

EXCLUSIVE PATENT LICENSE AGREEMENT

FOR INDUSTRY SPONSORED RESEARCH

**Regents of the University of Minnesota**

**And**

**[Insert Name of Licensee]**

TECHNOLOGY COMMERCIALIZATION

200 Oak Street, SE | Suite 280 | Minneapolis, MN 55455

OTC Agreement Number: **Insert Agreement Number**| OTC Case Number **: Insert OTC Case Number**

**EXCLUSIVE PATENT LICENSE AGREEMENT**

**FOR INDUSTRY SPONSORED RESEARCH**

**THIS EXCLUSIVE PATENT LICENSE AGREEMENT FOR INDUSTRY SPONSORED RESEARCH**  (“Agreement”) is made as of the Effective Date by and between Regents of the University of Minnesota, a constitutional corporation under the laws of the state of Minnesota, having a place of business at 200 Oak Street, SE, Suite 280, Minneapolis, Minnesota 55455 (the “University”), and the Licensee identified below.

The Agreement consists of the **Business Terms**, **General Terms** and any attached and referenced exhibits or schedules.

**BUSINESS TERMS**

|  |  |  |
| --- | --- | --- |
| **1** | **LICENSEE** | Insert Name of Licensee |
| **2** | **TERRITORY** | Worldwide |
| **3** | **FIELD OF USE** | All |
| **4** | **TERM** | From the Effective Date until the date on which the last Licensed Patent has expired |
| **5** | **LICENSED TECHNOLOGY** |
| **5.1** | **PATENTS**  | N/A |
| **5.2** | **PATENT** **APPLICATIONS** |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Patent Application No. | University Case No. | Country  | Application Date | Title |
|       |       |       |       |       |
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| **6** | **FEDERAL GOVERNMENT RIGHTS** | No |
| **7** | **PATENT RELATED EXPENSES** |  Licensee is responsible for all Patent-Related Expenses. Licensee shall pay patent counsel and other patent-related entities (e.g. patent offices) directly, and shall reimburse University for any Patent-Related Expenses that University may have incurred, if any, prior to the Effective Date upon the execution of this Agreement. University shall bear no responsibility for Patent-Related Expenses after the Effective Date of this Agreement.  |
| **8** | **SUBLICENSE RIGHTS** | Yes |
| **9** | **RESERVED** |  |
| **10** | **PAYMENTS** |
| **10.1** | **UPFRONT PAYMENT** | None |
| **10.2** | **LICENSE MAINTENANCE FEE** | None  |
| **10.3** | **DOCUMENT FEE** | None |
| **10.4** | **RUNNING ROYALTIES ON NET SALES** | Licensee shall pay to the University a royalty of 1% of the Net Sales of License Products in each calendar year in which the total Net Sales of Licensed Products equals or exceeds $20,000,000 determined and payable as provided in Section 4.4 of the General Terms. The cumulative royalties payable under this Section 10.4 shall not exceed $5,000,000 as to a specific Licensed Product to the extent: (i) such Licensed Product improves the efficiency or lowers the cost of manufacturing an existing Licensee product or process; or (ii) such Licensed Product is incorporated into an existing product or process of Licensee. |
| **10.5** | **ANNUAL MINIMUM AMOUNT OF RUNNING ROYALTIES** | None |
| **10.6** | **TRANSFER FEE** | None |
| **11** | **LICENSEE’S ADDRESS FOR NOTICE** | Contact: Address:    Phone      Email:       |
| **12** | **LICENSEE’S CONTACT PERSON FOR PATENT PROSECUTION CONSULTATION** | Contact: Address:   Phone      Email:       |
| **13** | **DEADLINE FOR EXECUTION BY LICENSEE** | If University executes this Agreement first and Licensee fails to execute and return it to the University within 30 days of the date of University’s signature below, then the Agreement is null and void. |

|  |
| --- |
| **THE PARTIES HEREBY EXECUTE THIS AGREEMENT**  |
| **Regents of the University of Minnesota** | **Insert name of Licensee here** |
|  |  |
| **By:**  | **By:**  |
| **Insert name of signatory**Its: **Insert title of signatory**Technology Commercialization | **Insert name of signatory**Its: **Insert title of signatory** |
| **Date:**  | **Date:**  |
| The signatory warrants that they are authorized to execute this agreement on behalf of the Regents of the University of Minnesota. | The signatory warrants that they are authorized to execute this agreement on behalf of Licensee |

