

## PATENT ASSIGNMENT AGREEMENT

**THIS AGREEMENT** dated June 17, 2013 is between:

- 1) **XENEXUS PHARMACEUTICALS PTY. LTD.** a company incorporated in Australia whose office is at Level 9, Avaya House, 123 Epping Road, North Ryde, N.S.W. 2113, Australia ("**Assignor**"); and
- 2) **REVIVE THERAPEUTICS INC.** a company incorporated in the Province of Ontario, Canada whose office is at 79 Fenmar Drive, North York, Ontario M9L 1M3, Canada ("**Assignee**").

### RECITALS:

- A. The Assignee wishes to acquire Patents and rights under the Patents and to use the Technology for the development and commercialisation of Products in the Territory, in accordance with the provisions of this Agreement; and
- B. The Assignee and Assignor wish to replace and supercede their Patent Licence Agreement between Assignor and Assignee dated April 3, 2013.

**IT IS AGREED** as follows:

### 1 Definitions

In this Agreement, the following words shall have the following meanings:

Affiliate	in relation to a Party, means any entity or person other than the Party that controls, is controlled by, or is under common control with that Party.
Agreement Year	means the period of 12 months from the Commencement Date and each subsequent 12 month period thereafter until termination of this Agreement.
Claims	means all demands, claims and liability (whether criminal or civil, in contract, tort or otherwise) for losses, damages, legal costs and other expenses of any nature whatsoever and all costs and expenses (including without limitation legal costs) incurred in connection therewith.
Commencement Date	means the date on which this Agreement was executed by both the Assignor and Assignee; if executed on separate dates, the latter of those two dates.
Products	means any and all products that are manufactured, sold or otherwise supplied by the Assignee or its Licensee (including any Affiliate of the Assignee) and which are within any Valid Claim of any of the Patents granted in the country or countries in which the products are sold. Such products shall cease to be Products upon expiry, cancellation or other invalidation of the respective Valid Claim.
Milestone Payment	means a monetary payment made by a Licensee to the Assignee solely for the reason that a stage in the development or sale of the Products has been completed or achieved
Parties	means Assignor and the Assignee, and " <b>Party</b> " shall mean either of them.

Patents	means the patent documents referred to in Schedule 1 as well as any continuation, extension, reissue, division, and supplementary protection certificate and any similar rights in any part of the world that are based on or derive priority therefrom.
Technology	means any and all teachings disclosed in the Patents, and any and all methods, processes, products and other art, owned by the Assignor, as necessary to work the Product.
Territory	means any countries in the world in which there is at least one Valid Claim covering the Product.
Upfront Payment	means a monetary payment made by a Licensee to the Assignee solely for the reason that a sublicensing agreement has been entered into with the Assignee with respect to the Products
Valid Claim	means a claim of one or more of the Patents that has not expired or been held invalid or unenforceable by a court of competent jurisdiction in a final and non-appealable judgment.

## 2 Grant of rights

2.1 *Assignment.* Assignor hereby grants to the Assignee, subject to the provisions of this Agreement, the Patents and an exclusive right to exploit the Patents and, to develop, manufacture, have manufactured, use and sell Products in the Territory with the right to license, subject to Clause 2.3 below, its rights under this Clause 2.1. Assignor grants to the Assignee the right to make use of the Technology to the extent necessary for fully exercising the aforementioned exclusive assignment.

2.2 *Formal assignments.* The Parties shall execute such formal assignments as may be necessary or appropriate for registration with patents offices and/or other relevant authorities in particular territories in order to record and/or give full effect and force to this Agreement and the assignments granted herein. In the event of any conflict in the meaning between any such formal assignment and the provisions of this Agreement, the provisions of this Agreement shall prevail wherever possible. Prior to the execution of the formal assignment(s) referred to above, the Parties shall so far as possible have the same rights and obligations towards one another as if such assignment(s) had been granted. The Parties shall use reasonable endeavours to ensure that, to the extent permitted by relevant authorities, this Agreement shall not form part of any public record.

2.3 *Licensing.* The Assignee shall thereafter be entitled to grant licences of its rights under Clause 2.1 to any person ("**Licensee**"), provided that:

- 2.3.1 the licence shall include obligations on the Licensee which are equivalent to the obligations on the Assignee under this Agreement;
- 2.3.2 the licence shall terminate automatically on the termination of this Agreement for any reason provided that in the event of termination of this Agreement under Clause 8.2. by Assignor, Assignor shall permit the Licensee to continue to exercise its rights under the licence; provided that Assignor shall not be bound to any non-financial provisions, including but not limited to representations and warranties to and indemnification of the Licensee, in the licence agreement that Assignor has not approved in writing.

