

INDEX TO PATENT LICENSE AGREEMENT
LSU FILE _____

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- (b) sales tax, tariffs, duties and use tax included in bills or invoices with reference to particular sales and actually paid by LICENSEE to a governmental unit;
- (c) outbound transportation prepaid or allowed; or
- (d) amounts refunded or credited on returns.

No deductions shall be made for the cost of collections or for commissions, whether paid to independent sales agents or employees of LICENSEE.

Whenever the term "LICENSED PRODUCT" may apply to a product during various stages of manufacture, use, sale, or other transfer, NET SALES shall be based on the amount derived from the sale, distribution or use of such LICENSED PRODUCT at the stage of its highest billed or invoiced value to an arms-length third party.

1.7 "PATENT RIGHTS" means LSU's legal rights under the patent laws of the United States or relevant foreign countries for all of the following:

- (a) the United States and foreign patents and/or patent applications listed in Appendix A; nonprovisional applications claiming priority under 35 U.S.C. § 119(e) from any provisional applications listed in Appendix A; and divisionals and continuations (except continuations-in-part) of any of the above applications;
- (b) United States and foreign patents issued from the applications described above in part (a);
- (c) claims in all foreign patent applications, and in resulting patents, that are directed to subject matter specifically described in the United States patents and/or patent applications described in (a) or (b) above;
- (d) claims in all patent applications, and in the resulting patents, that are directed to subject matter specifically described as of the Effective Date in the LSU Office of Technology Transfer files listed in Appendix A; and
- (e) any reissued or reexamined patents based upon the United States patents described in (a), (b) or (d) above.

ARTICLE 2 - GRANT OF LICENSE

2.1 Subject to the terms and conditions of this Agreement, LSU hereby grants to LICENSEE an exclusive royalty-bearing license under its PATENT RIGHTS, with the right to grant

ARTICLE 3 - CONSIDERATION

3.1.1 LICENSEE shall pay running royalties and fees to LSU until the expiration date of the last to expire of PATENT RIGHTS or until this Agreement is otherwise terminated. Running royalties and fees shall include:

- (a) License Issue Fee of _____ (\$____). Such License Issue Fee shall be nonrefundable and is due thirty (30) days from the Effective Date of this Agreement.
- (b) Running royalties equal to _____ percent (___%) of NET SALES for all LICENSED PRODUCTS that are made, used, offered for sale, or imported anywhere in the TERRITORY, regardless of whether other acts concerning specific LICENSED PRODUCTS occur outside the TERRITORY. If LICENSEE makes any sales to any party affiliated with LICENSEE, or in any way directly or indirectly related to or under the common control with LICENSEE, at a price less than the regular price charged to arm's-length third parties, the running royalties payable to LSU shall be computed on imputed NET SALES equal to the regular price charged to arm's-length third parties;
- (c) ___ Percent (___%) of any consideration that is not based on NET SALES (e.g., sublicense issue fees, sublicense maintenance fees, etc.) that LICENSEE receives from SUBLICENSEES or assignees in consideration for rights to practice under the PATENT RIGHTS, excepting only research and development funding;
- (d) Reimbursement of LSU's past and future out-of-pocket patenting costs related to the PATENT RIGHTS;
- (e) {milestone payments, if any, to be inserted here}

3.1.2 LICENSEE shall pay to LSU an annual license maintenance fee ("Annual Fee"). This Annual Fee shall be due on the last day of _____ of the years specified below. LICENSEE may credit each Annual Fee in full against all running royalties otherwise due LSU for the same calendar year for which the specific Annual Fee is due. This credit may not otherwise be carried forward or carried back for any other ROYALTY PERIOD.

The Annual Fees are:

- (1) In _____: \$ _____;
- (2) In _____: \$ _____;
- (3) In _____: \$ _____; and
- (4) In _____ and in each year thereafter during the term of this Agreement: \$ _____.

3.2 LICENSEE shall be responsible for the payment of all taxes, duties, levies, and other charges, subject to the deduction from NET SALES allowed by Paragraph 1.6(b).