**GENERAL TERMS**

# DEFINITIONS AND INTERPRETATION

## Definitions

In this Agreement:

“**Affiliate**” means an entity that controls the Licensee or the Sublicensee, as the case may be, is controlled by the Licensee or Sublicensee, or along with the Licensee or Sublicensee, is under the common control of a Third Party. An entity shall be deemed to have control of the controlled entity if it (a) owns, directly or indirectly, fifty percent (50%) or more of the outstanding voting securities of the controlled entity, or (b) has the right, power or authority, directly or indirectly, to direct or cause the direction of the policy decisions of the controlled entity, whether by ownership of securities, by representation on the controlled entity’s governing body, by contract, or otherwise.

“**Effective Date**” means the date of the last signature on this Agreement.

"**Exclusive**" means that, subject to Sections 2.2 and 5.1 of the General Terms, University will not grant further licenses under the Licensed Patent in the Field of Use in the Territory.

“**Field of Use**” means the field(s) of use described in Section 3 of the Business Terms.

“**Licensed Patent**” means (a) the patent(s) described in Section 5.1 of the Business Terms and the patent applications described in Section 5.2 of the Business Terms, along with any issued and unexpired patent(s) issued during the Term that arose out of and claim priority to such patent applications, such as for example, continuations, divisionals, continuation-in-part (but only to the extent the claims are supported by a patent application pending as of the Effective Date), or foreign applications. “Licensed Patent” also means any reissues or reexaminations of a Licensed Patent that contain one or more valid claims directed to Licensed Patent. Any claim of an unexpired Licensed Patent is presumed to be valid unless it has been held to be invalid by a final judgment of a court of competent jurisdictions from which no appeal can be or is taken.

“**Licensed Product(s)**” means any product or part of a product or service in the Field of Use: (a) the making, using, importing, selling, or providing which, absent this license, infringes, induces infringement, or contributes to infringement or is otherwise covered by a claim in a Licensed Patent.

“**Licensed Technology**” means the technology covered by the Licensed Patent.

“**Licensee**” means the entity identified in Section 1 of the Business Terms.

“**Net Sales**” means all gross revenues derived by Licensee, its Affiliates, or Sublicensees, their distributors or designees from the sale, transfer or other disposition of Licensed Product to an end user. Net Sales excludes the following items: (a) all trade, quantity, and cash discounts actually allowed, (b) all credits and allowances actually granted due to rejections, returns, billing errors, and retroactive price reductions, (c) applicable duties, and (d) applicable excise, sale and use taxes.

“**Patent-Related Expenses**” means all costs and expenses including, but not limited to, attorneys’ fees, patent agent fees and governmental fees related to the filing, prosecution, maintenance, defense, and enforcement of the Licensed Patents.

“**Sublicense**” when used as a noun, means any agreement between Licensee and a third party that contains a grant to University’s Licensed Technology regardless of the name given to the agreement by the parties; when used as a verb, means Licensee’s act of entering into any agreement with a third party that contains a grant to University’s Licensed Technology, regardless of the name given to the agreement by the parties.

“**Sublicensee**” means the third party in a Sublicense.

“**Territory**” means the geographical area described in Section 2 of the Business Terms.

“**University Indemnitees**” means University, its respective regents, officers, employees, students, agents, faculty, representatives, volunteers, and, if applicable, other institutions with whom the University has entered into an inter-institutional agreement covering the Licensed Patents.

## Rules of Interpretation and Convention

In this Agreement, unless the context requires otherwise:

1. headings are for convenience only and do not affect interpretation;
2. the singular includes the plural and conversely;
3. a reference to any statute, rule, regulation or policy includes any amendment, and any statute, rule, regulation or policy replacing it;
4. all computations and payments made under this Agreement shall be in United States dollars. To determine the U.S. dollar value of transactions conducted in non-United States currencies on any particular day, the parties shall use the exchange rate for that currency as reported in the Wall Street Journal in the most recently published edition prior to the date of the transaction; and
5. all notices, reports, and other documents and instruments that a party elects or is required to deliver to the other party must be in English.

# LICENSE

## Grant of License

Subject to the terms and conditions of this Agreement, University grants to the Licensee during the Term an exclusive license to the University’s interest in the Licensed Technology. Except as provided in the previous sentence, no other rights are granted.

