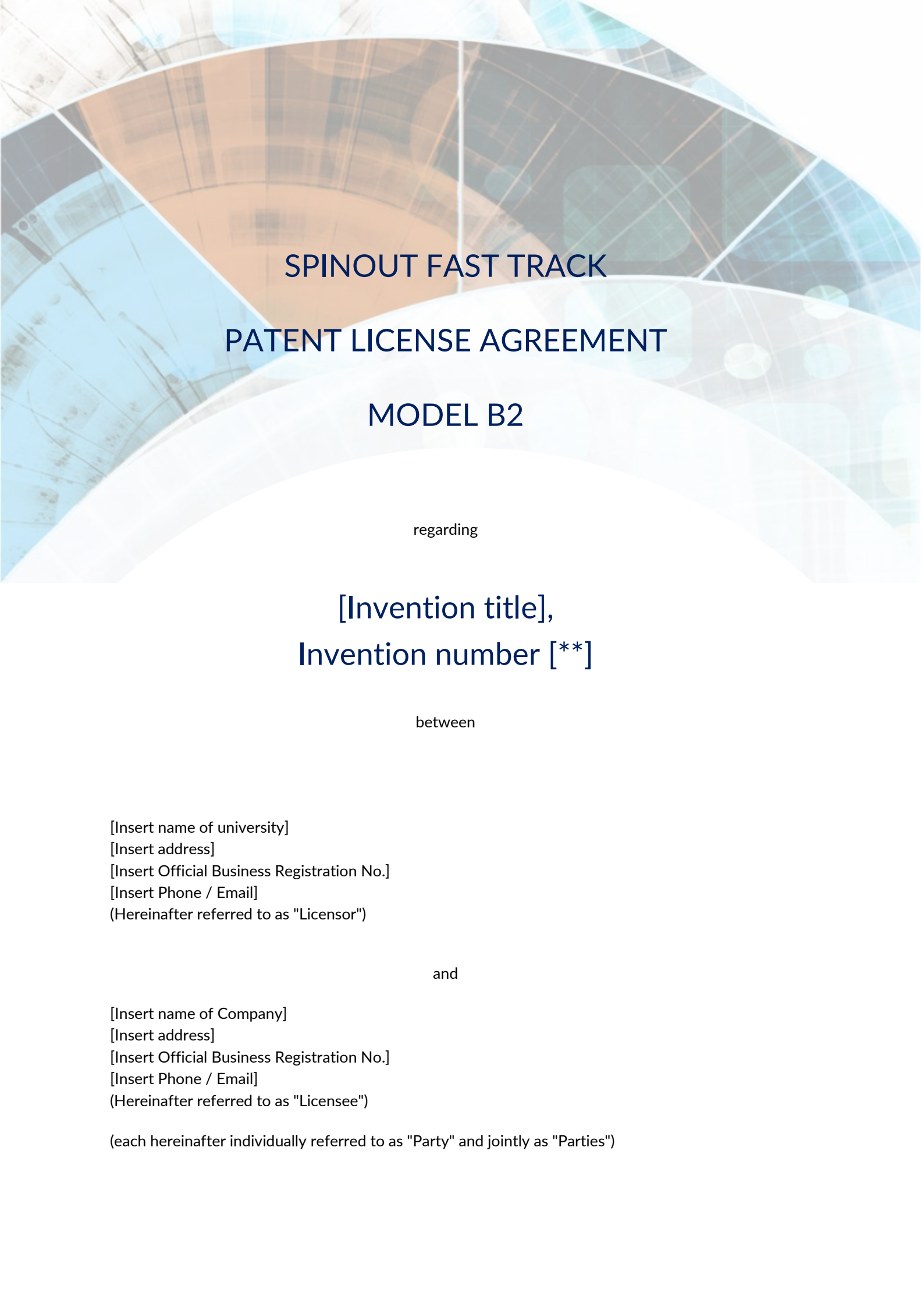




SPINOUT FAST TRACK PATENT LICENSE AGREEMENT MODEL B2

regarding

[Invention title],
Invention number [**]

between

[Insert name of university]
[Insert address]
[Insert Official Business Registration No.]
[Insert Phone / Email]
(Hereinafter referred to as "Licensor")

and

[Insert name of Company]
[Insert address]
[Insert Official Business Registration No.]
[Insert Phone / Email]
(Hereinafter referred to as "Licensee")

(each hereinafter individually referred to as "Party" and jointly as "Parties")

Denne standardaftale er del af et fælles initiativ udarbejdet i samarbejde mellem en række brancheorganisationer og universiteter.



Dansk Industri, Dansk Erhverv, Lif og Novo Nordisk Fonden har bidraget til udarbejdelsen af aftalen, men fraskriver sig ethvert juridisk ansvar i relation til dens anvendelse. Dansk Industri, Dansk Erhverv, Lif og Novo Nordisk Fonden kan ikke drages til ansvar for eventuelle tab, omkostninger, krav eller skader – direkte såvel som indirekte – der måtte opstå som følge af brugen af denne aftaleskabelon, herunder dens indhold, fortolkning, tilpasning eller eventuelle fejl eller mangler. Brugeren bærer selv ansvaret for aftalens endelige udformning og anvendelse.

Dansk Industri, Dansk Erhverv, Lif og Novo Nordisk Fonden anbefaler, at brugeren ved behov søger relevant juridisk vejledning forud for indgåelsen af en konkret aftale baseret på denne skabelon.