3.3 LICENSEE is not obligated to pay multiple running royalties to LSU if any LICENSED PRODUCT or LICENSED PROCESS is covered by more than one claim of PATENT RIGHTS, or by more than one patent application or patent within PATENT RIGHTS.

3.4 Payments due to LSU shall be paid to "the Louisiana State University" in United States dollars in Baton Rouge, Louisiana, sent as provided in Article 13 or at such other place as LSU may reasonably designate consistent with the land regulations controlling in any country. At LSU's request, LICENSEE shall remit payments either by wire transfer or by check drawn upon a United States bank.

3.5 In computing running royalties, LICENSEE shall convert any revenues it receives in foreign currency into its equivalent in United States dollars at the exchange rate LICENSEE, using its standard accounting procedures, uses in its reports to relevant regulatory and taxing authorities, as long as such accounting procedures are consistent with fair business practices and generally accepted accounting principles.

3.6 Running royalty payments shall be made on a quarterly basis with submission of the reports required by Article 4. All amounts due under this Agreement, including amounts due for the payment of patent expenses, shall, if overdue, bear interest until payment at a per annum rate five percent (5%) above the prime rate in effect at the JP Morgan Chase Bank or its successor on the due date, or at the highest allowed rate if a lower rate is required by law. The payment of such interest shall not foreclose LSU from exercising any other rights it may have resulting from any late payment.

3.7 All amounts paid to LSU by LICENSEE under this Agreement shall be non-refundable.

3.8 If LSU and LICENSEE disagree in good faith as to whether certain payments are due to LSU, then the procedures of this Section 3.8 shall be followed to place the disputed amounts into escrow. If these procedures are followed, the LICENSEE shall not be deemed to be in default for failure to make the disputed payments timely. If these procedures are not followed, however, then LICENSEE shall be deemed to be in default for failure to make payments timely under the Agreement, regardless of whether or not it is ultimately determined that the disputed amounts were actually due under the Agreement.

3.8.1 All undisputed amounts shall be paid to LSU as otherwise provided.

3.8.2 All disputed amounts shall be paid to an escrow agent mutually acceptable to LSU and LICENSEE. Disputed amounts that are past due shall be paid to the escrow agent within thirty (30) days after the establishment of an escrow account with a mutually acceptable escrow agent. Disputed amounts that are not yet due but that become due during pendency of the dispute shall be paid to the escrow agent on or before the dates those amounts are otherwise due under the Agreement. LSU shall be given prompt confirmation of the date and amount of any such payments made.

3.8.3 The escrow agent shall place the funds in a safe, interest-bearing instrument or account jointly approved by LSU and LICENSEE; or if LSU and LICENSEE are unable

thus to agree, in a safe, interest-bearing instrument or account chosen by the escrow agent. Any interest thus received shall ~~be~~ ^{be} distributed by the escrow agent in the same proportions as the distribution of principal amount. A reasonable fee for the escrow agent's services may first be deducted from the interest.

3.8.4 The escrow agent shall release the ~~fund~~ ^{funds} in escrow only in accordance with the joint, written instructions of both LSU and CENSEE; or in accordance with an order of the court or an award of the arbitrator under Section 14.2.

(g) names and addresses of all SUBLICENSEES.

LICENSEE shall include the amount of all payments due, and the various calculations used to arrive at those amounts, including the quantity, description (nomenclature and type designation

5.3 As part of the diligence required by Paragraph 5.2, LICENSEE agrees to reach the following commercialization and research and development milestones for the LICENSED PRODUCTS and LICENSED PROCESSES (together the "MILESTONES") by the following dates:

- 1) _____
- 2) _____
- 3) _____
- 4) _____
- 5) _____
- 6) _____

Add the following for licenses with clinical trials:

For the purposes of this Agreement, initiation of a clinical trial shall mean the effective date of the clinical trial research agreement in which the patient or subject is to be treated with a LICENSED PRODUCT or a LICENSED PROCESS under a protocol approved both by an appropriate Institutional Review Board and by an appropriate drug regulatory agency with a therapeutic agent or process that has been manufactured according to the applicable Good Manufacturing Practices (GMP) guidelines provided by the relevant regulatory agency.