## Retained Rights

 The University retains on behalf of itself and all other non-profit research institutions, the right to practice the Licensed Technology for any non-profit purpose, including research, teaching, and educational purposes. Licensee shall not enforce its rights under the Technology against any such non-profit institution using the Licensed Technology for research, teaching, or educational purposes.

# SUBLICENSING

## Sublicense Requirements

Each Sublicense:

### is subject to this Agreement and will contain provisions consistent with the terms and conditions of this Agreement;

### will stipulate that the Sublicensee will not further sublicense; and

### provide for its termination upon termination of this Agreement.

## Copy of Sublicenses and Sublicense Royalty Reports

Licensee shall submit to University a copy of each Sublicense, any subsequent amendments and all copies of Sublicensee’s royalty reports.

# PAYMENT, RECORDS, AND AUDIT

## Licensee’s Payment Obligation

The Licensee shall pay all amounts under Section 7 and 10 of the Business Terms by the dates indicated therein. Licensee shall pay such amounts by wire transfer, check (payable to the “Regents of the University of Minnesota” and sent to: Regents of the University of Minnesota, NW 5960, PO Box 1450, Minneapolis, MN 55485-5960; reference agreement number on check), or any other method of payment specified by University.

## Licensee Responsible for Non-U.S. Taxes

Licensee shall pay all non-U.S. taxes related to payments made to University under this Agreement.

## Interest on Late Payments

All amounts due under this Agreement will bear compound interest at 6% per annum on the entire unpaid balance computed from the due date until the amount is paid.

## Royalty Payments/Sales Reports

Within sixty (60) days after the last day of the fourth calendar quarter beginning in the calendar year in which Licensee, Sublicensee or Affiliate first sells a Licensed Product, Licensee shall provide to the University a written report (even if there are no sales) and earned royalty payment under Section 10.4 of the Business Terms in a form acceptable to the University.

## No Refund

All amounts paid to the University (and, if applicable, all equity transferred to University under Section 10.1 of the Business Terms) are non-refundable.

## Termination Report

Licensee shall pay to University all amounts due under Sections 7 and 10 of the Business Terms and submit to University a written report within 90 days after the Agreement terminates. Licensee will continue to submit royalty payments and reports after the license terminates, until all Licensed Products made or imported under the Agreement have been sold.

## Accounting

Licensee shall maintain (and shall cause each Sublicensee to maintain) records showing manufacture, importation, sale, use, and provision of a Licensed Product for 5 years from the date of sale of that Licensed Product. Records will include information in sufficient detail to enable University or its representative to determine the royalties owed under this Agreement. Upon request by the University, Licensee shall deliver to University or its representative, copies of all documents and materials (including electronic records) reasonably relevant to the Licensee’s and Sublicensee’s performance of this Agreement, including, without limitation, copies of all Sublicenses.

## Audit

Licensee shall allow (and shall cause each Sublicensee to allow) University or its designee to examine Licensee’s records to verify payments made by the Licensee under this Agreement. In connection with such audit, Licensee shall provide (and shall cause each Sublicensee to provide) commodious space at no cost to conduct the audit.

## Paying for Audit

University will pay for any audit done under Section 4.8. But if the audit reveals an underreporting of royalties due University of 5% or more for the period being audited, Licensee shall pay the audit costs.

# GOVERNMENT RIGHTS AND REGULATIONS

## Bayh-Dole Requirements [Applicable only if Section 6 of the Business Terms is checked, “Yes.”]

This Agreement is subject to Title 35, Sections 200-204 of the United States Code. Among other things, these provisions provide the United States Government with nonexclusive rights in the Licensed Patent. They also impose the obligation that any Licensed Products sold or produced in the United States be “manufactured substantially in the United States.” Licensee shall ensure all obligations of these provisions are met.

## Compliance with Laws

The Licensee shall ensure that the manufacture, use, sale, or transfer of Licensed Products comply with all applicable laws and regulations.

## Export Control and Sanctions

The parties shall comply with export controls and sanctions statutes and regulations, including the Export Administration Regulations (EAR, 15 C.F.R. pts. 730-774), the International Traffic in Arms Regulations (22 C.F.R. pts. 120-130), and the Foreign Assets Control Regulations (31 C.F.R. pts. 500-599), to the extent such statutes and regulations are applicable to the parties’ activities. Licensee shall not use any technology, technical data, commodity, or software relating to this Agreement contrary to the requirements in Part 744 of the EAR, Control Policy: End-Use and End-User Based (15 C.F.R. pt. 744).