Patent License Agreement - Cover sheet

Agreement Details		
Effective Date	[Insert date]	
Invention Title and Invention Number	[Insert invention title and reference number]	
Patent Status	- Patent Application No. and Title: [Insert] - Minimum Countries: USA and EP (validated in at least 5 EP countries at the choice of Licensee or unitary patent). - Filing Jurisdictions: USA and EP (validated in at least 5 EP countries at the choice of Licensee or unitary patent). [Insert additional countries]	
Territory	Worldwide	
Field of Use	[Insert defined field]	
Financial Terms		
External Patent Costs	[Insert payment details]	
Up-front payment	DKK [0 or 250,000]	
Royalty on Net Sales	[Insert percentage]	
Maximum stacking royalty	2.5%	
Royalty on Sublicense Revenue	15%	
Technology access fee:	DKK 0	for the calendar year 20[**]
	DKK 0	for the calendar year 20[**]
	DKK 0	for the calendar year 20[**]
	DKK [10,000 / 15,000]	for the calendar year 20[**]
	DKK [15,000 / 30,000]	for the calendar year 20[**]
	DKK [25,000 / 50,000]	for the calendar year 20[**]
		and onwards
[Buy Out Option exercised within 36 months from effective date]	[Insert fixed amount]]	
[Buy Out Option exercised after 36 months from effective date]	[Insert fixed amount]]	
[Exit windfall payment]	Valuation at exit	Payment
	< DKK 15,000,000	DKK 375,000
	DKK 15-35,000,000	DKK 750,000
	> DKK 35,000,000	DKK 1,500,000]
[Big business windfall payment]	IP Value	Payment
	Incremental	DKK 1,000,000 or
	Moderate	DKK 3,000,000 or
	Radical	DKK 7,500,000]
[Equity in the Licensee]	[Insert percentage] %]	
Milestones	FPFV in clinical phase II	DKK 2,000,000
	FPFV in clinical phase III	DKK 3,000,000
	Regulatory submission	DKK 6,000,000
	Regulatory approval	DKK 7,000,000

Notice Addresses	
Licensors Contact – General & Financial Notices	[University Name] [Name of Office] Att.: [Contact Person] [Street Address] [Postal Code, City, Country] E-mail: [Email Address]
Licensors Contact – Invention-Related Notices	[University Name] [Name of Office] Att.: [Contact Person] [Street Address] [Postal Code, City, Country] E-mail: [Email Address]
Licensees Contact – General & Financial Notices	[Licensee Name] Att.: [Contact Person] [Street Address] [Postal Code, City, Country] E-mail: [Email Address]
Licensees Contact – Patent-Related Notices	Att.: [Contact Person] E-mail: [Email Address]

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1 Definitions

- 1.1 The following definitions apply:
- 1.2 Affiliate means any individual, a partnership, a corporation, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, or a governmental entity (or any department, agency, or political subdivision thereof), which directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with a Party. The term "control" shall have the meaning prescribed to it in Clause 7 of the Danish Companies Act.
- 1.3 Agreement shall mean this patent license agreement and its exhibits.
- 1.4 [The definition of Buy Out Option below shall be deleted from this Agreement, if the Licensee selects Alternative 1 in Clause 8]
- [Buy Out Option means the option to buy out the royalty, technology access fee payments and milestone payments pursuant to the Clauses 8.2 -8.4 and have the opportunity to take over the ownership of the patent.]
- 1.5 Commercially Reasonable Efforts means exerting such efforts and employing such resources as would normally be expected to be exerted by or employed by a Third Party company or institution of a similar size and with equivalent financial resources for a product of similar market potential at a similar stage of its product life when utilising sound and reasonable scientific and business practice and judgement in order to develop the Products in a timely manner and maximise the economic return to the Parties from commercialisation of the Product.
- 1.6 Confidential Information means information of a technical, research and commercial nature, including, but not limited to, intellectual property rights (whether protectable or not), documents, software, formulas, methods, analysis results and know-how disclosed by the other Party during the term of this Agreement, regarding which it is specified in writing that the material is confidential, or where it otherwise appears from the circumstances as well as the content of this Agreement.
- 1.7 Cover Sheet means the initial summary table of this Agreement containing key contractual details.
- 1.8 Effective Date means the date of the last signature to this Agreement from which date this Agreement shall be in force.
- 1.9 Exclusive means that the Licensor undertakes not to grant any Third Parties commercial licenses to the Patent within the Field of Use in the Territory and that the Licensor will not commercially exploit the Patent itself.
- 1.10 External Patent Costs means all external costs in connection with the filing, prosecution, and maintenance of the Patent in the patent jurisdiction. For the avoidance of doubt, External Patent Costs explicitly exclude the salaries and overhead costs of the technology transfer office or legal affairs office.
- 1.11 Field of Use has the meaning as specified in the Cover Sheet.

- 1.12 Filing Jurisdictions means the countries in which the Parties have agreed to pursue patent protection as specified in the Cover Sheet.
- 1.13 FSFD means first subject's first dose of investigational medicinal Product or comparator.
- 1.14 Improvements means all amendments, redevelopments, and improvements of the invention.
- 1.15 Minimum Countries means the countries listed in the Cover Sheet where the Parties have agreed that patent protection must be sought as a minimum requirement under this Agreement.
- 1.16 Net Sales means the gross amount charged by the Licensee, and/or Affiliates in the Territory for Products sold, transferred, or otherwise disposed of or used, less (where applicable) the sum of the following actual deductions to the extent they are included in the gross amount charged and separately billed:

- (i) trade or quantity discounts, including cash discounts, granted which are customary in the trade and which are specifically shown in an invoice, and/or
- (ii) amounts refunded or credited due to rejections or returns of Products (but not exceeding the original invoiced amount), and/or
- (iii) costs of freight, transport, packing and transit insurance charges actually paid, and/or
- (iv) tax, government charge or duty (including any tax such as a value added or similar tax) (excluding for the avoidance of doubt any income tax) levied on the sale, transportation or delivery of Products when directly linked to and included in the actual price charged.

Net Sales shall also include the fair market value of any non-cash consideration constituting payment received for Products sold, transferred, or otherwise disposed of or used.

On sales, disposals, transfers and/or use of Products on other than arm's length terms, Net Sales shall mean the fair market value of any Products, as if they were sold to a bona fide Third Party in a similar quantity.