2.4 *Quality.* The Assignee shall ensure, to the extent possible within reasonable cost and effort, that all of the Products marketed by it and its Licensee are of satisfactory quality and

comply with all applicable laws and regulations in each part of the Territory.

2.5 *Responsibility for development of Products.* The Assignee shall be exclusively responsible for the technical and commercial development and manufacture of Products and for incorporating any modifications or developments thereto that may be necessary or desirable and for all Products sold or supplied, and accordingly the Assignee shall indemnify Assignor in the terms of Clause 7.4.

### 3 **Know-how and Confidential Information**

3.1 *Confidentiality obligations.* Each Party ("**Receiving Party**") undertakes:

- 3.1.1 to maintain as secret and confidential all know-how and other technical or commercial information obtained directly or indirectly from the other Party ("**Disclosing Party**") in the course of or in anticipation of this Agreement and to respect the Disclosing Party's rights therein;
- 3.1.2 to use the same exclusively for the purposes of this Agreement; and
- 3.1.3 to disclose the same only to those of its employees, contractors and Licensees pursuant to this Agreement (if any) to whom and to the extent that such disclosure is reasonably necessary for the purposes of this Agreement.

3.2 *Exceptions to obligations.* The provisions of Clause 3.1 shall not apply to know-how and other information which the Receiving Party can demonstrate by reasonable, written evidence:

- 3.2.1 was, prior to its receipt by the Receiving Party from the Disclosing Party, in the possession of the Receiving Party and at its free disposal; or
- 3.2.2 is subsequently disclosed to the Receiving Party without any obligations of confidence by a third party who has not derived it directly or indirectly from the Disclosing Party; or
- 3.2.3 is or becomes generally available to the public through no act or default of the Receiving Party or its agents, employees, Affiliates or Licensees; or
- 3.2.4 the Receiving Party is required to disclose to the courts of any competent jurisdiction, or to any government regulatory agency or financial authority, provided that the Receiving Party shall:
  - 3.2.4.1 inform the Disclosing Party as soon as is reasonably practicable; and
  - 3.2.4.2 at the Disclosing Party's request seek to persuade the court, agency or authority to have the information treated in a confidential manner, where this is possible under the court, agency or authority's procedures.

3.3 *Disclosure to employees.* The Receiving Party shall procure that all of its employees, contractors and Licensees pursuant to this Agreement (if any) who have access to any of the Disclosing Party's information to which Clause 3.1 applies, shall be made aware of and subject to these obligations and shall have entered into written undertakings of confidentiality at least as restrictive as Clauses 3.1 and 3.2 and which apply to the Disclosing Party's information.

### 4 **Payments**

4.1 *Assignment Fee.* The Assignee shall pay to Assignor the sum of \$15,000 on receipt of the Executed Assignments of the Patent and patent rights set out in Schedule 3 and 4.

4.2 *Milestone payments.* The Assignee shall pay to Assignor the following milestone payments upon the milestone events specified below:

- 4.2.1 upon receiving an Upfront Payment, Assignee shall pay to Assignor 5% of the value of that Upfront Payment.
- 4.2.2 upon receiving a Milestone Payment, Assignee shall pay to Assignor 5% of the

value of that Milestone Payment.

4.3 *Payment terms.* All sums due under this Agreement:

- 4.3.1 are exclusive of Tax which where applicable will be paid by the Assignee to Assignor in addition;
- 4.3.2 shall be paid in Canadian dollars in cash by transferring an amount in aggregate to the following account:



(1)

and in the case of sums received by the Assignee in a currency other than Canadian dollars, the sum shall be calculated in the other currency and then converted into equivalent Canadian dollars at the buying rate of such other currency as quoted by HSBC plc in Toronto as at the close of business on the last business day of the quarterly period with respect to which the payment is made;

- 4.3.3 shall be made without deduction of income tax or other taxes, charges or duties that may be imposed, except insofar as the Assignee is required to deduct the same to comply with applicable laws. The Parties shall cooperate and take all steps reasonably and lawfully available to them, at the expense of Assignor, to avoid deducting such taxes and to obtain double taxation relief. If the Assignee is required to make any such deduction it shall provide Assignor with such certificates or other documents as it can reasonably obtain to enable Assignor to obtain appropriate relief from double taxation of the payment in question; and
- 4.3.4 shall be made by the due date, failing which Assignor may charge interest on any outstanding amount on a daily basis at a rate equivalent to 3% above the HSBC base lending rate then in force in Toronto.