## Cooperation with Governmental Requests

Licensee shall comply upon reasonable notice from University with all governmental requests relevant to the Licensed Technology directed to either University or Licensee and provide all information and assistance necessary to comply with the governmental requests.

## Patent Marking

The Licensee and any Sub-licensee will mark all Licensed Products in a manner consistent with their current patent marking practices for their own products provided appropriate notice is given in accordance with 35 USC 287 or other relevant statutes. Where marking is to be performed but the Licensed Product cannot be marked, the patent notice shall be placed on associated tags, labels, packaging, or accompanying documentation either electronic or paper as appropriate.

# PATENT PROSECUTION AND MAINTENANCE

## Patent Prosecution and Maintenance

Licensee, in consultation with the University shall control the preparation, filing, prosecution, and maintenance of the Licensed Patents. To facilitate consultation with University, Licensee shall

1. keep University reasonably informed as to the filing, prosecution, and maintenance of the Licensed Patents;
2. furnish to University copies of material documents relevant to such filing, prosecution and maintenance; and
3. allow University a reasonable opportunity to comment on material documents filed with any patent office with respect to the Licensed Patents prior to filing.

## Selection of Countries and Method for Filing

For any Licensee foreign filing hereunder, Licensee shall have the right to specify the method for foreign filing (e.g., national filing, regional filing, or PCT) and the countries in which to file or to elect or designate from a regional filing or PCT filing.

## Discontinuance or Abandonment

 If at any time Licensee decides (i) not to file an application in a particular country or territory, (ii) to discontinue prosecution of a pending application or a particular set of claims of Licensed Patent, or (iii) not to pay any required fee to maintain a Licensed Patent, Licensee shall promptly notify University of its decision. In such case, University shall have the right to file, prosecute, and maintain said patent or patent application, or to file an application directed to that abandoned claim set, at its sole discretion and expense and without further obligation to Licensee.

## Cooperation

Each party agrees to cooperate with the other party, to execute all lawful papers and instruments, and to make all lawful oaths and declarations as may be necessary in the preparation, filing, prosecution, maintenance and enforcement of each Licensed Patent.

# COMMERCIALIZATION

[Reserved]

# INFRINGEMENT

## Notification to University

Licensee shall notify University if it believes a third party is infringing a Licensed Patent and provide University with all credible evidence that is has to support this belief.

## Good Faith Negotiations with University Prior to Commencing Infringement Action

Prior to commencing any action to enforce a Licensed Patent, Licensee shall enter into good faith negotiations with the University on the desirability of bringing suit, the parties to the action, the selection of counsel, and such other matters.

## Right to Commence Action to Enforce Licensed Patent

No provision of this Agreement limits, conditions, or otherwise affects a party’s statutory and common-law rights to commence an action to enforce a Licensed Patent. In any such action, the parties agree to cooperate fully with each other and will use reasonable efforts to permit access to relevant personnel, records, papers, information, samples and specimens during regular business hours.

## University as a Named Party

University may be named as a party in an action commenced by Licensee only if

1. University and Licensee’s respective counsel agree that such action is necessary in their reasonable opinion to achieve standing and approval has been obtained by the University from its Board of Regents;
2. University is not the first named party in the action; and
3. the pleadings and any public statements about the action state that Licensee is pursuing the action and that Licensee has the right to join University as a party.

## Amounts Recovered

If Licensee commences litigation, then any recovery in excess of any unrecovered litigations costs and fees will be deemed Net Sales and Licensee shall pay University royalties at the rate specified in Section 10.4 of the Business Terms.

## Notice and Right to Settle

If any suit, action or proceeding is brought or commenced against the Licensee alleging the infringement of a patent or other intellectual property right owned by a Third Party by reason of the manufacture, use or sale of Licensed Products, the Licensee shall give the University prompt notice thereof. If the validity of a Licensed Patent is questioned in such suit, action or proceeding, the Licensee shall have no right to make any settlement or compromise which affects the scope, validity, enforceability or otherwise the Licensed Patent without the University’s prior written approval.

# UNIVERSITY NAME AND MARKS

## No Use of University Name or Marks.

No provision of this Agreement grants the Licensee or Sublicensee any right or license to use the name, logo, or any marks owned by or associated with the University or the names, or identities of any member of the faculty, staff, or student body of the University. The Licensee shall not use and shall not permit a Sublicensee to use any such logos, marks, names, or identities without the University’s prior written approval.