Sales of Products between Licensee and its Affiliates or between its Affiliates shall be excluded from the calculation of Net Sales, except where such Affiliate is an end-user.

- 1.17 Patent means the invention(s) as disclosed in the patent(s) and/or patent application(s) and/or utility model(s) listed in Exhibit 1 and any utility models and patent(s) and/or patent application(s) based on or derived therefrom, such as any provisional(s), divisional(s), substitution(s), continuation(s), international application(s), national phase application(s) and national application(s), regional application(s), continuations-in-part(s), re-issue(s) and extensions, and any patents granting or issuing on these applications and utility models.
- 1.18 Products means any product(s), process(es) or service(s) which are covered by the claims of the Patent.

- 1.19 Sublicensee means a Third Party who is granted a sublicense by Licensee to further develop, modify, manufacture, have manufactured, market, import, export and sell Products under the rights granted to Licensee, cf. Clause 5.1.
- 1.20 Sublicensing Revenues means any consideration received by the Licensee from a Sublicensee under or otherwise in connection with any sublicense agreement (including without limitation license issue fees, signing fees, up-front fees, option fees, maintenance fees, milestone payments, royalty payments, fees to maintain license rights, etc. received by Licensee from any Sublicensee.
- 1.21 Territory means the territories or countries within which the Licensee acquires a license to exploit the Patent as specified in the Cover Sheet.
- 1.22 Third Party means any individual person, a partnership, a corporation, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, or a governmental entity (or any department, agency, or subdivision thereof), other than the Licensee and its Affiliates and Licensor.
- 1.23 Trade Secrets means information that is secret, has commercial value, and for which the holder has taken reasonable steps to keep it secret (as defined in EU Directive 2016/943).

2 Background

- 2.1 The Licensor has filed the patent application(s) listed in the Patent concerning an invention cf. Clause 11 below.
- 2.2 The Licensor desires that the Patent be developed and made available to the public and utilised in the public interest.
- 2.3 The Licensee is willing to make a commitment to utilize the Patent through commercial exploitation.
- 2.4 The Licensor has agreed to enter into this Agreement with the Licensee stipulating the terms and conditions on which the Licensee is obligated to utilise the invention.

3 Term

- 3.1 Unless otherwise terminated by acts of the Parties in accordance with the terms of this Agreement, this Agreement shall be in effect from the Effective Date and shall remain in effect for the life of the last-to-expire Patent or last-to-be-abandoned Patent licensed under this Agreement, whichever is later.

4 License

- 4.1 Subject to the terms and conditions of this Agreement, the Licensor grants an Exclusive license to the Licensee within the Field of Use and Territory to exploit the Patent, including the right to further develop, modify, use, manufacture, have manufactured, market, import, export and sell Products.

- 4.2 The Parties agree that Licensor is at all times entitled to freely use the invention within any non-commercial scientific area in connection with the Licensor's research and educational activities.

5 Sublicensing

- 5.1 The Licensee is entitled to grant Third Parties sublicenses to further develop, modify, manufacture, market, have manufactured, import, export and sell Products under the rights granted to Licensee.
- 5.2 The Licensee shall ensure and document in writing upon request from the Licensor, that any agreement or arrangement with any such Sublicensee is made in writing and that any Sublicensee undertake to comply with any and all applicable obligations and provisions of this Agreement.
- 5.3 The Licensee's right to grant a sublicense hereunder is conditional on the Licensee giving Licensor written notice of the Sublicensee's name, VAT number and business address.
- 5.4 The License granted under Clause 5.1 includes a right for the Licensee to engage one or more contractors to exercise or perform the licensed rights to further develop, modify, and manufacture Products under this Agreement on behalf of and for the benefit of Licensee, without such engagement constituting a sublicense, provided that (a) the contractor is not entitled to market or sell the Products; (b) the contractor does not pay any consideration to the Licensee for the right to perform such activities; and (c) the Licensee shall be responsible for any breach of this Agreement by the contractor.
- 5.5 Clause 5.4 shall not prevent said contractor in obtaining a sublicense under Clause 5.1.
- 5.6 Subject to Licensor's prior written approval, which shall not be unreasonably withheld, Sublicensees may, on a case-by-case basis, be granted the right to grant sub-licenses to Third Parties ("sub-sublicenses") on arm's length terms, provided that any such sub-sublicense is consistent with the terms of this Agreement and contains a provision prohibiting the sub-sublicensee from further sublicensing.

6 Affiliates

- 6.1 Affiliates of the Licensee are empowered to act as Sublicensees and shall be regarded as Sublicensees under this Agreement in all respects, except with respect to royalty payments as specified in Clause 6.2 below.
- 6.2 For the purposes of this Agreement, Affiliates of the Licensee are not considered Third Parties and shall therefore pay the same royalty rates applicable to the Licensee, as if such Affiliate were the Licensee in accordance with Clauses 7.1.1.

7 Consideration

[Guidance text: The Licensee may, at its sole discretion, elect to make an up-front payment, in which case the Licensee shall be entitled to choose either:

- (i) a 25% reduction in the royalty on Net Sales; or

(ii) a reduction in the technology access fee, equal to the lowest of the technology access fee amounts specified for the years 4, 5, and 6 and onwards in the Cover Sheet.]

7.1 The Licensee shall pay Licensor the following amounts for the rights granted under this Agreement:

7.1.1 [This Clause 7.1.1 shall be deleted if up-front payment is not included in the final executed agreement.]

[Up-front payment: As of the Effective Date the up-front payment specified in the Cover Sheet, exclusive of VAT, is due and payable to the Licensor within 30 calendar days upon receipt of invoice from Licensor.]

7.1.2 Royalty on Net Sales: A running annual royalty on Net Sales as listed in the Cover Sheet, such royalty being due and payable to the Licensor after the end of every calendar year ending on 31 December, due and payable within 30 calendar days upon receipt of invoice from Licensor at the earliest on 1 April.

