALE's participation rights under this section have been assigned either by YALE or another entity, or (b) any entity that is controlled by YALE.

5.6 **[for technologies supported by Blavatnik:** [Since research on the INVENTION received funding from the Blavatnik Fund for Innovation at YALE, YALE has obligations to afford Access Industries, Inc. (www.accessindustries.com "ACCESS INDUSTRIES") or its designated AFFILIATE the opportunity to invest funds in an amount up to and equal to the amount committed by any lead investor in an investment syndicate (on the same terms and conditions as such lead investor) purchasing equity or equity-linked securities of the LICENSEE in exchange for cash. LICENSEE agrees to inform any and all prospective lead investors that any term sheet for an offer to invest must include a portion of the financing round reserved for ACCESS INDUSTRIES that conforms with this obligation. This obligation shall apply to all financings of Twenty-Five Million Dollars (\$25,000,000) or greater wherein the lead investor is investing Ten Million Dollars (\$10,000,000) or greater. ACCESS INDUSTRIES or its designated AFFILIATE shall provide written notice to LICENSEE of its election (or decision not to elect) to participate in such financing within sixty (60) days of receipt of the notice set forth in this Section 0. For the avoidance of doubt, ACCESS INDUSTRIES's or its designated AFFILIATE's rights under this Section 0 shall automatically expire on the earlier of: (a) the end of such sixty (60) day period unless LICENSEE receives written notice of ACCESS INDUSTRIES's or its designated AFFILIATE's election to participate within such sixty (60) days, and (b) the date LICENSEE receives written notice of ACCESS INDUSTRIES's or its designated AFFILIATE's decision not to elect to participate. LICENSEE agrees to promptly inform ACCESS INDUSTRIES or its designated AFFILIATE upon the earlier of the date of LICENSEE's receipt of: (i) a fully executed term sheet with respect to the first EQUITY FINANCING after the EFFECTIVE DATE, and (ii) in the absence of a term sheet described in this subsection, a complete set of drafts of the core financing documents (including the stock purchase

agreement) from the potential lead investor. In the event ACCESS INDUSTRIES expresses an intent to invest, it shall also be provided a copy of the LICENSEE's current fully diluted, detailed capitalization table and a pro forma capitalization table for the investment, copies of drafts of the definitive, long-form documents, legal opinion (if any) and closing documents, access to any due diligence materials provided to the lead investor(s), and any other information reasonably requested by ACCESS INDUSTRIES, in each case on the same basis as provided to the lead investor(s). If requested, ACCESS INDUSTRIES shall also be afforded an opportunity to confer with senior management of LICENSEE and/or LICENSEE's outside counsel.]

6. PAYMENTS

6.1 All payments due under this Agreement shall be paid to YALE in United States Dollars. In the event that conversion from foreign currency is required in calculating a payment under this Agreement, the exchange rate used shall be the Interbank rate quoted by Citibank at the time the payment is due. If overdue, LICENSEE shall be charged an eight percent (8%) surcharge on the amount due plus interest at the rate of one percent (1%) per month or fraction thereof. Failure of LICENSEE to pay the amounts due shall be grounds for termination by YALE under Section 13.1. The payment of such interest shall not foreclose YALE from exercising any other right it may have as a consequence of the failure of LICENSEE to make any payment when due. YALE shall be entitled to recover reasonable attorneys' fees and costs related to the administration or enforcement of this Agreement, including collection of royalties or other payments, following such failure to pay.

7. SUBLICENSES

- 7.1 LICENSEE may grant SUBLICENSES and END USER LICENSES without the prior written consent of YALE. In the event LICENSEE grants a SUBLICENSE under this Section 7.1, the provisions of Sections 7.2, 7.3, and 7.4 shall apply.
- 7.2 Any SUBLICENSE granted by LICENSEE shall include substantially the same definitions and provisions as this Agreement, and such other provisions as are needed to enable LICENSEE to provide YALE the protections and benefits contemplated herein. LICENSEE will provide YALE with an unredacted copy of each SUBLICENSE (and all amendments thereof) within thirty (30) days after execution. LICENSEE shall also include the following provisions in all SUBLICENSES:
- (a) In the event of termination of this Agreement, then upon SUBLICENSEE's election and written notice to YALE within thirty (30) days of SUBLICENSEE's notification of such