5.4 LICENSEE shall inform LSU in writing, on or before the deadline for meeting any MILESTONE, whether such MILESTONE has been met.

5.5 If LICENSEE fails to meet any MILESTONE within sixty (60) days after the date specified in Paragraph 5.3, LSU may notify LICENSEE of this material breach. If LICENSEE does not achieve the MILESTONE within thirty (30) days of receipt of this notice, LSU may terminate this Agreement.

ARTICLE 6 - SUBLICENSING

6.1 LICENSEE shall notify LSU in writing and shall send LSU a copy of every sublicense agreement and each amendment thereto within thirty (30) days after their execution.

6.2

- (1) is consistent with the terms and conditions of this Agreement;
- (2) contains the SUBLICENSEE'S acknowledgment of the disclaimer of warranty and limitation on LSU's liability as provided by Article 9 below; and
- (3) contains provisions under which the SUBLICENSEE accepts duties at least equivalent to those accepted by the LICENSEE in the following Articles:

- 4.4 duty to keep records
- 9.4 duty to avoid improper representations or responsibilities
- 10.1 duty to defend, hold harmless, and indemnify LSU
- 10.3 duty to obtain and maintain insurance
- 14.5 duty to properly mark LICENSED PRODUCTS with patent notices
- 14.7 duty to refrain from the use of LSU's name
- 14.8 duty to control exports and comply with applicable laws

6.3 LICENSEE shall not receive from a SUBLICENSEE anything of value other than cash payments in consideration for any sublicense under this Agreement, without the express prior written permission of LSU.

6.4 Each sublicense granted by LICENSEE under this Agreement shall provide for its termination upon termination of this Agreement. Each sublicense shall terminate upon termination of this Agreement unless LICENSEE has previously assigned its rights under the sublicense to LSU and LSU has agreed at LSU's sole discretion in writing to such assignment.

6.5 LICENSEE shall cause every sublicense to provide LICENSEE the right to assign its rights under the sublicense to LSU. Any such assignment is subject to the limitations of Article 14.11 herein and, to be effective, LSU must first accept at its sole discretion such assignment in writing.

6.6 No SUBLICENSEE shall have the right to grant further sublicenses without the express written permission of LSU.

6.7 Failure of LICENSEE to meet any of the obligations in this Article 6 shall be considered a material breach or default of this Agreement under Paragraph 11.3.

ARTICLE 7 - PATENT PROSECUTION AND MAINTENANCE

7.1 LSU has the right to control all aspects of drafting, filing, prosecuting, and maintaining all patents and patent applications within the PATENT RIGHTS, including foreign filings and Patent Cooperation Treaty filings. LICENSEE shall, at its own expense, perform all actions and execute or cause to be executed all documents necessary to support such filing, prosecution, or maintenance.

7.21B Tc 0 Tw communications received by LorTrelating to the filing, prosecution and maintenance of the patents and patent applications within the PATENT RIGHTS, including any lapse, revocation, surrender, invalidation or abandonment of any of the patents or patent applications wh ng, p1make reasonable efforts to , pow LICENSEE to review and comment upon such communications.

7.31B Tc 0 Tw

ARTICLE 8 - ENFORCEMENT

8.1 Each party shall promptly advise the other in writing of any known acts of potential infringement of the PATENT RIGHTS by a third party. LICENSEE has the first option to police the PATENT RIGHTS against infringement by third parties within the TERRITORY in the FIELD OF USE, but LICENSEE shall notify LSU in writing twenty (20) days before filing any suit. This right to police includes defending any action for declaratory judgment of noninfringement or invalidity; and prosecuting, defending or settling all infringement and declaratory judgment actions at LICENSEE's expense and through counsel of LICENSEE's selection, except that LICENSEE shall make any such settlement only with the advice and consent of LSU. LSU shall provide reasonable assistance to LICENSEE with respect to such actions, but only if LICENSEE reimburses LSU for out-of-pocket expenses incurred in connection with any such assistance rendered at LICENSEE'S request or reasonably required by LSU and if LICENSEE notifies LSU in writing twenty days before filing any suit. LSU retains the right to participate, with counsel of its own choosing and at its own expense, in any action under this Paragraph 8.1. LICENSEE shall defend, indemnify and hold harmless LSU with respect to any claims or counterclaims asserted