7.1.3 Maximum stacking royalty: Notwithstanding the foregoing, if two or more licence agreements from the Licensor is required to manufacture, market and sell a Product, the royalty on Net Sales on such Product cannot in the aggregate be any higher than the maximum stacking royalty listed in the Cover Sheet.

7.1.4 Royalty on Sublicensing Revenues: The Licensee shall in addition to the above royalties pay to Licensor an annual Royalty of Sublicensing Revenues as listed in the Cover Sheet, such royalty being due and payable following the end of each calendar year ending on 31 December, due and payable within 30 calendar days upon receipt of invoice from Licensor at the earliest on 1 April.

7.1.5 Technology access fee: An annual access fee corresponding to the amounts listed in the Cover Sheet. The fee is due and payable on 1 October of each calendar year upon receipt of invoice from Licensor, due and payable within 30 calendar days upon receipt of invoice from Licensor.

7.1.6 Notwithstanding the above, Licensee shall credit the technology access fee paid under Clause 7.1.4 against actual royalties on Net Sales cf. Clause 7.1.1 due and payable for the same calendar year.

7.1.7 Milestone payment: On the FSFD of the first clinical phase II trial for each specific clinical indication – a one-time-payment, as listed in the Cover Sheet, is payable within 30 calendar days upon receipt of invoice from the Licensor.

7.1.8 Milestone payment: On the FSFD of the first clinical phase III trial for each specific clinical indication – a one-time-payment, as listed in the Cover Sheet, is payable within 30 calendar days upon receipt of invoice from the Licensor.

- 7.1.9 Milestone payment: On the event of the first regulatory submission on a Product for each specific clinical indication – a one-time-payment, as listed in the Cover Sheet, is payable within 30 calendar days upon receipt of invoice from the Licensor.
- 7.1.10 Milestone payment: On the event of receiving the first regulatory approval for a Product for each specific clinical indication – a one-time-payment, as listed in the Cover Sheet, is payable within 30 calendar days upon receipt of invoice from the Licensor.

8 Buy Out Option

[The Licensee shall choose between Alternative 1 and Alternative 2 below. The Alternative not selected by the Licensee shall be deleted in the final executed agreement.]

[Alternative 1]

- 8.1 [The Licensee shall have a right to purchase the Patent, provided there is an external valuation of the Licensee's enterprise value or in the event that the Licensee is being sold. Such purchase shall be subject to a separate agreement, to be negotiated by the Parties in good faith and on market terms upon exercise of the purchase right.]

[Alternative 2]

- 8.2 [The Licensee shall have the option to buy out the royalty, technology access fee payments and milestone payments and the opportunity to take over the ownership of the patent, subject to a separate agreement negotiated between the Parties upon exercise of the Buy Out Option, cf. Clauses 8.2.1 and 8.2.2.
- 8.2.1 If the Licensee exercises the Buy Out Option pursuant to Clause 8.2 within 36 months from the Effective Date of this Agreement, the Licensee shall pay the one-time amount specified in the Cover Sheet for pre-36-months exercise, exclusive of VAT, in full settlement of all future royalty obligations and in consideration for the transfer of ownership to the Patent.
- 8.2.2 If the Licensee exercises the Buy Out Option more than 36 months after the Effective Date of this Agreement, the Licensee shall pay the one-time amount specified in the Cover Sheet for post-36-month exercise, exclusive of VAT, in full settlement of all future royalty obligations and in consideration for the transfer of ownership to the Patent.
- 8.3 Upon the Licensee's exercise of the Buy Out Option pursuant to Clause 8.2.1 or 8.2.2, all royalty payments (and technology access fees and milestone payments) that have not yet fallen due under Clause 7.1.2, 7.1.4, 7.1.5 and 7.1.7-7.1.10, concerning the period prior to the date of the exercise of the Buy Out Option, shall immediately fall due and be paid to the Licensor together with the one-time payment for the Buy Out Option, within 30 calendar days upon receipt of an invoice from the Licensor.

8.4 The Licensee may, at the time of exercising the Buy Out Option, select whether:

- (i) to have the ownership of the Patent transferred simultaneously with the exercise of the Buy Out Option, in which case the Licensee shall assume full responsibility for the prosecution and maintenance of the Patent, including payment of all External Patent Costs from the date of exercise; or
- (ii) to defer the transfer of ownership of the Patent to a later date of the Licensee's choosing, without additional payment to the Licenser but covering the transfer expenses payable to the patent authorities and the patent agent. In such case the Licenser shall continue to be responsible for the prosecution and maintenance of the Patent, and the External Patent Costs shall continue to be borne as specified in the Cover Sheet until the actual date of transfer of ownership of the Patent.

[Clause 9 below regarding windfall payments shall be deleted in the final executed agreement if the Licensee has chosen Alternative 1 in Clause 8 above.]

9 Windfall payments

9.1 Subject to the Licensee's exercise of the Buy Out Option pursuant to Clause 8.2, the Licensee shall have an obligation to pay the following windfall payments to Licenser:

9.1.1 Exit windfall payment: If control of the Licensee (more than 51% of ownership) changes through an exit or divestment resulting in non-founder majority ownership of the Licensee, the Licensee shall pay the exit windfall payment specified in the Cover Sheet based on the business valuation of the Licensee.

9.1.2 Big business payment: The Licensee shall pay the big business payment specified in the Cover Sheet when the Licensee's annual turnover exceeds 250 MDKK.

9.2 The Licensee shall inform the Licenser within 30 days of the occurrence of any windfall condition as set forth in the Clauses 9.1.1 and 9.1.2 above. If information is provided in due time, the windfall payment shall become due and payable within 30 calendar days upon receipt of an invoice from the Licenser.]