# TERMINATION

## University’s Right to Terminate for Breach

University may terminate this Agreement if Licensee:

### is delinquent on any report or payment under this agreement or other agreement with the University;

### is in breach of any material provision of this Agreement;

### provides any materially false report; or

(d) is in default on any other agreement with the University.

## Licensee’s Right to Remedy Breach

Termination under Section 10.1 takes effect (without any further action by University) 30 days after written notice by University to Licensee of any default under Section 10.1 above, unless within that 30- day period, Licensee remedies the default and notifies University of the same.

## Licensee’s Right to Terminate

Licensee may terminate this Agreement if University is in default of any material provision of this Agreement and fails to remedy the default within 30 days of Licensee’s written notice.

## Effect of Termination.

Upon Termination:

### The grant of rights under Section 2.1 terminates. Licensee may, however, sell or dispose of Licensed Products manufactured prior to termination for one year thereafter, provided that Licensee continue to pay royalties on the sale of Licensed Products;

### Sublicenses granted by Licensee shall be assigned to University upon request and at University’s discretion; provided that University’s obligations under such Sublicense shall be consistent with and not exceed University’s obligations to Licensee under this agreement and provided that such Sublicensee agrees in a writing sent to University to assume all obligations of this Agreement for the benefit of University, including the obligations to make all payments and provide all reports due under this Agreement.

## Sections of the Agreement Surviving Termination.

Surviving any termination or expiration are:

1. Licensee's payment obligations for payments accrued prior to termination;
2. the provisions of Sections 8, 9, 11,12, 13, 14.1, 14.3, 14.4, 14.8, and 14.9, and
3. any other provision that by its nature is intended to survive.

# INDEMNIFICATION AND INSURANCE

## Indemnification

Licensee shall indemnify, hold harmless, and defend all University Indemnitees against any claim of any kind arising out of or related to the exercise of any rights granted Licensee under this Agreement or Licensee’s breach of any provision of this Agreement.

## Insurance

Licensee warrants that it now maintains and will continue to maintain liability insurance coverage appropriate to the risk involved in marketing and selling Licensed Products subject to this Agreement and that the insurance coverage lists University of Minnesota as an additional insured. Upon University’s request, Licensee shall present evidence to University that this coverage is being maintained.

# DISCLAIMER OF WARRANTIES

## Warranties

University warrants that to the best of its actual knowledge as of the date of execution of this Agreement it has the right to grant the licenses to the Licensed Technology contained in this Agreement.

## Disclaimer of all Other Warranties

UNIVERSITY PROVIDES LICENSEE THE RIGHTS GRANTED IN THIS AGREEMENT AS IS AND WITH ALL FAULTS, IF ANY. UNIVERSITY MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. AMONG OTHER THINGS, THE UNIVERSITY EXPRESSLY DISCLAIMS ANY WARRANTIES CONCERNING AND MAKES NO REPRESENTATIONS:

1. that the Licensed Patent Applications will be allowed or granted or that a patent will issue from any Licensed Patent Application;
2. concerning the validity, enforceability, interpretation of claims or scope of any Licensed Patent;
3. that the exercise of the rights or licenses granted to the Licensee under this Agreement will not infringe a third party’s patent or violate its intellectual property rights; or
4. that the exploitation of the Licensed Technology will be successful.

# LIMITATION ON TYPE AND AMOUNT DAMAGES

## Limitation on Type of Damages

University is not liable for any special, consequential, lost profit, loss of business opportunity, expectation, punitive or other indirect damages in connection with any claim arising out of or related to this Agreement.

## Limitation on Amount of Damages.

In no event shall University’s liability to Licensee exceed the payments made to University by the Licensee during the 6 months prior to the event that gave rise to the claim.

# MISCELLANEOUS

## Choice of Law and Jurisdiction

The internal laws of the state of Minnesota, without giving effect to its conflict of laws principles, govern the validity, construction, and enforceability of this Agreement. A suit, claim, or other action to enforce the terms of this Agreement may be brought only in the state courts of Hennepin County, Minnesota. The Licensee hereby submits to the jurisdiction of that court and waives any objections it may have to that court asserting jurisdiction over the Licensee or its assets and property and to venue in that jurisdiction.