4.4 *Exchange controls.* If at any time during the continuation of this Agreement the Assignee is prohibited from making any of the payments required hereunder by a governmental authority in any country then the Assignee shall within the prescribed period for making the said payments in the appropriate manner use its best endeavours to secure from the proper authority in the relevant country permission to make the said payments and shall make them within 7 days of receiving such permission. If such permission is not received within 30 (thirty) days of the Assignee making a request for such permission then, at the option of Assignor, the Assignee shall deposit the payments due in the currency of the relevant country either in a bank account designated by Assignor within such country or such payments shall be made to an associated company of Assignor designated by Assignor and having offices in the relevant country designated by Assignor.

4.5 *Records*

- 4.5.1 The Assignee shall keep at its normal place of business detailed and up to date records and accounts.
- 4.5.2 The Assignee shall make such records and accounts available, on reasonable notice, for inspection during business hours by an independent chartered accountant nominated by Assignor for the purpose of verifying the accuracy of any statement or report given by the Assignee to Assignor under this Clause 4. The accountant shall be required to keep confidential all information learnt during any such inspection, and to disclose to Assignor only such details as may be necessary to report on the accuracy of the Assignee's statement or report. Assignor shall be responsible for the accountant's charges.

Redactions:

- (1) Account information.

## 5 Commercialisation

- 5.1.1 The Assignee shall use and ensure that its Affiliates and Licensees shall use all diligent and commercially reasonable efforts, which shall never be less than the efforts expended by Assignee in respect of its other high priority development projects, to develop and commercially exploit the Patents to the maximum extent in the Territory where there is a Valid Claim in respect of such Patents in such part of the Territory.
- 5.1.2 Without prejudice to the generality of the Assignee's obligations under Clause 5.1, the Assignee shall provide at least annually to Assignor an updated, written development plan, showing all past, current and planned activities taken or to be taken by the Assignee to bring the Products to market and maximise the sale of the Products throughout the Territory. The Assignee shall deliver such development plan within 30 days of the end of each Agreement Year. Assignor's receipt or approval of any such plan shall not be taken to waive or qualify the Assignee's obligations under Clause 5.1.
- 5.1.3 If Assignor considers at any time during the period of this Agreement that the Assignee has without legitimate reason failed to proceed diligently to develop and commercially exploit the Patents and produce and sell the Products with respect to any country within the Territory, Assignor shall be entitled to refer to an independent expert the following questions:
  - 5.1.4 whether the Assignee has acted diligently in accordance with Clause 5.1; and if not
  - 5.1.5 what specific action the Assignee should have taken ("**Specific Action**") in order to have acted diligently.
- 5.1.6 The independent expert shall be appointed in accordance with the provisions of Schedule 2 and his decision shall be final and binding on the Parties.
- 5.1.7 If the expert determines that the Assignee has failed to comply with its obligations under this Agreement with respect to any country within the Territory, and if the Assignee fails to take the Specific Action within three months of the expert giving his decision in accordance with Schedule 2, Assignor shall be entitled, by giving, at any time within three months after the end of the three month period, not less than one month's notice to terminate this Agreement and the assignments granted to the Assignee under Clause 2 with respect to such country.

## 6 Intellectual property

- 6.1 *Patent management.* The Assignee shall:
  - 6.1.1 endeavour to obtain valid patents in the name of Assignor pursuant to each of the patent applications listed in Schedule 1 so as to secure the broadest monopoly reasonably available;
  - 6.1.2 consult with Assignor in relation to all changes to patent claims or specifications that would have the effect of reducing or limiting the extent of the Patents' coverage or any Valid Claim thereof and offer Assignor reasonable notice in order that Assignor has the opportunity to file divisional or other applications covering any claims or subject matter that the Assignee intends to remove from the Patent;
  - 6.1.3 ensure that Assignor shall receive copies of correspondence to and from all relevant patent offices in respect of the Patents, including copies of all documents generated in or with such correspondence; and
  - 6.1.4 pay all renewal fees in respect of the Patents as and when due;

provided that if the Assignee wishes to abandon any such application or not to maintain any such Patent (or to cease funding such application or Patent) in any country it shall give three months' prior written notice to Assignor and on the expiry of such notice period the Assignee shall re-assign to the Assignor the patent application or patent identified in

the notice.