[Clause 10 below shall be deleted if equity is not included in the final executed agreement]

10 Equity

[Guidance text: The Licensee may propose the equity model against a 50% reduction in the royalty. However, the proposed equity model shall be subject to approval of the Licenser,

The equity is calculated as 1.5 times the royalty before reduction, and minimum equity is 3% and maximum equity is 5%.]

10.1 As of the Effective Date, the Licensee shall grant the Licenser an ownership interest in the Licensee corresponding to the percentage specified in the Cover Sheet, against contribution in kind of this Agreement.

- 10.2 The Licensors shall be protected against dilution in accordance with the terms set forth in Exhibit 3. The Licensors' ownership interest in the Licensee shall not carry any voting or representation rights. The Licensee shall ensure that these terms are duly implemented in the Licensee's articles of association and the shareholders agreement.
- 10.3 The Licensee shall provide the Licensors with documentation verifying the Licensors' shareholder status and the implementation of the terms set forth in Clause 10.2 upon completion of the capital increase within 30 days of the registration.
- 10.4 It is a condition and prerequisite (in Danish "betingelse og forudsætning") for the conclusion of this Agreement that the Licensors become shareholders in the Licensee in accordance with this Clause 10.]

11 Patent prosecution and maintenance

- 11.1 The Licensors will take all necessary steps to file, prosecute and maintain the Patent within the Filing Jurisdictions.
- 11.2 The Patent shall as a minimum be upheld in the Minimum Countries listed in the Cover Sheet throughout the term of this Agreement, subject to Clause 11.6 below.
- 11.3 Licensors shall with respect to prosecution and maintenance of the Patent;
- 11.3.1 consult Licensee and take any comments and input from the Licensee into consideration; and
 - 11.3.2 provide Licensee with copies of all patent filings, notices and related documentation submitted to or received from any patent office in any jurisdiction in which patent protection for the Patent is pursued or to be pursued; and
 - 11.3.3 copy Licensee and instruct the patent attorney to copy Licensee on relevant correspondence regarding the Patent by using Licensee's notice address specified on the Cover Sheet.
- 11.4 External Patent Costs shall be borne from the Effective Date by the Licensee as specified in the Cover Sheet, subject to Clause 11.6 below. If the Patent is licensed to a Third Party outside the Field of Use, the external patent cost must be divided equally between the number of licensees.
- 11.5 The Licensee shall timely, actively and for its own account and cost and to the extent reasonable support the Licensors in relation to obtaining and maintaining the Patent when such support is required by the Licensors.
- 11.6 Notwithstanding anything to the contrary in this Clause 11, the Licensee shall have the right to request the Licensors to abandon the Patent in one or more countries of the Filing Jurisdictions outside the Minimum Countries, cf. Clause 11.1. The Licensors shall within 14 calendar days after receipt of such request inform the Licensee of its decision to either (i) abandon the Patent in the requested country, or (ii) maintain the Patent in the requested country provided that the Licensors bear all costs in connection therewith. The Licensee's Exclusive

license, cf. Clause 4.1, shall automatically expire in relation to the countries, in which the Licensee has requested the Licensor to abandon the Patent, regardless of whether the Licensor decides to (i) abandon or (ii) maintain the Patent in such countries. For the Minimum Countries, any request from Licensee relating to the abandonment of the Patent shall be subject to Licensor's written approval.

12 Improvements

- 12.1 Improvements – whether patentable or not – developed by a Party or its employees shall be the sole property of that Party. Improvements made by the Licensor may be licensed by the Licensee subject to a separate agreement negotiated between the Parties.

13 Infringement

- 13.1 Each Party shall keep the other Party advised of any (actual or potential) infringement and litigation relating to the Patent.
- 13.2 If a Party becomes aware of an infringement of the Patent, either Party is entitled but not obligated to institute infringement proceedings, provided that the instituting Party consults the other Party prior to such litigation. The instituting Party shall apprise the other Party of its plans with respect to such proceedings.
- 13.3 The costs incidental to such proceedings, including legal fees, shall be borne by the instituting Party.
- 13.4 The non-instituting Party shall execute all necessary documents and take any other action reasonably necessary to allow the instituting Party to institute such proceedings, including supply of any relevant information, documents, consultation, and testimony. Also, the non-instituting Party shall to the extent reasonable assist the instituting Party with legal and technical advice and other non-financial assistance, evidence, and documentation.
- 13.5 Any amount paid by Third Parties to the instituting Party as a result of such proceedings, whether by settlement, award or otherwise, shall accrue to the instituting Party first be spent on reimbursement of costs and expenses incurred and paid for in connection with the infringement case. Licensee shall divide any remaining amounts as follows: (i) Licensor will receive the royalty that Licensor would have received under Clause 7.1.1 had those activities been performed by the Licensee, (ii) Licensor will receive the Sublicensing Revenues that Licensor would have received under Clause 7.1.4 had those activities been performed by the Sublicensee, and Licensee will receive the remaining amount.
- 13.6 If the Licensee chooses not to initiate legal action to enforce the Patent after becoming aware of an infringement, and the Licensor decides to pursue such infringement, the Licensor shall have the right to convert the Licensee's exclusive license in the countries where the Licensor pursues the infringement into a non-exclusive license. In the event that the Licensor converts the Licensee's exclusive license into a non-exclusive license in such country and grants a license to the Patent within Licensee's Field of Use to a Third Party, the Parties shall enter into negotiations in good faith to renegotiate payment terms applicable in that country including payment of patent costs.

14 Liability

- 14.1 The Parties are liable for damages according to Danish law, however each Party's liability shall be subject to the limitations set forth in this Clause 14.
- 14.2 Except for breach of the duty of confidentiality and in cases of gross negligence or wilful misconduct, each Party shall under no circumstances be liable for indirect loss or damage, including (but not limited to) lost profits or future business, lost earnings, any damage to reputation or goodwill and Third-Party losses arising directly or indirectly out of this Agreement.
- 14.3 Without prejudice to anything in this Clause 14, the total liability of each Party under this Agreement shall be limited DKK 500,000 in the aggregate except in case of gross negligence or wilful misconduct. Clause 14.1 and this Clause 14.3 do not apply with respect to the Licensee's obligation to indemnify Licensor under Clause 16.