## Amendment and Waiver

The Agreement may be amended from time to time only by a written instrument signed by the parties. No term or provision of this Agreement may be waived and no breach excused unless such waiver or consent is in writing and signed by the party claimed to have waived or consented. No waiver of a breach is to be deemed a waiver of a different or subsequent breach

## Data Practices Act

The parties acknowledge that the University is subject to the terms and provisions of the Minnesota Government Data Practices Act, Minnesota Statutes §13.01 et seq. (the “Act”), and that the Act requires, with certain exceptions, the University to permit the public to inspect and copy any information that the University collects, creates, receives, maintains, or disseminates, including the existence of and the terms of this Agreement.

## Confidentiality

To the extent permitted by law, including as provided in the Act, the University shall hold in confidence and disclose only to University employees, agents and contractors who need to know the

1. the reports described in Sections 3.2, 4.4 of the General Terms; and
2. the records inspected in accordance with Sections 4.7 and 4.8 of the General Terms. No provision of this Agreement is to be construed to further prohibit, limit, or condition the University’s right to use and disclose any information in connection with enforcing this Agreement, in court or elsewhere.

## Assignment

Licensee shall not assign its interest under this Agreement. Any assignment attempted to be made in violation of this Section is void. Absent the consent of all the parties, an assignment or delegation will not release the assigning or delegating party from its obligations. The Agreement inures to the benefit of the Licensee and the University and their respective permitted Sublicensees and trustees.

## Consent and Approvals

Except as otherwise expressly provided, in order to be effective, all consents or approvals required under this Agreement must be in writing.

## Entire Agreement

The parties intend this Agreement (including all attachments, exhibits, and amendments hereto) to be the final and binding expression of their contract and agreement and the complete and exclusive statement of the terms thereof. The Agreement cancels, supersedes, and revokes all prior negotiations, representations and agreements among the parties, whether oral or written, relating to the subject matter of this Agreement. No representations or statements of any kind made by either party, which are not expressly stated herein, will be binding on such party.

## Enforceability

If a court of competent jurisdiction adjudges a provision of this Agreement to be unenforceable, invalid, or void, such determination is not to be construed as impairing the enforceability of any of the remaining provisions hereof and such provisions will remain in full force and effect.

## No Third-Party Beneficiaries

No provision of this Agreement, express or implied, is intended to confer upon any person other than the parties to this Agreement any rights, remedies, obligations, or liabilities hereunder. No Sublicense may enforce or seek damages under this Agreement.

## Relationship of Parties

In entering into, and performing their duties under this Agreement, the parties are acting as independent contractors and independent employers. No provision of this Agreement creates or is to be construed as creating a partnership, joint venture, or agency relationship between the parties. No party has the authority to act for or bind the other party in any respect.

## Notices

In order to be effective, all notices, requests, and other communications that a party is required or elects to deliver must be in writing and must be delivered personally, or by facsimile or electronic mail (provided such delivery is confirmed), or by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, return receipt requested, to the other party at its address set forth below or to such other address as such party may designate by notice given under this Section:

If to the University: University of Minnesota

Office for Technology Commercialization

200 Oak Street, SE

Suite 280

Minneapolis, MN 55455

Phone: 612.624.0550

Fax: 612.624.6554

E-mail: otcagree@umn.edu

 For notices sent University of Minnesota

 under Section 8, Office of the General Counsel

 with a copy to: Attn: Transactional Law Services

360 McNamara Alumni Center

200 Oak Street S.E.

Minneapolis, MN 55455-2006

Facsimile No.: 612.626.9624

Email: contracts@mail.ogc.umn.edu

If to the Licensee: As indicated in Section 11 of the Business Terms.

## Security Interest

In no event may the Licensee grant, or permit any person to assert or perfect, a security interest in the Licensee’s rights under this Agreement.

## Force Majeure

Neither the University nor the Licensee shall be responsible for any delays or failure to perform any obligation under this Agreement due to causes beyond the reasonable control of such party, including (but not limited to) health epidemics, terrorist acts, war, insurrection, embargoes, governmental restrictions or other acts of governmental authorities beyond the control of such party. Notwithstanding the foregoing, the University and the Licensee agree to cooperate in good faith to mitigate the effect of any such delays or failures to perform, with the goal of achieving, to the extent possible, the objectives of this Agreement.

## Execution in Counterparts

This Agreement may be executed in counterparts and by facsimile or electronic transmission.