6.2 *Patent expenses.*

6.2.1

6.2.2

(1)

6.3 *Infringement of the Patents*

6.3.1 Each Party shall inform the other Party promptly if it becomes aware of any infringement or potential infringement of any of the Patents, and the Parties shall consult with each other to decide the best way to respond to such infringement.

6.3.2 If the Parties fail to agree on a joint programme of action, including how the costs of any such action are to be borne and how any damages or other sums received from such action are to be distributed, then the Assignee shall be entitled to take action against the third party at its sole expense, subject to the following provisions of this Clause 6.4 ("**Legal Action**").

6.3.3 Before starting any Legal Action under this Clause 6.3, the Assignee shall consult with Assignor as to the advisability of the action or settlement, its effect on the good name of Assignor, the public interest, and how the action should be conducted.

6.3.4 The Assignee indemnifies and secures Assignor in relation to any costs (legal or otherwise, including the costs to Assignor of retaining its own legal counsel which, for the avoidance of doubt, Assignor shall have the right to do), damages, expenses or other liability arising out of any Legal Action.

6.4 *Infringement of third party rights*

6.4.1 If any warning letter or other notice of infringement is received by a Party, or legal suit or other action is brought against a Party alleging infringement of third party rights in the development, manufacture, use or sale of any Product or use of any of the Patents, that Party shall promptly provide full details to the other Party, and the Parties shall discuss the best way to respond.

6.4.2 Notwithstanding the terms of Clause 6.3.3 the Assignee shall have the right but not the obligation to defend such suit to the extent it relates to its activities and shall have the right to settle with such third party, provided that if any action or proposed settlement involves the making of any statement, express or implied, concerning the validity of any of the Patents, the consent of Assignor must be obtained before taking such action or making such settlement, such consent not to be unreasonably withheld or delayed.

7 **Warranties and Liability**

7.1 *Warranties by Assignor.*

7.1.1 Assignor warrants and undertakes that it has not done, and shall not do nor agree to do during the continuation of this Agreement, any of the following things if to do so would be inconsistent with the exercise by the Assignee of the rights granted to it under this Agreement, namely:

7.1.1.1 grant or agree to grant any rights to the Patents in the Territory; or

7.1.1.2 assign, mortgage, charge or otherwise transfer any of the Patents or any of its rights or obligations under this Agreement, except by express

Redactions:

(1) Commercial terms relating to responsibility for payment of patent expenses.

written agreement of the Assignee.

7.1.2 Assignor warrants and undertakes to Assignee that it is the sole owner of the patent and, as at the Commencement Date, it is the absolute and unencumbered owner of the Patents and it has not assigned, mortgaged, charged or otherwise transferred any of the Patents or any of its rights or obligations under this Agreement to any third party.

7.2 *Warranty by Assignee.* The Assignee warrants to Assignor that as at the Commencement Date neither Assignee nor any of its Affiliates has any product which would compete with the Product in development or on the market

7.3 *No other warranties*

7.3.1 Each of the Assignee and Assignor acknowledges that, in entering into this Agreement, it does not do so in reliance on any representation, warranty or other provision except as expressly provided in this Agreement, and any conditions, warranties or other terms implied by statute or common law are excluded from this Agreement to the fullest extent permitted by law.

7.3.2 Without limiting the scope of paragraph 7.3.1 above, Assignor does not make any representation nor give any warranty or undertaking:

7.3.2.1 as to the efficacy or usefulness of any of the Patents; or

7.3.2.2 that any of the Patents are or will be valid or subsisting or (in the case of an application) will proceed to grant; or

7.3.2.3 that the development, manufacture, sale or use of the Products or the exercise of any of the rights granted under this Agreement will not infringe any intellectual property rights or other rights of any third party; or

7.3.2.4 that any other information communicated by Assignor to the Assignee under or in connection with this Agreement will produce Products of satisfactory quality or fit for the purpose for which the Assignee intended; or

7.3.2.5 as imposing any obligation on Assignor to bring or prosecute actions or proceedings against third parties for infringement or to defend any action or proceedings for revocation of any of the Patents; or

7.3.2.6 as imposing any liability on Assignor in the event that any third party supplies Products to customers located in the Territory.