15 Representations and Warranties

- 15.1 The Licensor does not represent or warrant that the invention is patentable (whether in whole or in part). The Licensor does not represent or warrant that the invention can be exploited without obtaining supplementary licenses from Third Parties.
- 15.2 The Licensor represents and warrants that:
- 15.2.1 To the best of Licensor's knowledge, the Licensor is the owner of the Patent, and
 - 15.2.2 to the best of Licensor's knowledge each person who has or has had any rights in or to the Patent has, to the fullest extent possible under applicable law, assigned and has executed an agreement assigning its entire right, title and interest in and to such Patent, and
 - 15.2.3 Licensor is not aware of (and consequently has not held back any information regarding) any infringement, misappropriation, or other violation of any Third Party intellectual property rights, and
 - 15.2.4 to the best of Licensor's knowledge, there are no claims, judgements, or settlements against, or amounts with respect thereto, owed by Licensor or any of its Affiliates relating to the Patent, and no claim or litigation has been brought or threatened by any person or entity alleging that the Patent are invalid or unenforceable, and
 - 15.2.5 Licensor has not prior to the Effective Date (a) assigned, transferred, conveyed or otherwise encumbered its rights, title and interests in the Patent; or (b) otherwise granted any rights to any Third Parties that would conflict with the rights granted to Licensee hereunder.
- 15.3 Apart from Clause 15.1 above, the Licensor does not provide any express or implied representations or warranties.

15.4 The Licensee represents and warrants

- that in the exercise of this Agreement all activities by or on behalf of the Licensee comply with all applicable law and statutory, governmental and regulatory obligations (including without limitation those relating to export and import and to antitrust and competition law) in all relevant (including any foreign) territories; and
- that it at its own costs is covered by an adequate liability insurance (a product liability policy). The Licensee shall provide evidence of such insurance to the Licensor at the Licensor's request. The adequate liability insurance shall cover the Products from prior to the first launch of a Product and throughout its lifespan, and for as long as a product liability claim may be filed lawfully against the Licensee, its Affiliates or Sublicensees. The adequate liability insurance program shall name the Licensor as additional insured with respect to product liability.

16 Indemnification

- 16.1 The Licensee agrees to indemnify, hold harmless and defend the Licensor against any and all expenses, costs of defence (including without limitation attorneys' fee, witness fees, claims for damages, demands, actions, liabilities, judgments, fines and amounts paid in settlement) and any amounts the Licensor becomes legally obliged to pay because of any claim(s) against it, to the extent that such claim(s)
- (i) arise out of the breach or alleged breach of any representation or warranty by the Licensee hereunder, or
 - (ii) are due to negligence or misconduct by the Licensee, or
 - (iii) result from the Licensee's activities under this Agreement (including but not limited to infringement of Third Party rights or the pursuit of an alleged infringer in accordance with Clause 7, including without limitation any cost directly linked with the defence by the Licensor of any counterclaim made by the alleged infringer), or
 - (iv) arise out of the possession, manufacture, use, sale, administration etc. of the Products by the Licensee (including but not limited to product liability).

17 Force majeure

- 17.1 No Party shall be in breach of this Agreement for any delays, interruption, or failure to perform its obligations if the delay, interruption, or failure is caused by force majeure or events beyond its reasonable control which such Party could not reasonably be expected to have considered or foresee at the signature of the Agreement.
- 17.2 A Party invoking exemption from liability due to force majeure, cf. Clause 17 must notify the other Party hereof without delay. Such notice shall contain information about the nature of the force majeure, its estimated duration and information pertaining to the consequences. If the force majeure event lasts more than 90 calendar days, the other Party shall be entitled to terminate this Agreement without prior notice.
- 17.3 In the event of termination of the Agreement due to force majeure, Clauses 19.4-21.6 pertaining to termination shall apply.

18 Confidentiality

- 18.1 The Parties shall be bound to maintain confidentiality with respect to Confidential Information and shall ensure that no such Confidential Information is passed on to any Third Party. The Parties shall ensure that its directors, managers, and employees assume an identical duty of confidentiality as set forth in this Agreement.
- 18.2 Notwithstanding the above, the Licensee is entitled to disclose Confidential Information about the invention and/or the Patent, including any related know-how, on a need-to-know basis to (i) customers and business partners as part of its ordinary operations; (ii) external consultants and advisors, (iii) potential buyer/subscriber of shares in the Licensee, and/or (iv) any other Third Party upon written agreement with Licensor, provided that any such person mentioned under (ii)-(iv) assumes an identical duty of confidentiality as set forth in this Agreement.
- 18.3 The duty of confidentiality under Clause 18.1 does not apply to information and knowledge which
- at the time of receipt is or later becomes available to the public other than through the receiving Party's breach of the duty of confidentiality as set forth in this Agreement,
 - was lawfully in the receiving Party's possession at the time of receipt without any confidentiality restrictions,
 - was received from a Third Party who appeared to be entitled to lawfully disclose such information, or
 - was developed independently by the receiving Party.
- 18.4 In the event of disagreement between the Parties, the receiving Party has the burden of proof that the information received is comprised by Clause 18.3 above.
- 18.5 If Confidential Information exchanged under this Agreement becomes subject to legislation or executive orders, public law decisions, judgments, awards, etc. requiring the receiving Party to pass on Confidential Information in whole or in part, the receiving Party shall inform the disclosing Party hereof without delay. The receiving Party's compliance with any such required transfer of Confidential Information shall not constitute any breach of the duty of confidentiality under this Agreement.
- 18.6 The duty of confidentiality pursuant to this Clause 18 shall cease to apply three years after this Agreement terminates, provided, however, with respect to Confidential Information constituting a Trade Secret, the obligations of confidentiality and non-use shall remain in effect for so long as the Confidential Information remains a Trade Secret. In case Licensee wishes to disclose Confidential Information that contains Trade Secrets to Licensor, Licensee shall first (i) notify Licensor in writing of Licensee's wish to disclose to Licensor such Confidential Information that includes Trade Secrets and the nature of such Trade Secrets; and (ii) obtain Licensor's written consent to receive from Licensee Confidential Information that contains such Trade Secrets.