rTc ct to any clenuitch

ARTICLE 9 - NO WARRANTIES; LIMITATION ON LSU'S LIABILITY

(h) The provisions of this paragraph shall apply equally to any SUBLICENSEE (including any other authorized transferee of LICENSEE's interest which, for purposes of this paragraph only, shall be considered a SUBLICENSEE). Any contract or agreement between LICENSEE and SUBLICENSEE shall require that SUBLICENSEE comply with all insurance requirements provided for in this Paragraph in the same manner required of LICENSEE, including, but not limited to, the requirements for determining the amount, obtaining, and providing evidence of insurance to LSU. No SUBLICENSEE shall commence any of the activities described in subparagraph (b) without complying with the provisions of this Paragraph in the same manner required of LICENSEE.

ARTICLE 11 - TERM AND TERMINATION

11.1 If LICENSEE ceases to carry on its business (or that part of its business pertaining to LICENSED PRODUCTS and LICENSED PROCESSES), then this Agreement shall terminate upon written notice by LSU.

11.2 If LICENSEE fails to make any payment due

- (d) suspend its use of the LICENSED PROCESS(ES) AND LICENSED PRODUCT(S);
- (e) provide LSU with all unpatented data and know-how developed by LICENSEE in the course of LICENSEE's efforts to develop LICENSED PRODUCTS and LICENSED PROCESSES. LSU shall have the right to use such data and know-how for any purpose whatsoever, including the right to transfer same to future licensees; and
- (f) provide LSU with a copy of any regulatory data or information filed with any U.S. or foreign government agency with respect to LICENSED PRODUCTS and LICENSED PROCESSES.

11.6 Upon any termination of this Agreement, except as expressly provided herein to the contrary, all rights and obligations of the parties hereunder shall cease, except any previously accrued rights and obligations and further as follows:

- (1) Obligations to pay running royalties and other sums accruing hereunder through the day of termination, and to make a final report under Paragraph 4.2;
- (2) LSU's rights to inspect books and records as described in Article 4, and LICENSEE's obligations to keep such records for the required time;
- (3) Obligations to hold harmless, defend and indemnify LSU and its board members, officers, employees and agents, and to maintain insurance, and all other obligations under Article 10;
- (4) Any cause of action or claim of LICENSEE or LSU accrued or to accrue because of any breach or default by the other party hereunder;
- (5) The provisions of Articles 1, 9, 13 and 14; and
- (6) All other terms, provisions, representations, rights and obligations contained in this Agreement that by their sense and context are intended to survive until performance thereof by either or both parties.

ARTICLE 12 - REGISTRATION AND RECORDATION

12.1 If the terms of this Agreement, or an assignment or license under this Agreement are or become such as to require that the Agreement or any part thereof be registered with or reported to a national or supranational agency of any area in which LICENSEE or SUBLICENSEES would do business, then LICENSEE will, at its own expense, undertake such registration or report. Prompt notice and appropriate verification of the act of registration or report or any agency ruling resulting from it will be supplied by LICENSEE to LSU.

12.2 LICENSEE shall also carry out, at its expense, any formal recordation of this Agreement or any license herein granted that the law of any country requires as a prerequisite to

enforceability of the Agreement or license in the courts of any such country or for other reasons, and shall promptly furnish to LSU appropriately verified proof of recordation.