termination, the license shall become a two-party agreement between YALE and the SUBLICENSEE, and YALE, at its sole discretion, may elect to receive either those payments that the SUBLICENSEE would have otherwise owed to LICENSEE under the SUBLICENSE, or those payments that LICENSEE would have otherwise owed to YALE. In such instance, YALE shall not be required to assume any additional obligations or responsibilities beyond those contained in this Agreement. For the sake of clarity, in no event shall the SUBLICENSEE be required to pay more to YALE than it would have otherwise owed to LICENSEE, and in no event shall YALE receive less from SUBLICENSEE than it would otherwise have received from LICENSEE as a result of that SUBLICENSE.

- 7.3 LICENSEE shall remain responsible for the performance of all SUBLICENSEES under any such SUBLICENSE as if such performance were carried out by LICENSEE itself, including, without limitation, the payment of any payments provided for hereunder, regardless of whether the terms of any SUBLICENSE provide for such amounts to be paid by the SUBLICENSEE directly to YALE. A breach of this provision shall constitute a material breach that is subject to Section 13.
- 7.4 LICENSEE agrees that it shall promptly:
- (a) provide YALE with a copy of any amendments to SUBLICENSES granted by LICENSEE under this Agreement and notify YALE of termination of any SUBLICENSE; and
 - (b) summarize and deliver copies of all reports provided to LICENSEE by SUBLICENSEES.

8. CONFIDENTIALITY AND PUBLICITY

- 8.1. Subject to the parties' rights and obligations pursuant to this Agreement, YALE and LICENSEE agree that during the term of this Agreement and for five (5) years thereafter, each of them:
- (a) will keep confidential and will cause their AFFILIATES and, in the case of LICENSEE, its SUBLICENSEES, to keep confidential, CONFIDENTIAL INFORMATION disclosed to it by the other party, by taking whatever action the party receiving the CONFIDENTIAL INFORMATION would take to preserve the confidentiality of its own CONFIDENTIAL INFORMATION, which in no event shall be less than reasonable care; and
 - (b) will only disclose that part of the other's CONFIDENTIAL INFORMATION to its officers, employees or agents, under requirements of confidentiality, for purposes of carrying out its rights and responsibilities under this Agreement; and
 - (c) will not use the other party's CONFIDENTIAL INFORMATION other than as expressly permitted by this Agreement or disclose the other's CONFIDENTIAL INFORMATION to any third parties (other than to agents under requirements of

confidentiality) under any circumstance without advance written permission from the other party; and

- (d) will, within sixty (60) days of termination of this Agreement, return all the CONFIDENTIAL INFORMATION disclosed to it by the other party pursuant to this Agreement except for one (1) copy which may be retained by the recipient for monitoring compliance with this Section 8 and any surviving clauses.

8.2. The obligations of confidentiality described above shall not pertain to that part of the CONFIDENTIAL INFORMATION that:

- (a) is known to or developed by the recipient prior to the disclosure by the disclosing party, as established by written records; or
- (b) is at the time of disclosure or has become thereafter publicly known through no fault or omission attributable to the recipient; or
- (c) is rightfully given to the recipient from sources independent of the disclosing party; or
- (d) is independently developed by the receiving party without use of or reference to the CONFIDENTIAL INFORMATION of the other party.

8.3. If a party is required, in the opinion of such party's attorney, to disclose any CONFIDENTIAL INFORMATION by law or by administrative or judicial order or other legal process, then such party shall (a) give the other party reasonable notice prior to disclosure to permit the other party to intercede with respect to such disclosure and (b) inform the recipient of the confidential and sensitive nature of the information sought and use reasonable efforts to cause the recipient to treat such information as confidential.