- 18.7 If the Agreement should terminate prematurely for whatever reason, the three-year time limit shall commence from the date of the last-to-expire Patent or last-to-be-abandoned Patent licensed under this Agreement, whichever is later.

19 Reporting and inspection

- 19.1 No later than 60 days after expiry of the preceding calendar year, the Licensee must provide the Licensor with a true and accurate written report based on the template in Exhibit 2 covering the preceding year ending 31 December regarding;
- The progress towards commercial use of Products, which shall include, as a minimum, information sufficient for the Licensor to ascertain the progress by the Licensee towards meeting the Commercial Reasonable Effort.
 - The use of the Patent, giving the particulars of the business involving the Patent conducted by the Licensee or – if relevant - any Sublicensees or Affiliates.
 - The number of Products sold using the Patent, and the calculation of Net Sales and due royalty amount.
- 19.2 The Licensor shall to a reasonable extent always have the right to request further information, including books and records, to verify the Net Sales and payments to be given under confidentiality.
- 19.3 Licensor shall have the right to examine relevant books and records of Licensee for the purpose of determining the accuracy of payments made under this Agreement. Licensor shall only be entitled to examine the facilities where the Products are manufactured and handled in special circumstances, namely where Licensor has reasonable grounds to suspect material non-compliance with this Agreement, including misreporting of Net Sales or misuse of the Patent.
- 19.4 Such examination shall be conducted by an independent auditor selected by Licensor and to whom Licensee shall have no reasonable objection. The examination shall be conducted under confidentiality, and only the result of the examination shall be reported to the Parties.
- 19.5 Such examinations shall be carried out at the Licensor's sole expense. If the examination proves that there are outstanding royalties on Net Sales or on Third Party Sublicensing Revenue, such royalties must be paid by the Licensee to the Licensor without delay after the examination. Furthermore, if the examination proves a margin of more than 5 per cent in the Licensor's favour compared with the Licensee's calculations, all costs incidental to the audit shall be paid by the Licensee.
- 19.6 If Licensee becomes involved in any voluntary or involuntary bankruptcy or other insolvency proceedings, ceases to be actively engaged in business or becomes financially incapable of performing its obligations under this Agreement, Licensee is obligated to give notice to Licensor no later than 14 days after of such event.

20 Performance requirements

- 20.1 Licensee shall use Commercially Reasonable Efforts to utilise the Patent.
- 20.2 If the Licensors reasonably believe that the Licensee and/or an Affiliate is in material non-compliance of its obligations under Clause 20.1, then the Licensors shall give written notice to the Licensee with specification of the alleged failure to comply. The Licensee shall provide detailed written explanation to the Licensors within 90 days of the date of the Licensors' notice and propose reasonable steps to comply with the Commercially Reasonable Effort. The Parties shall thereafter in good faith agree to a reasonable development plan. If the Parties cannot agree to such development plan within 90 days of the date of the Licensee's reply to the Licensors or if the Licensee fails to reply to the Licensors within the above deadline, then the Licensors may claim that the Licensee is not diligent as per Clause 20.1 and terminate the Agreement in accordance with Clause 21.3.

21 Termination

- 21.1 Expiration: This Agreement shall expire when the Patent has been held invalid or unenforceable by a court of competent jurisdiction in a final and non-appealable judgment, expired or been abandoned in all Filing Jurisdictions.
- 21.2 Termination by the Licensee: This Agreement may be terminated by Licensee at any time and for any reason by giving 6 months written notice to the end of a month subject to the following conditions: If the Licensee exercises its right to terminate this Agreement, Licensee shall pay to Licensors 1) a one-time amount covering all External Patent Costs concerning the period from the Effective Date to the effective date of termination, cf. Clause 11.4, and the specification in the Cover Sheet, 2) all royalty payments that have not yet fallen due, and 3) the technology access fee in proportion to the number of months elapsed in the calendar year as of the termination date. All such amounts shall immediately fall due and be paid to the Licensors no later than on the effective date of termination.
- 21.3 Termination for breach of contract: In the event of a Party's material breach of any of its obligations under this Agreement (such as, but not limited to, breach of any payment or reporting obligations), the aggrieved Party may terminate this Agreement by written notice of 30 days, unless the Party receiving the notice cures such breach within the 30 days period.
- 21.4 Termination upon insolvency, bankruptcy etc.: This Agreement may immediately be terminated by the Licensors by written notice, but without prejudice to any rights of the Licensors under this Agreement, if the Licensee is subjected to receivership, bankruptcy, suspension of payments or insolvency, or make an assignment for the benefit of creditors, or go out of business.
- 21.5 Effect of termination: Upon termination of this Agreement, the Licensee shall (i) cease all use of the Patent as well as all sales of Products (the Licensee shall, however, have the right to sell that quantity of Products it then has on hand subject to any obligation of the Licensee to pay customary royalties of such sale) and (ii) return to the Licensors all the documentary information provided by the Licensors together with any copies thereof or transcripts therefrom. No matter the way of termination of this Agreement, all external patent cost must after termination of this Agreement be borne by the Licensors.

- 21.6 Termination: Termination, however caused, shall not affect such of the provisions of this Agreement as are expressly or implied operative or effective thereafter and shall be without prejudice to any right of action already accrued to either Party in respect of any breach by the other Party.