7.4 *Indemnity.* The Assignee shall indemnify Assignor (the "**Indemnified**") against all third party Claims that may be asserted against or suffered by any of the Indemnified and which relate to the use by the Assignee or any of its Licensees of any of the Patents or otherwise in connection with the development, manufacture, use or sale of or any other dealing in any of the Products by Assignee or any of its Licensees, or subsequently by any customer or any other person in connection with any Product, including Claims based on product liability laws.

7.5 *Liability.*

7.5.1 To the extent that any of the Indemnified has any liability in contract, tort, or otherwise under or in connection with this Agreement, including any liability for breach of warranty, their liability shall be limited in accordance with the following provisions of this Clause 7.5.

7.5.2 The aggregate liability of the Indemnified shall be limited to the total sums that Assignor has received from the Assignee under the terms of this Agreement (less any expenses that Assignor has incurred in obtaining, maintaining or defending any of the Patents to the extent not reimbursed by Assignee) during the period of 3 (three) years preceding the date on which the liability arises; and,

7.5.3 in no circumstances shall any of the Indemnified be liable for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered by the Assignee or its Affiliates;

- 7.5.3.1 that is of an indirect, special or consequential nature or
- 7.5.3.2 any loss of profits, revenue, business opportunity or goodwill.
- 7.5.4 Nothing in this Agreement excludes any person's liability to the extent that it may not be so excluded under applicable law, including any such liability for death or personal injury caused by that person's negligence, or liability for fraud.

## 8 Term and Termination

- 8.1 *Commencement and Termination by Expiry.* This Agreement, and the assignments granted hereunder shall come into effect on the Commencement Date and unless terminated earlier in accordance with this Clause 8 shall continue in force until the expiry of any outstanding rights under the last Valid Claim.
- 8.2 *Early termination.* Without prejudice to any other right or remedy, either Party may terminate this Agreement at any time by notice in writing to the other Party ("**Other Party**"), such notice to take effect as specified in the notice:
  - 8.2.1 if the Other Party is in material breach of this Agreement and, in the case of a breach capable of remedy within 90 days, the breach is not remedied within 90 days of the Other Party receiving notice specifying the breach and requiring its remedy;  
or if any of the following occurs:
    - 8.2.1.1 the Other Party becomes insolvent or unable to pay its debts as and when they become due;
    - 8.2.1.2 an order is made or a resolution is passed for the winding up of the Other Party (other than voluntarily for the purpose of solvent amalgamation or reconstruction);
    - 8.2.1.3 a liquidator, administrator, administrative receiver, receiver or trustee is appointed in respect of the whole or any part of the Other Party's assets or business;
    - 8.2.1.4 the Other Party makes any composition with its creditors;
    - 8.2.1.5 the Other Party ceases to continue its business; or
    - 8.2.1.6 as a result of debt and/or maladministration the Other Party takes or suffers any similar or analogous action.
  - 8.2.2 Assignor may terminate this Agreement by giving written notice to the Assignee, such termination to take effect forthwith or as otherwise stated in the notice:
    - 8.2.2.1 in accordance with the provisions of Clause 5.1; or
    - 8.2.2.2 if the Assignee or its Affiliate or Licensee commences legal proceedings, or assists any third party to commence legal proceedings, to challenge the validity or ownership of any of the Patents.
  - 8.2.3 The Assignee may terminate this Agreement by giving Assignor 30 days' written notice.
- 8.3 *Consequences of termination*
  - 8.3.1 Termination of this Agreement for any reason shall not absolve the Assignee's obligations to pay the costs of the Patents subject to Clause 6.2 of this Agreement where such costs are in respect of a period prior to the date of termination.
  - 8.3.2 Upon termination of this Agreement for any reason otherwise than in accordance with Clause 8.1:
    - 8.3.2.1 the Assignee and its Licensees shall be entitled to sell, use or otherwise dispose of any unsold or unused stocks of the Products for a period of 12 months following the date of termination;
    - 8.3.2.2 subject to paragraph 8.3.2.1 above, the Assignee shall no longer be licensed to use or otherwise exploit in any way, either directly or indirectly, the Patents, in so far and for as long as the Patents remains in force;



