

# Technology License and Use Agreement (“Agreement”)

## Parties

The Parties are:

INFUSION BIOSCIENCES INC. (“**Licensor**”), an Ontario Corporation, with offices at [REDACTED]; and

Infusion Biosciences Canada, Inc., a wholly owned subsidiary of Licensor, with offices at [REDACTED] (“**Licensee**”)

Each is a “Party” and both are the “Parties.”

## Background

**Licensor** has developed certain proprietary technologies and know-how related to the production, formulation and use of water-soluble and oil-based natural products from cannabis and hemp plants.

**Licensor** is the assignee of a provisional patent application filed with the US Patents and Trademark Office.

**Licensor** intends to exclusively license to Licensee certain rights in certain territories in the world to exploit aforementioned technology and rights under the pending patent application to develop, produce, and sell certain products as set forth below.

## Effective Date

This Agreement shall become effective on April 20, 2018 (“**Effective Date**”), and will continue in effect until terminated as set forth in Sections 6.1-6.3.

## Agreement

For good and valuable consideration, the Parties hereby agree as follows:

### 1. Defined Terms

- 1.1 “**Affiliate**” shall mean, with respect to either Party, any business entity controlling, controlled by, or under common control with such Party. For the purpose of this definition only, “control” means (i) the possession, directly or indirectly, of the power to direct the management or policies of a business entity, whether through the ownership of voting securities, by contract or otherwise, or (ii) the ownership, directly or indirectly, of at least fifty percent (50%) of the voting securities or other

ownership interest of a business entity. Notwithstanding the above, for purposes of this Agreement, Licensee shall not be deemed an Affiliate of Licensor.

2. **“Commercially Reasonable Efforts”** shall mean, when referring to obligations or activities to be performed by Licensee, the level of effort, budget and resources normally used by a similarly situated company for a product controlled by it at a similar state in its development or product life and with similar commercial potential, taking into account, among other things, the patents and other proprietary position of the product, and the regulatory landscape.
- 2.1 **“Confidential Information”** shall mean all proprietary and non-public information, including inventions, discoveries, improvements, processes, formulas, materials, know-how and trade secrets, and other scientific, clinical, regulatory, marketing, financial and commercial information or data, whether communicated in writing or orally, which is provided by, or on behalf of, one Party to the other Party in connection with this Agreement.
- 2.2 **“Developed Technology”** shall mean any proprietary technology and know-how related to the Field, whether patented or unpatented, patentable or unpatentable, that are developed after the Effective Date by or on behalf of (i) Licensor and/or its Affiliates and (ii) (solely to the extent set forth in Section 2.5(b)), Licensee and/or its Affiliates
- 2.3 **“Field”** shall mean the production, formulation of products from cannabis and hemp plants for medicinal or recreational purposes in the Territory.
- 2.4 **“Net Sales”** shall mean the gross consideration received by Licensee or any of its Affiliates from sales of Products, less the following deductions, to the extent reasonable and customary:
  - 1.1.1 trade discounts, including trade, cash and quantity discounts or rebates, credits or refunds;
  - 1.1.2 allowances or credits actually granted upon claims, returns or rejections of Products;
  - 1.1.3 charges included in the gross sales price for freight, insurance, transportation, postage, handling and any other charges relating to the sale, transportation, delivery or return of Products;
  - 1.1.4 customs duties, sales, excise and use taxes actually paid in connection with the transportation, distribution, use or sale of Products (but excluding what is commonly known as income taxes).

For purposes of determining Net Sales, a Product shall be deemed to be sold when invoiced and a “sale” shall not include transfers or dispositions of such Product for development purposes or as samples. Licensee’s, its Affiliates’ or its or their sublicensees’ transfer of any Product to an Affiliate shall not result in any Net Sales, unless such Product is consumed or administered by such

Affiliate in the course of its commercial activities. For clarity, in case of a sale of Product (whether by Licensee or its Affiliates) to a distributor, wholesaler, or an entity that is owned by the Licensee and that sells Product to an unaffiliated Third Party or person, only such sale shall constitute a sale for purposes of determining Net Sales (and not any subsequent sales by such distributor or wholesaler or any subsequent purchaser).

- 2.5 **“Licensed Patents”** shall mean any and all of the following, to the extent owned or controlled by Licensor and/or its Affiliates and related to the Technology and/or Developed Technology (and/or their exploitation): (a) unexpired patents, including without limitation any extension, registration, confirmation, reissue, re-examination, renewal or any like filing thereof; (b) pending applications for patents, including without limitation any provisional application, divisional application, reissue application and/or continuation in part thereof, and (c) any foreign or international equivalents or counterparts of any of the foregoing. Licensed Patents shall include, without limitation, the application(s) set forth in Exhibit A.
- 2.6 **“Licensed Technology”** shall mean, collectively, the Technology and the Developed Technology.
- 2.7 **“Product”** shall mean any product for commercial sale that is produced using Technology, Developed Technology, or any ingredient produced using Technology or Developed Technology, for medicinal or recreational purposes in the Territory.
- 2.8 **“Pharmaceutical Application”** shall mean any product that (i) requires and is indicated for the treatment of a specific medical condition by a regulatory agency and (ii) is administered under the supervision of a clinician. For greater clarity, nutritional or dietary supplements, even if they are consumed as a medicinal product, shall not be considered a Pharmaceutical Application, whereas prescription products and the products classified as Medical Foods by US FDA regulations (and equivalent regulations in foreign territories with comparable guidelines) are Pharmaceutical Applications. In the event that the US FDA (and equivalent agencies in foreign territories) changes or alters its regulations and reclassifies the use of nutritional, dietary or any existing Products of Licensee and/or its Affiliates that are derived from APP into the Pharmaceutical Applications category, Licensee shall retain the right to such Products (which will continue to be Products for purposes of the Agreement), *provided however* that such Products are actively marketed or sold at the time of the reclassification, and that Licensee is required to meet such new regulations in a timely manner.
- 2.9 **“Technology”** shall mean certain proprietary technologies and know-how, whether patented or unpatented, patentable or unpatentable, related to the Field, as described in more detail in Exhibit B.
- 2.10 **“Territory”** shall mean any of the following countries.
- (a) Canada
  - (b) Australia
  - (c) Israel
  - (d) Jamaica