8.4. The financial terms of this Agreement constitute CONFIDENTIAL INFORMATION of each party.

9. REPORTS, RECORDS AND INSPECTIONS

9.1 On or before the ninetieth (90th) day following the close of LICENSEE's fiscal year, LICENSEE shall provide YALE with LICENSEE's financial statements for the preceding fiscal year including, at a minimum, a balance sheet and an income statement. LICENSEE shall provide audited financial statements for any year in which such have been generated. Until a CHANGE OF CONTROL, LICENSEE will provide to YALE, at least as frequently as the following reports are distributed to the Board of Directors or management of LICENSEE, copies of: (a) all Board and managerial reports that relate to the LICENSED INTELLECTUAL PROPERTY or the LICENSED PRODUCTS; and (b) all business plans, projections and financial statements for LICENSEE.

10. INTELLECTUAL PROPERTY PROTECTION

- 10.1. [if patented, trademarked, or copyrighted] LICENSEE shall be responsible for all past, present and future costs of filing, prosecution and maintenance of all United States trademark, copyright, and/or patent applications contained in the LICENSED INTELLECTUAL PROPERTY. Any and all such United States trademark, copyright, and/or patent applications, and resulting issued trademarks, copyrights, and/or patents, shall remain the property of YALE.
- 10.2. LICENSEE shall be responsible for all past, present and future costs of filing, prosecution and maintenance of all foreign trademark, copyright, and/or patent applications, and trademarks, copyrights, and/or patents contained in the LICENSED INTELLECTUAL PROPERTY in the countries outside the United States in the LICENSED TERRITORY selected by YALE and agreed to by LICENSEE. All such applications or trademarks, copyrights, and/or patents shall remain the property of YALE. LICENSEE acknowledges that YALE shall not be required to file any such applications in low-income countries, as designated by the World Bank (www.worldbank.org).
- 10.3. If, upon the request of YALE, LICENSEE does not pay the expenses of filing, prosecuting or maintaining a trademark, copyright, and/or patent application or trademark, copyright, and/or patent in any country, then LICENSEE's rights under this Agreement shall terminate automatically with respect to that country. YALE reserves the right to require LICENSEE to pay all such expenses in advance, based upon good-faith estimates from YALE's outside counsel.
- 10.4. The costs mentioned in Sections 10.1 and 10.2 shall include, but are not limited to, any past, present and future taxes, annuities, working fees, maintenance fees, renewal and extension charges. Payment of such costs shall be made, at YALE's option, either directly to outside counsel or by reimbursement to YALE. In either case, LICENSEE shall make payment directly to the appropriate party within thirty (30) days of receiving its invoice. If LICENSEE fails to make payment to YALE or its counsel, as appropriate, within the thirty day period, LICENSEE shall be charged an eight percent (8%) surcharge on the invoiced amount plus interest at the rate of one percent (1%) per month or fraction thereof or such higher amount as may be charged by patent counsel. The payment of such interest shall not foreclose YALE from exercising any other right it may have as a consequence of the failure of LICENSEE to make any payment whatsoever when due. YALE shall be entitled to recover reasonable attorneys' fees and costs related to the administration or enforcement of this Agreement following such failure to pay. Failure of LICENSEE to pay the costs shall be grounds for termination by YALE under Section 13.
- 10.5. All applications under the LICENSED INTELLECTUAL PROPERTY shall be prepared, prosecuted, filed and maintained by independent counsel chosen by YALE and reasonably acceptable to LICENSEE. Said independent counsel shall be ultimately responsible to YALE. YALE shall instruct counsel to keep both YALE and LICENSEE

fully informed of the progress of all trademark, copyright, and/or patent applications and trademarks, copyrights, and/or patents, and to give both YALE and LICENSEE reasonable opportunity to comment on the type and scope of useful claims and the nature of supporting disclosures. YALE shall give such comments due consideration in good faith. YALE will not finally abandon any trademark, copyright, and/or patent application for which LICENSEE is bearing expenses without LICENSEE's consent.

Notwithstanding the foregoing, YALE shall have no obligation to file, prosecute, or maintain any of the LICENSED INTELLECTUAL PROPERTY if LICENSEE has failed to make any payments required under, or is in breach of, this Agreement or any other agreement with YALE. YALE shall have no liability to LICENSEE for damages, whether direct, indirect or incidental, consequential or otherwise, allegedly arising from its good faith decisions, actions and omissions in connection with such prosecution.