ARTICLE 13 - NOTICES

13.1 Any notice, request, report or payment ~~requi~~ required under this Agreement shall

required to continue to perform its obligations under this Agreement pending final resolution of any dispute arising out of or relating to this Agreement. Otherwise, any controversy arising under or relating to this Agreement, or the breach, termination, or validity of this Agreement, may be adjudicated only in a court, state or federal, having jurisdiction over the subject matter and including Baton Rouge, Louisiana within its territorial district. Both parties consent to the jurisdiction and venue of such a court. A party's right to demand arbitration of a particular dispute arising under or related to this Agreement, the breach, termination, or validity of this Agreement, shall be waived if that party either (1) brings a lawsuit over that controversy or claim against the other party in any state or federal court; or (2) does not make a written demand for mediation, arbitration, or both within 60 days of service of process on that party of a summons or complaint from the other party instituting such a lawsuit in a state or federal court of competent jurisdiction. As a condition precedent to mediation, arbitration or lawsuit brought by LICENSEE, an AFFILIATE, or any SUBLICENSEE challenging the validity of a United States patent within Licensed Patents, where the validity is challenged in whole or in part on the

14.6 No waiver by either party of any breach of this Agreement, no matter how long continuing nor how often repeated, a waiver of any subsequent breach thereof, nor is any delay or omission on the part of either party to exercise or insist on any right, power, or privilege hereunder a waiver of such right, power or privilege.

14.7 LICENSEE agrees to refrain from using and require SUBLICENSEES to refrain from using the name of LSU in publicity or advertising without the prior written approval of LSU. Reports in scientific literature and presentations of joint research and development work are not considered to be "publicity" for this purpose. Notwithstanding this provision, without prior written approval of LSU, LICENSEE and SUBLICENSEES may use LSU's name in any submission to a government agency as required by law.

14.8 LICENSEE shall comply with all applicable laws and regulations. By way of example, LICENSEE understands and acknowledges that the export of certain commodities and technical data is subject to United States laws and regulations controlling the export of such commodities and technical data, including the Export Administration Regulations of the United States Department of Commerce. These laws and regulations prohibit or require a license for the export of certain types of technical data to specific countries. LICENSEE shall comply with all United States laws and regulations controlling the export of commodities and technical data, and shall be solely responsible for any violations of such laws and regulations by LICENSEE or its SUBLICENSEES, and shall defend, indemnify and hold harmless LSU and its board members, officers, employees and agents if any legal action of any nature results from the violation.

assignment by LICENSEE will be effective until the intended assignee agrees in writing to accept all of the terms and conditions of this Agreement.

14.13 If during the term of this Agreement, LICENSEE makes or attempts to make an assignment for the benefit of creditors, or proceedings in voluntary or involuntary bankruptcy or insolvency are instituted on behalf of or against LICENSEE, or if a receiver or trustee is appointed for the property of LICENSEE, LSU may, at its option, terminate this Agreement and revoke the license(s) herein granted by written notice to LICENSEE. LICENSEE shall notify LSU of any such event mentioned in this Paragraph 14.13 as soon as reasonably practicable, and in any event within five (5) days after any such event.

14.14 Whereas LSU is an academic institution, LSU shall be free to make such publications as

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate originals by their duly authorized officers or representatives.

LICENSEE

BOARD OF SUPERVISORS OF
LOUISIANA STATE UNIVERSITY AND
AGRICULTURAL AND MECHANICAL
COLLEGE

By _____
(authorized representative)

By _____
(authorized representative)

Typed Name _____

Typed Name _____

Title _____

Title _____

Date _____

Date _____

Version 01.12.07

APPENDIX A

TO THE LICENSE AGREEMENT FOR LSU FILE _____
EFFECTIVE THE _____ DAY OF _____, 20_____
BETWEEN _____
AND THE BOARD OF SUPERVISORS OF LOUISIANA STATE UNIVERSITY AND
AGRICULTURAL AND MECHANICAL COLLEGE

Add the following if LSU is taking equity for consideration:

APPENDIX B
TO THE LICENSE AGREEMENT FOR LSU FILE _____
EFFECTIVE THE _____ DAY OF _____, 20____
BETWEEN _____
AND THE BOARD OF SUPERVISORS OF LOUISIANA STATE UNIVERSITY AND
AGRICULTURAL AND MECHANICAL COLLEGE

STOCK TRANSFER AGREEMENT

(ii) LSU does not have any contract, undertaking, agreement or arrangement with any person or entity to sell, transfer or otherwise dispose of the LSU Common Stock except for transfers to inventor(s) pursuant to Paragraph 4(a)(iii).