- 8.3.2.3 subject to paragraph 8.3.2.1 above, the Assignee shall consent to the cancellation of any formal assignment granted to it, or of any registration of it in any register, in relation to any of the Patents; and
- 8.3.2.4 subject to Clause 2.3.2, all licenses granted by the Assignee shall terminate upon termination of this Agreement and the Assignee shall take necessary action to notify such Licensees of the termination of their licences;
- 8.3.2.5 subject to Clause 2.3.2, the Parties shall, at the request of Assignor, negotiate in good faith the terms of an agreement between them on reasonable terms under which the Assignee will:
  - 8.3.2.5.1 transfer to Assignor exclusively all clinical and other data relating to the development of Products;
  - 8.3.2.5.2 to the extent possible, seek to have any product licences, pricing approvals and other permits and applications in respect of any Products transferred into the name of Assignor or its nominee;
  - 8.3.2.5.3 grant Assignor an exclusive, worldwide licence, with the rights to grant licences, under any improvements and other intellectual property owned or controlled by the Assignee relating to any Products; and
  - 8.3.2.5.4 grant Assignor or its nominee the right to continue to use any product name that had been applied to any Products prior to termination of this Agreement;

if the Parties are unable to agree the terms of an agreement as described in Clause 8.3.2.5 within 90 days of Assignor requesting the negotiation of such an agreement, either Party may refer the terms for settlement by an independent expert who shall be appointed in accordance with the provisions of Schedule 3 and whose decision shall be final and binding on the Parties. At the request of Assignor, the Parties shall promptly execute an agreement on the terms agreed between them or settled by the expert.

- 8.3.3 Subject as provided in this Clause 8.3. and except in respect of any accrued rights, neither Party shall be under any further obligation to the other.
- 8.3.4 Upon termination of this Agreement for any reason the provisions of Clauses 3.1 to 3.3, 4, 7.3, 7.4, 7.5, 8.3 and 9 shall remain in force.

## 9 General

9.1 *Force majeure*. Neither Party shall have any liability or be deemed to be in breach of this Agreement for any delays or failures in performance of this Agreement which result from circumstances beyond the reasonable control of that Party, including without limitation labour disputes involving that Party. The Party affected by such circumstances shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so.

9.2 *Amendment*. This Agreement may only be amended in writing signed by duly authorised representatives of Assignor and the Assignee.

9.3 Assignment and third party rights.

- 9.3.1 Subject to Clauses 9.3.2 – 9.3.4 below and subject to the Assignee being allowed to grant licences in accordance with Clause 2.3 above, neither Party shall assign, mortgage, charge or otherwise transfer any rights or obligations under this Agreement, nor any of the Patents or rights under any of the Patents, without the prior written consent of the other Party
- 9.3.2 Subject to Clauses 9.3.3 and 9.3.4 below, either Party may assign any or all its rights and obligations under this Agreement together with its rights in any of the

Patents to any company to which it transfers all or substantially all of its assets or business.

9.3.3 Neither Party may assign any or all of its rights under Clause 9.3.2 unless, on any such assignment, the assignor shall procure that its assignee shall, and the assignor and the other Party shall, execute an agreement novating this Agreement (or the relevant part thereof) so as to give effect to any such assignment and so as to bind the other Party and the assignee to all of the provisions of this Agreement (or in the relevant part or parts of this Agreement)

9.3.4 Neither Party may assign any or all of its rights under Clause 9.3.2 if it or the assignee is insolvent or any other circumstance described in Clause 8.2.1.2 applies to it or to the assignee.

9.4 *Waiver.* No failure or delay on the part of either Party to exercise any right or remedy under this Agreement shall be construed or operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude the further exercise of such right or remedy.

9.5 *Invalid clauses.* If any provision or part of this Agreement is held to be invalid, amendments to this Agreement may be made by the addition or deletion of wording as appropriate to remove the invalid part or provision but otherwise retain the provision and the other provisions of this Agreement to the maximum extent permissible under applicable law.

9.6 *No Agency.* Neither Party shall act or describe itself as the agent of the other, nor shall it make or represent that it has authority to make any commitments on the other's behalf.

9.7 *Interpretation.* In this Agreement:

9.7.1 the headings are used for convenience only and shall not affect its interpretation;

9.7.2 references to persons shall include incorporated and unincorporated persons; references to the singular include the plural and vice versa; and references to the masculine include the feminine;

9.7.3 references to Clauses and Schedules mean clauses of, and schedules to, this Agreement;

9.7.4 references in this Agreement to termination shall include termination by expiry; and

9.7.5 where the word "including" is used it shall be understood as meaning "including without limitation".