- 10.6. LICENSEE shall mark, and shall require AFFILIATES and SUBLICENSEES to mark, all LICENSED PRODUCTS, that are tangible products, with the numbers of all patents included in LICENSED INTELLECTUAL PROPERTY that cover the LICENSED PRODUCTS. Without limiting the foregoing, all LICENSED PRODUCTS shall be marked in such a manner as to conform with the patent marking notices required by the law of any country where such LICENSED PRODUCTS are made, sold, used or shipped, including, but not limited to, the applicable patent laws of that country.

11. INFRINGEMENT AND LITIGATION

- 11.1. [if patented, copyrighted, or trademarked] Each party shall promptly notify the other in writing in the event that it obtains knowledge of infringing activity by third parties, or is sued or threatened with an infringement suit, in any country in the LICENSED TERRITORY as a result of activities that concern the LICENSED INTELLECTUAL PROPERTY, and shall supply the other party with documentation of the infringing activities that it possesses.
- 11.2. During the TERM of this Agreement:
- (a) LICENSEE shall have the first right to defend the LICENSED INTELLECTUAL PROPERTY that is licensed exclusively against infringement or interference in the FIELD and in the LICENSED TERRITORY by third parties. This right includes bringing any legal action for infringement and defending any counter claim of invalidity or action of a third party for declaratory judgment for non-infringement or non-interference. If, in the reasonable opinion of both LICENSEE's and YALE's respective counsel, YALE is required to be a named party to any such suit for standing purposes, LICENSEE may join YALE as a party; provided, however, that (i) YALE shall not be the first named party in any such action, (ii) the pleadings and any public statements about the action shall state that the action is being pursued by LICENSEE and that LICENSEE has joined YALE as a party; and (iii) LICENSEE shall keep YALE reasonably apprised of all developments in any such action. LICENSEE may settle such suits solely in its own name and solely at its own expense and through counsel of its own selection; provided, however, that no settlement shall be entered without

YALE's prior written consent, such consent not to be unreasonably withheld. Without limiting the foregoing, YALE may withhold its consent to any settlement that would in any manner constitute or incorporate an admission by YALE or require YALE to take or refrain from taking any action. LICENSEE shall bear the expense of such legal actions, including the reasonable cost of counsel for YALE if LICENSEE has joined YALE as a party. Except for providing reasonable assistance, at the request and expense of LICENSEE, YALE shall have no obligation regarding the legal actions described in Section 11.2 (a) unless required to participate by law. However, YALE shall have the right to participate in any such action through its own counsel and at its own expense. Any recovery shall first be applied to LICENSEE's out of pocket expenses and second shall be applied to YALE's out of pocket expenses, including legal fees. Any excess recovery over those expenses shall be treated as SUBLICENSE INCOME.

- (b) In the event LICENSEE fails to initiate and pursue or participate in the actions described in Section 11.2 (a) within sixty (60) days of (a) notification of infringement from YALE or (b) the date LICENSEE otherwise first becomes aware of an infringement, whichever is earlier, YALE may, in its sole discretion, convert the LICENSE granted in Section 3 to a nonexclusive license, and issue licenses to third parties under the LICENSED INTELLECTUAL PROPERTY to make, have made, use, sell, have sold, import, export, or practice LICENSED PRODUCTS within the FIELD in the LICENSED TERRITORY. Additionally, YALE shall have the right to initiate legal action such as that described in Section 11.2 (a) at its own expense and YALE may use the name of LICENSEE as party plaintiff to uphold the LICENSED INTELLECTUAL PROPERTY. In such case, LICENSEE shall provide reasonable assistance to YALE if requested to do so. YALE may settle such actions solely through its own counsel. Any recovery shall be retained by YALE. YALE may terminate the LICENSE in the country where such legal action is taken.
- (c) In the event LICENSEE is permanently enjoined from exercising its LICENSE under this Agreement pursuant to an infringement action brought by a third party, or if both LICENSEE and YALE elect not to undertake the defense or settlement of a suit alleging infringement for a period of six (6) months from notice of such suit, then either party shall have the right to terminate this Agreement in the country where the suit was filed with respect to the LICENSED INTELLECTUAL PROPERTY following thirty (30) days' written notice to the other party in accordance with the terms of Section 15.
- (d) Notwithstanding the foregoing, neither LICENSEE nor YALE shall take any action to enforce the LICENSED INTELLECTUAL PROPERTY, or patent rights owned by LICENSEE and which claim the LICENSED PRODUCTS, in low income countries, where such action is intended to prevent the sale of LICENSED PRODUCTS in any such countries. However, LICENSEE and/or YALE may take such action in any such country, provided that such action is intended to prevent the manufacturing of LICENSED PRODUCTS for export to countries that are not low-income countries.