(iii) At the request of LSU, a portion of the LSU Common Stock may be transferred to and registered in the name of the inventor(s) as permitted by the Regulations of LSU.

(b) LSU understands that the shares][units] LSU Common Stock has not been registered under the Securities Act by reason of their issuance in a transaction exempt from the registration and prospectus delivery requirements of the Securities Act.

(c) LSU has the full right, power and authority to enter into this Agreement and to make the representations and warranties contained herein, and this Agreement constitutes valid and binding obligations on LSU enforceable in accordance with its terms.

(d) No consent, approval or authorization of, or designation, declaration or filing with, any governmental authority on the part of LSU is required in connection with the valid execution, delivery or performance of this Agreement by LSU.

(e) LSU is an "accredited investor" as defined in Rule 501(a) of Regulation D promulgated under the Securities Act.

5. Legend. LSU understands and acknowledges that the certificates representing the LSU Common Stock will be endorsed with the following legend:

THE SECURITIES EVIDENCED BY THIS CERTIFICATE HAVE NOT

under or in relation to this Agreement, including without limitation to interpret or enforce any provision of this Agreement, shall be brought in, and each party agrees to and does hereby submit to the jurisdiction and venue of, any state or federal court located in East Baton Rouge Parish, Louisiana.

(b) Survival The representations, warranties, covenants and agreements made herein shall survive the execution of this Agreement and shall in no way be affected by any investigation of the subject matter thereof made by or on behalf of the Company or LSU.

(c) Successors and Assigns Except as otherwise expressly provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors and assigns of the parties hereto. The Company may not assign this Agreement.

(d) Entire Agreement This Agreement, including the Exhibits to this Agreement and the License Agreement, constitute the full and entire understanding and agreement between the parties with regard to the subject matter hereof and thereof. Any prior agreements, understandings or representations with respect to the subject matter hereof and thereof, is superseded by this Agreement and the License Agreement and shall have no further force or effect.

(e) Notices All notices and other communications required or permitted hereunder shall be in writing, shall be sent via facsimile, overnight courier service or mailed by certified or registered mail, postage prepaid, return receipt requested, addressed or sent to the parties at their respective addresses set forth on the signature page to this Agreement and shall be effective upon receipt.

(f) Severability In case any provision of this Agreement shall be declared invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(g) Expenses Each party shall bear its respective expenses and legal fees incurred with respect to this Agreement and the transactions contemplated herein.

(h) Counterpart Execution This Agreement may be executed in any number of counterparts, each of which shall be original, but all of which shall together constitute one and the same instrument. For purposes hereof, facsimile and electronically scanned copies hereof and facsimile and electronically scanned signatures hereof shall be authorized and deemed effective.

[Remainder of This Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have entered this Stock Transfer Agreement as of the day and year first above written.

“COMPANY”

_____,
a _____ [corporation]

By: _____

Name: _____

Title: _____

Address:

Attention: _____

THE BOARD OF SUPERVISORS OF
LOUISIANA STATE UNIVERSITY AND
AGRICULTURAL AND MECHANICAL
COLLEGE

By: _____

Name: _____

Title: President

Address:

LSU System Office

LSU Campus

3810 Lakeshore Drive

Baton Rouge, LA 70808

Attention: President

SCHEDULE A
INITIAL ISSUANCE OF LSU COMMON A

EXHIBIT 1
CERTIFICATE OF [INCORPORATION][FORMATION] OF THE COMPANY