9.8 *Notices*

9.8.1 Any notice to be given under this Agreement shall be in writing and shall be sent by first class mail or air mail, or by fax (confirmed by first class mail or air mail) to the address of the relevant Party set out at the head of this Agreement, or to the relevant fax number as that Party may from time to time notify to the other Party in accordance with this Clause 9.10.

9.8.2 Notices sent as above shall be deemed to have been received three working days after the day of posting (in the case of inland first class mail), or seven working days after the date of posting (in the case of air mail), or on the next working day after transmission (in the case of fax messages, but only if a transmission report is generated by the sender's fax machine recording a message from the recipient's fax machine, confirming that the fax was sent to the number indicated above and confirming that all pages were successfully transmitted).

9.9 *Law and Jurisdiction.* The validity, construction and performance of this Agreement shall

be governed by Ontario law and shall be subject to the exclusive jurisdiction of the Ontario courts to which the Parties hereby submit, except that a Party may seek an interim injunction in any court of competent jurisdiction.


- 9.10 *Further action.* Each Party agrees to execute, acknowledge and deliver such further instruments, and do all further similar acts, as may be necessary or appropriate to carry out the purposes and intent of this Agreement.
- 9.11 *Announcements.*
- 9.11.1 Subject to Clause 9.11.2 below and with the exception that either Party may publicise the existence and nature (but not the terms) of this Agreement, neither Party shall make any press or other public announcement concerning any aspect of this Agreement, or make any use of the name of the other Party in connection with or in consequence of this Agreement, without the prior written consent of the other Party.
- 9.11.2 Any Party may make press or public announcement or issue a circular or communication concerning this Agreement or the subject matter of it if required by law or by any securities exchange or regulatory or governmental body to which that Party is subject provided that the Party making it shall use all reasonable endeavours to consult with the other Party prior to its making or despatch.
- 9.12 *Entire agreement.* This Agreement, including its Schedules, sets out the entire agreement between the Parties relating to its subject matter and supersedes all prior oral or written agreements, arrangements or understandings between them relating to such subject matter. The Parties acknowledge that they are not relying on any representation, agreement, term or condition which is not set out in this Agreement.
- 9.12.1 In particular, this Agreement supercedes and replaces the Patent Licence Agreement between Assignor and Assignee dated April 3, 2013, and all rights and obligations set out therein.
- 9.13 *Third parties.* Except for the rights of the Indemnified as provided in Clause 7.4, who may in their own right enforce the provisions of that Clause, this Agreement does not create any right enforceable by any person who is not a party to it ("**Third Party**") under the Contracts (Rights of Third Parties) Act 1999, but this Clause does not affect any right or remedy of a Third Party which exists or is available apart from that Act. The Parties may amend, renew, terminate or otherwise vary all or any of the provisions of this Agreement, including Clause 7.4, without the consent of the Indemnified.

AGREED by the Parties through their authorised signatories

For and on behalf of  
ASSIGNOR

Signed  (1)  
Name ~~Michael L. Selley~~  
Title Chief Executive Officer  
Date June 17, 2013

For and on behalf of  
ASSIGNEE

Signed  (1)  
Name Fabio Chianelli  
Title President  
Date June 17, 2013

Redactions:

(1) Signatures.

## Schedule 2

### Appointment of expert

1. Pursuant to Clauses requiring an Expert, Assignor may serve notice on the Assignee ("**Referral Notice**") that it wishes to refer to an expert (the "**Expert**") the questions set out in those Clauses.
2. The Parties shall agree on the identity of a single independent, impartial Expert to determine such questions. In the absence of such agreement within 30 days of the Referral Notice, the questions shall be referred to an Expert appointed by IMS Expert Services.
3. 60 days after the giving of a Referral Notice, the Parties shall exchange simultaneously statements of case in no more than 10,000 words, in total, and each side shall simultaneously send a copy of its statement of case to the Expert.
4. Each Party may, within 30 days of the date of exchange of statement of case pursuant to paragraph 3 above, serve a reply to the other side's statement of case of not more than 10,000 words. A copy of any such reply shall be simultaneously sent to the Expert.
5. The Expert shall make his decision on the said questions on the basis of written statements and supporting documentation only and there shall be no oral hearing. The Expert shall issue his decision in writing within 30 days of the date of service of the last reply pursuant to paragraph 4 above or, in the absence of receipt of any replies, within 60 days of the date of exchange pursuant to paragraph 3 above.
6. The Expert's decision shall in the absence of manifest error be final and binding on the Parties.
7. The Expert's charges shall be borne equally by the Parties
8. Such Expert shall act as an expert and not as an arbitrator.