12. USE OF YALE'S NAME

- 12.1. LICENSEE shall not use the name "Yale" or "Yale University," nor any variation or adaptation thereof, nor any trademark, tradename or other designation owned by YALE, nor the names of any of its trustees, officers, faculty, students, employees or agents, for any purpose without the prior written consent of YALE in each instance, such consent to be granted or withheld by YALE in its sole discretion, except that LICENSEE may state that it has licensed from YALE the LICENSED INTELLECTUAL PROPERTY and LICENSEE may state the relationship of the INVENTORS to YALE.

13. TERMINATION

- 13.1. YALE shall have the right to terminate this Agreement upon written notice to LICENSEE in the event LICENSEE:
- (a) fails to make any payment whatsoever due and payable pursuant to this Agreement, or any other contract with YALE, unless LICENSEE shall make all such payments (and all interest due on such payments under Section 6.6) within the sixty (60) day period after receipt of written notice of failure to pay such previously invoiced payment from YALE; or
 - (b) commits a material breach of any other provision of this Agreement which is not cured (if capable of being cured) within the sixty (60) day period after receipt of written notice thereof from YALE, or upon receipt of such notice if such breach is not capable of being cured; or
 - (c) defaults on an obligation to any other creditor unless LICENSEE shall make all such payments (and all penalties and interests due on such payments) within the thirty (30) day period after receipt of written notice from YALE; or
 - (d) fails to obtain or maintain adequate insurance as described in Section 14.2, whereupon YALE may terminate this Agreement upon ten (10) days written notice to LICENSEE.
- 13.2. YALE may terminate this LICENSEE immediately upon written notice to LICENSEE in the event LICENSEE shall cease to carry on its business (or that portion of its business involving LICENSED PRODUCTS) for a period of sixty (60) days, or liquidates a substantial portion of its assets relating to LICENSED PRODUCTS, or becomes and remains INSOLVENT for a period of ninety (90) days, or a petition in bankruptcy is filed against LICENSEE and is consented to, acquiesced in or remains undismissed for sixty (60) days, or LICENSEE makes a general assignment or assignment of any of its rights hereunder for the benefit of creditors, or a receiver is appointed for LICENSEE.
- 13.3. LICENSEE shall have the right to terminate this Agreement upon written notice to YALE:

- (a) at any time on six (6) months' notice to YALE, provided LICENSEE is not in breach and upon payment of all amounts due YALE throughout the effective date of termination; or
 - (b) in the event YALE commits a material breach of any of the provisions of this Agreement and such breach is not cured (if capable of being cured) within the sixty (60) day period after receipt of written notice thereof from LICENSEE, or upon receipt of such notice if such breach is not capable of being cured.
- 13.4. Upon termination of this Agreement, for any reason, all rights and licenses granted to LICENSEE under the terms of this Agreement are terminated, and:
- (a) Upon such termination, LICENSEE shall cease to make, have made, use, sell, have sold, distribute, practice, import or export LICENSED PRODUCTS, and make DERIVATIVE WORKS. Within sixty (60) days of the effective date of termination LICENSEE shall return to YALE:
 - (i) All materials relating to or containing the LICENSED INTELLECTUAL PROPERTY, LICENSED PRODUCTS or CONFIDENTIAL INFORMATION disclosed by YALE;
 - (ii) the last report required under Section 4 and Section 9; and
 - (iii) all payments incurred up to the effective date of termination.
 - (b) Upon such termination, a SUBLICENSEE may, at SUBLICENSEE's discretion, assume the role of the LICENSEE, pursuant to Section 7.7 (b).
- 13.5. Termination of this Agreement shall not affect any rights or obligations accrued prior to the effective date of such termination and specifically LICENSEE's obligation to pay all payments, including those specified by Sections 5, 6, and 7. In particular, but without limitation, the following provisions shall survive any termination: Sections 2 and 8, the preservation and inspection obligations of Section 9, Section 11, Section 12, this Section 13.5, Section 13.6, Section 13.8, Section 14, Section 15, Section 17.1, and Section 18. The parties agree that claims giving rise to indemnification may arise after the TERM or termination of the LICENSE granted herein.
- 13.6. The rights provided in this Section 13 shall be in addition and without prejudice to any other rights, whether at law or in equity, which the parties may have with respect to any default or breach of the provisions of this Agreement.
- 13.7. Waiver by either party of one or more defaults or breaches shall not deprive such party of the right to terminate because of any subsequent default or breach.
- 13.8. Upon termination of this Agreement for any reason other than breach by YALE, LICENSEE shall permit YALE and its future LICENSEES to utilize, reference and

otherwise have the benefit of all regulatory approvals of, or clinical trials or other studies conducted on, and all filings made with regulatory agencies with respect to, the LICENSED PRODUCTS. In addition, at YALE's request, LICENSEE shall deliver to YALE within six months of such request all records required by regulatory authorities to be maintained with respect to the sale, storage, handling, shipping and use of the LICENSED PRODUCTS, all reimbursement approval files, all documents, data and information related to clinical trials and other studies of LICENSED PRODUCTS, any other data, techniques, know-how and other information developed or generated that relate to the LICENSED INTELLECTUAL PROPERTY or LICENSED PRODUCTS, and all copies and facsimiles of such materials, documents, information and files. YALE agrees that, subject to the provisions of Section 8, LICENSEE may retain one copy thereof to the extent LICENSEE is required by law to maintain such copy. In addition, upon termination of this Agreement for any reason other than breach by YALE, LICENSEE shall and hereby does grant YALE a non-exclusive royalty and milestone payment free license to make, have made, manufacture, have manufactured, use, or practice DERIVATIVE WORKS and IMPROVEMENTS for its academic and research purposes. For purposes of this paragraph, "IMPROVEMENTS" shall mean any invention or discovery, patentable or not, that requires use of a LICENSED PRODUCT, or which the practice, use, manufacture, sale, offer to sell, import or export would infringe one or more claims of the LICENSED INTELLECTUAL PROPERTY absent the LICENSE.

14. INDEMNIFICATION; INSURANCE; NO WARRANTIES

- 14.1. LICENSEE shall indemnify, defend by counsel acceptable to YALE, and hold harmless YALE and its trustees, officers, employees, and agents (collectively, "YALE Indemnitees"), from and against any claim, liability, cost, expense, damage, deficiency, loss, or obligation, of any kind or nature (including, without limitation, reasonable attorneys' fees and other costs and expenses of defense) (collectively, "CLAIMS"), based upon, arising out of or otherwise relating to this LICENSE, including without limitation any cause of action relating to product liability, or any theory of liability (including without limitation tort, warranty, or strict liability) or the death, personal injury, or illness of any person or out of damage to any property related in any way to the rights granted under this Agreement; or resulting from the production, manufacture, sale, use, lease, or other disposition or consumption or advertisement of the LICENSED PRODUCTS by LICENSEE, its AFFILIATES, SUBLICENSEES or any other transferees; or in connection with any statement, representation or warranty of LICENSEE, its AFFILIATES, SUBLICENSEES or any other transferees with respect to the LICENSED PRODUCTS. LICENSEE shall not settle or compromise the CLAIM without the prior written consent of YALE, such consent not to be unreasonably withheld. Without limiting the foregoing, YALE may withhold its consent to any settlement or compromise that would in any manner constitute or incorporate an admission by YALE, require YALE to take or refrain from taking any action, or not include an unconditional release of all YALE Indemnitees from all liability for claims that are the subject matter of the settled CLAIM.