22 Notices

- 22.1 Except as may be otherwise expressly specified in this Agreement, all notices and other communications required or permitted under this Agreement shall be in writing and shall be deemed received (i) when sent by e-mail to the e-mail address specified below, (ii) when delivered by hand to the address specified below, or (iii) at the day of delivery by delivery service.
- 22.2 Unless receipt of notice by e-mail is confirmed by an (non-automatic) answer to the e-mail, a copy of any such notice made by e-mail shall also be sent by express overnight delivery on the date such notice is transmitted by e-mail to the address specified below (but this shall not affect the validity of the notification made by e-mail).
- 22.3 All notices to the Licensor, including the documentation described in Clause 17.1 and other reports, and documentation in relation to e.g. due payments and commercial progress must be forwarded to Licensor's notice address for general and financial notices specified in the Cover Sheet.
- 22.4 All notices to the Licensor concerning invention-related notices must be forwarded to the notice address specified for such notices in the Cover Sheet.
- 22.5 Notices to the Licensee must be forwarded to Licensee's notice addresses specified in the Cover Sheet.
- 22.6 Either Party may change its address or e-mail address for notification purposes by giving the other Party 30 days' notice of the new address or e-mail number and the date upon which it will become effective.

23 Settlement of disputes

- 23.1 This Agreement is governed exclusively by Danish law.
- 23.2 Should a dispute arise between the Parties in connection with this Agreement, including its interpretation and use, the Parties shall enter into negotiations in good faith in order to solve the dispute.
- 23.3 If the Parties cannot on their own solve the dispute according to 23.2 the dispute shall at the discretion of the Licensee either:
- 23.3.1 be finally settled by arbitration administrated by The Danish Institute of Arbitration in accordance with the rules of arbitration procedure adopted by The Danish Institute of Arbitration and in force at the time when such proceedings are commenced. The arbitral tribunal shall be composed of three (3) arbitrators of which each Party will elect one (1). The third arbitrator of the arbitral tribunal, who shall also be chair of the arbitral tribunal, shall be elected by the Danish Institute of Arbitration. The

place of arbitration shall be Copenhagen. The arbitration proceedings and the arbitration award(s) shall be confidential without limitation in time, or

23.3.2 be referred to the Danish courts. The jurisdiction of the Danish Maritime and Commercial High Court (in Danish: "Sø- og Handelsretten") is exclusive. The language to be used in the written proceedings shall be English unless the Parties agree otherwise.

24 Miscellaneous

- 24.1 Marketing etc.: Neither Party, nor its Affiliates or Sublicensees may use the other Party's name, logo etc. (including, but not limited to, in advertising, publicity or promotional activities), unless required by law or consented to in writing without prior specific approval by the Party in question.
- 24.2 Entire agreement: This Agreement represents the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter. Any amendment to this Agreement shall be agreed upon in writing and signed by the Parties hereto.
- 24.3 No waivers: Except where an express time frame is set forth in this Agreement, no delay or omission by either Party to exercise any right, remedy, or power it has under this Agreement shall impair or be construed as a waiver of such right, remedy or power. A waiver by any Party of any breach or covenant in this Agreement shall not be construed to be a waiver of any other or succeeding breach or covenant. To be enforceable, any waiver must be in a writing signed by an authorized signatory of the Party waiving its rights.
- 24.4 Assignment: Neither this Agreement nor any interest thereunder shall be assignable by either Party without the prior written consent of the other Party. For the avoidance of doubt, a change in the direct or indirect ownership of Licensee by way of a transfer of shares or subscription of new shares is permitted and shall not be deemed an assignment.

SIGNATURES FOLLOW ON SEPARATE PAGE

25 Signatures

This Agreement is signed by the authorised signatories of each Party.

On behalf of [University]

Place and date:

Name and title:

Signature

On behalf of [Company]

Place and date:

Name and title:

Signature

Place and date:

Name and title:

Signature

EXHIBIT 1 - PATENT

EXHIBIT 2 - REPORTING SCHEDULE

Annual Statement covering the [insert period]

Concerning [Title of contract] in regard to [University ref / Company ref (if applicable)] entered into on [Effective Date]

Business activities:

Short summary of activities: progress towards commercial use of Products, use of Patent, information about sublicenses, see Clause 19 "Reporting and inspection".

Reporting and calculation of Royalty, see "Consideration".

Net Sales and calculation of Royalty on Net Sales.

Sublicensing Revenue and calculation of Royalty on Sublicensing Revenue.

Crediting against technology access fee (if applicable for given year).

Sum of Royalty to [University]:

Company Information:

Please specify changes in address or contact information if any.

On behalf of: [Name and date]s

EXHIBIT 3 – ANTI-DILUTION PROTECTION OF LICENSOR

1. Purpose

- The purpose of the anti-dilution protection is to ensure that the Licensor maintains an ownership interest of [insert] % of the share capital in the Licensee throughout the protection period, irrespective of capital increases.

2. Protection period

- The anti-dilution protection shall remain in force until the Licensee has received investments through capital increases totaling DKK 20,000,000.
- Convertible debt instruments shall only be counted as investments upon conversion into equity shares.
- Employee incentive schemes within the Licensee (options and warrants) shall not at any time be included in the aggregate investment amount.

3. Triggering events

- The anti-dilution protection shall be triggered by any capital increase in the Licensee during the protection period.
- This also applies to convertible debt instruments, where the protection shall be triggered upon the conversion of debt into equity shares.
- The anti-dilution protection shall not, however, be triggered at any time in connection with employee incentive schemes within the Licensee (options and warrants).

4. Financing

- The Licensor may not contribute cash deposits to finance the anti-dilution protection.
- The Licensee shall ensure that the Licensor's percentage ownership interest in the Licensee remains unchanged during the protection period without cash deposits from the Licensor.