**Schedule 1**

**The Patents**

***Patent Priority Document***

***Filing Date***

Provisional Patent Application number  
AU2012905072 "The use of Bucillamine in  
the treatment of gout"

20 November 2012

**Schedule 3**

ASSIGNMENT

WHEREAS, **XENEXUS PHARMACEUTICALS PTY. LTD.** a company incorporated in Australia whose office is at Level 9, Avaya House, 123 Epping Road, North Ryde, N.S.W. 2113, Australia ("**Assignor**"), owns an invention relating to "The use of Bucillamine in the treatment of gout" which is the subject of Australian patent application No. AU2012905072, which was filed on 20 November 2012;

AND WHEREAS, **REVIVE THERAPEUTICS INC.** a company incorporated in the Province of Ontario, Canada whose office is at 79 Fenmar Drive, North York, Ontario M9L 1M3, Canada ("**Assignee**"), has acquired from **Assignor** the whole of its respective right, title and interest in and to the invention for all countries, and in and to their interest in any Letters Patent of any country, that may be obtained therefor;

NOW THEREFORE, for the sum of One Dollar and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, **Assignor** confirms that it has sold, assigned and transferred and by these presents does hereby sell, assign and transfer to **Assignee**, its successors and assigns, his whole right title and interest for all countries, in and to the invention as fully set forth and described in said patent applications, and in and to any Letters Patent of any country that may be obtained therefor;

AND **Assignor** does hereby covenant and agree for itself, its heirs, executors and assigns to do all such things and to execute without further consideration such further assurances, applications, and other instruments as may reasonably be required to obtain Letters Patent for the said invention and for additions and modifications thereto in any and all countries, and vest title thereto in **Assignee**, its successors, assigns and legal representatives or nominees;

AND the Assignor and the Assignee grant to Ridout & Maybee LLP the power to insert on this assignment any further indication which may be necessary to comply with the requirements of the Patent Office for its recordal in respect of said patent application.

EXECUTED at Turramurra, N.S.W., Australia, this 17<sup>th</sup> day of June, 2013.

 (1)  
**XENEXUS PHARMACEUTICALS PTY. LTD.**  
per (print name): Michael L. Selley  
title: Chief Executive Officer

 (1)  
Witness

EXECUTED at Woodbridge, Ontario, Canada, this 17 day of June, 2013.

 (1)  
**REVIVE THERAPEUTICS, INC.**  
per (print name): Fabio Chianelli

\_\_\_\_\_  
Witness

Redactions:

(1) Signatures.

title: President



**Schedule 4**

**ASSIGNMENT**


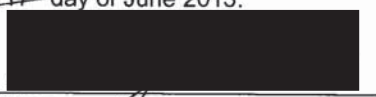
WHEREAS Michael L. Selley, whose full post office address is 54 Canoon Road, South Turrumurra, N.S.W. 2074, Australia has made an invention entitled "The use of Bucillamine in the treatment of gout" which is the subject of Australian patent application No. AU2012905072, which was filed on 20 November 2012;

AND WHEREAS, **XENEXUS PHARMACEUTICALS PTY. LTD.** a company incorporated in Australia whose office is at Level 9, Avaya House, 123 Epping Road, North Ryde, N.S.W. 2113, Australia, has acquired from the said Michael Lionel Selley the whole of his respective right, title and interest in and to the invention worldwide, and in and to their interest in any Letters Patent that may be obtained therefore;

NOW THEREFORE, for the sum of One Dollar and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the said Michael Lionel Selley confirms that he has sold, assigned and transferred and by these presents do hereby sell, assign and transfer to **XENEXUS PHARMACEUTICALS PTY. LTD.** their successors and assigns, their whole right, title and interest worldwide, in and to the invention as fully set forth and described in said patent applications, and in and to any Letters Patent of any country that may be obtained therefore;

The Assignor grants to Ridout & Maybee LLP the power to insert on this assignment any further indication which may be necessary to comply with the requirements of the Patent Office for its recordal of said patent application.

EXECUTED at Turrumurra, N.S.W. Australia, this 17<sup>th</sup> day of June 2013.

(1)  (1)   
Name: \_\_\_\_\_ Witness \_\_\_\_\_

Redactions:

(1) Signatures.