- 14.2. LICENSEE shall purchase and maintain in effect and shall require its SUBLICENSEES to purchase and maintain in effect a policy of commercial, general liability insurance to protect YALE with respect to events described in Section 14.1. Such insurance shall:
- (a) list “YALE, its trustees, directors, officers, employees and agents” as additional insureds for ongoing operations and products/completed operations using ISO endorsement CG 2036 10 01 or an equivalent approved by YALE;
 - (b) provide that such policy is primary and not excess or contributory with regard to other insurance YALE may have;
 - (c) be endorsed to include product liability coverage in amounts no less than \$2 Million Dollars per incident and \$4 Million Dollars annual aggregate; and
 - (d) be endorsed to include contractual liability coverage for LICENSEE’s indemnification under Section 14.1; and
 - (e) by virtue of the minimum amount of insurance coverage required under Section 14.2 (c), not be construed to create a limit of LICENSEE’s liability with respect to its indemnification under Section 14.1.
- 14.3. By signing this Agreement, LICENSEE certifies that the requirements of Section 14.2 will be met on or before the earlier of (a) the date of FIRST SALE of any LICENSED PRODUCT or (b) the date any LICENSED PRODUCT is tested or used on humans, and will continue to be met thereafter. Upon YALE's request, LICENSEE shall furnish a Certificate of Insurance and a copy of the current insurance policy to YALE. LICENSEE shall secure agreement from its insurer to give thirty (30) days’ written notice to YALE prior to any cancellation of or material change to the policy.
- (a) YALE MAKES NO, AND EXPRESSLY DISCLAIMS ALL, REPRESENTATIONS OR WARRANTIES THAT ANY CLAIMS OF THE LICENSED INTELLECTUAL PROPERTY, ISSUED OR PENDING, ARE VALID, OR THAT THE MANUFACTURE, USE, PRACTICE, SALE OR OTHER DISPOSAL OF THE LICENSED PRODUCTS DOES NOT OR WILL NOT INFRINGE UPON ANY PATENT OR OTHER RIGHTS NOT VESTED IN YALE.
 - (b) YALE MAKES NO, AND EXPRESSLY DISCLAIMS ALL, REPRESENTATIONS AND WARRANTIES WHATSOEVER WITH RESPECT TO THE LICENSED INTELLECTUAL PROPERTY AND LICENSED PRODUCTS, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
 - (c) LICENSEE SHALL MAKE NO STATEMENTS, REPRESENTATION OR WARRANTIES WHATSOEVER TO ANY THIRD PARTIES THAT ARE INCONSISTENT WITH THE DISCLAIMERS BY YALE IN SECTION 14.3 (a) AND 14.3 (b).

- (d) IN NO EVENT SHALL YALE, OR ITS TRUSTEES, DIRECTORS, OFFICERS, EMPLOYEES AND AFFILIATES BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES OF ANY KIND, INCLUDING ECONOMIC DAMAGE OR INJURY TO PROPERTY AND LOST PROFITS, REGARDLESS OF WHETHER YALE SHALL BE ADVISED, SHALL HAVE OTHER REASON TO KNOW, OR IN FACT SHALL KNOW OF THE POSSIBILITY OF THE FOREGOING.
- (e) IN NO EVENT SHALL YALE, OR ITS TRUSTEES, DIRECTORS, OFFICERS, EMPLOYEES AND AFFILIATES, BE LIABLE FOR DAMAGES IN EXCESS OF AMOUNTS YALE HAS RECEIVED FROM LICENSEE UNDER THIS LICENSE.

15. NOTICES

- 15.1. Any monetary payment, notice or other communication required by this Agreement (a) shall be in writing, (b) shall be sent electronically to the following addresses or to such other address as such party shall designate by written notice to the other party, and (c) shall be effective upon receipt:

FOR YALE:
 Managing Director
 Yale Ventures
 433 Temple Street
 New Haven, CT 06511

FOR LICENSEE:

Agreements@yale.edu

cc: [BD Lead]

16. RETAINED FOR NUMBERING PURPOSES

16.1

17. LAWS, FORUM AND REGULATIONS

- 17.1. Any dispute arising out of or related to this Agreement shall be governed by and in accordance with the substantive laws of the State of Connecticut, without regard to its conflicts of law principles, except where the federal laws of the United States are applicable and have precedence. Any dispute arising out of or related to this Agreement shall be brought exclusively in a court of competent jurisdiction in the State of Connecticut, and the parties hereby irrevocably submit to the jurisdiction of such courts.
- 17.2. LICENSEE shall comply, and shall cause its AFFILIATES and SUBLICENSEES to comply, with all foreign and United States federal, state, and local laws, regulations, rules and orders applicable to the testing, production, transportation, packaging, labeling, export, practice, sale and use of the LICENSED PRODUCTS. In particular, LICENSEE shall be responsible for assuring compliance with all United States export laws and

regulations applicable to this LICENSE and LICENSEE's activities under this Agreement.

18. MISCELLANEOUS

- 18.1. This Agreement shall be binding upon and inure to the benefit of the parties and their respective legal representatives, successors and permitted assigns.
- 18.2. This Agreement constitutes the entire agreement of the parties relating to the LICENSED INTELLECTUAL PROPERTY and LICENSED PRODUCTS, and all prior representations, agreements and understandings, written or oral, are merged into it and are superseded by this Agreement.
- 18.3. The provisions of this Agreement shall be deemed separable. If any part of this Agreement is rendered void, invalid, or unenforceable, such determination shall not affect the validity or enforceability of the remainder of this Agreement unless the part or parts which are void, invalid or unenforceable shall substantially impair the value of the entire Agreement as to either party.
- 18.4. Paragraph headings are inserted for convenience of reference only and do not form a part of this Agreement.
- 18.5. No person not a party to this Agreement, including any employee of any party to this Agreement, shall have or acquire any rights by reason of this Agreement. Nothing contained in this Agreement shall be deemed to constitute the parties partners or joint venturers with each other or any third party, and neither party shall be deemed the agent of the other.
- 18.6. This Agreement may not be amended or modified except by written agreement executed by each of the parties.
- 18.7. This Agreement is personal to LICENSEE and shall not be assigned by LICENSEE without the prior written consent of YALE, with the exception of a LIQUIDITY EVENT, in which case LICENSEE may assign this Agreement with prior written consent of YALE, such consent not to be unreasonably withheld or delayed, and provided further that all amounts due to YALE as of the date of assignment have been paid in full to YALE. Any attempted assignment in contravention of this Section 18.7 shall be null and void and shall constitute a material breach of this Agreement.
- 18.8. LICENSEE, or any SUBLICENSEE or assignee, will not create, assume or permit to exist any lien, pledge, security interest or other encumbrance on this Agreement or any sublicense, and any attempt to create, assume or permit such an encumbrance shall be void.
- 18.9. The failure of any party hereto to enforce at any time, or for any period of time, any provision of this Agreement shall not be construed as a waiver of either such provision or of the right of such party thereafter to enforce each and every provision of this Agreement.

18.10. This Agreement may be executed in any number of counterparts and any party may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument.

Signature Page Follows

SAMPLE

IN WITNESS to their Agreement, the parties have caused this Agreement to be executed in duplicate originals by their duly authorized representatives.

YALE UNIVERSITY

XXXXXXX INC.

By: _____

By: _____

Josh Geballe

Name: _____

Managing Director

Yale Ventures

Title: _____

Date: _____

Date: _____

SAMPLE

Appendix A

LICENSED INTELLECTUAL PROPERTY

[List of LICENSED INTELLECTUAL PROPERTY]

Appendix B

PLAN

[attach approved form of PLAN]

Appendix C

[attach report template]

SAMPLE