(e) European Union, where “European Union” shall mean (i) those countries that are members of the European Union as of the Effective Date (irrespective of whether one or more of such countries leave the European Union during term of this Agreement), and (ii) those countries that join the European Union during the term of the Agreement. For clarity, notwithstanding anything to the contrary, for purposes of this Agreement the European Union includes the U.K.

2.11 “**Third Party**” shall mean a person or entity other than Licensee or Licensor or an Affiliate of either Party.

## **2. License; Prosecution and Enforcement; Ownership**

2.1 License Grant. Subject to the terms and conditions of this Agreement, Licensor hereby grants Licensee the exclusive (including as to Licensor) right and license under the Licensed Patents and the Licensed Technology, to develop, use, make, sell, offer for sale, import and export Products within the Territory during the Term of this Agreement. Except for the rights granted to Licensee under this Section 2.1, Licensor retains all rights to the Licensed Patents and Licensed Technology.

### 2.2 Excluded Field; Limitation of License Grant:

Licensee understands and agrees that the license granted hereunder and any sublicense permitted under Section 2.5, expressly excludes (i) the sale of any Product outside of the Territory by Licensee or a sublicensee thereunder and (ii) the development or sale of any Product that makes a health or medical claim, requires an approval for the treatment or prevention of a disease by a regulatory authority, or is required to be administered under the supervision of a clinician for a health condition, (collectively, “Pharmaceutical Application”) per the regulations in the Territory. For greater clarity, nutritional or dietary supplements, even if they are consumed as a medicinal product, shall not be considered a Pharmaceutical Application, whereas prescription products and the products classified as Medical Foods by US FDA regulations (and equivalent regulations in foreign territories with comparable guidelines) are Pharmaceutical Applications. For further clarity a health or medical claim as used herein shall mean a claim made for a product that is (i) distinct from a nutritional or dietary supplement and (ii) a verifiable claim of remedy for a clinically recognized condition that is beyond general health and that is commonly addressed by dietary changes or a healthy lifestyle.

### 2.3 Patent Applications and Maintenance.

(a) Licensor shall use commercially reasonable efforts to prepare, file, prosecute and maintain the Licensed Patents in mutually agreed upon countries within the Territory. Licensor shall provide Licensee (i) a reasonable opportunity to review and comment on such filing and prosecution efforts regarding the Licensed Patents in the Territory; (ii) a copy of each material communication received from any patent authority in the Territory regarding the Licensed Patents, and (iii) drafts of any material filings or material responses to be made to such patent authorities a reasonable amount of time in advance of submitting such filings or responses. If after ten (10) years of maintaining a patent application pending in any

jurisdiction, Licensor is unable to obtain an issued patent, then further applications will be at Licensee's discretion and expense.

#### 2.4 Patent Enforcement.

- 2.4.1 If either Party believes that an infringement by a Third Party with respect to any Licensed Patent is occurring or may potentially occur, the knowledgeable Party will provide the other Party with (a) written notice of such infringement or potential infringement and (b) evidence of such infringement or potential infringement ("Infringement Notice").
- 2.4.2 As long as [REDACTED] (i) serves on the Board of Directors of Licensee and (ii) directly or indirectly holds at least [REDACTED] of the total shares of Licensee, Licensee and Licensor shall jointly decide any enforcement action to be pursued, including costs of enforcement and sharing in any recovery from any litigation.
- 2.4.3 Commencing upon such time as either condition under Section 2.3.2(i) and/or (ii) is not met, then this Section 2.3.3 and Sections 2.3.4-2.3.6 shall apply in lieu of Section 2.3.2. Licensee shall have the first right to institute suit for patent infringement of a Licensed in its own name, and if the court determines that Licensor is a necessary Party in order for the suit to proceed, Licensor will join in such suit at Licensee's reasonable cost. Licensee shall be free to enter into a settlement, consent judgment or other voluntary disposition, provided that any settlement, consent judgment or other voluntary disposition that (i) limits the scope, validity or enforcement of a Licensed Patent or (ii) admits fault or wrongdoing on the part of Licensor must be approved in advance by Licensor in writing. Licensor shall provide Licensee notice of its approval or denial within thirty (30) days of any request for such approval by Licensee, provided that (x) in the event Licensor wishes to deny such approval, such notice shall include a detailed written description of Licensor's reasonable objections to the proposed settlement, consent judgment, or other voluntary disposition and (y) Licensor shall be deemed to have approved of such proposed settlement, consent judgment, or other voluntary disposition in the event it fails to provide such notice within such thirty (30) day period in accordance herewith
- 2.4.4 If, within one hundred and eighty (180) days following the date the Infringement Notice was provided, infringing activity of potential commercial significance has not been abated and if Licensee has not brought suit against the infringer, then Licensor may institute suit for patent infringement against the infringer.
- 2.4.5 Any recovery or settlement received in connection with any suit will first be shared by Licensor and Licensee equally to cover any litigation costs each incurred and next shall be paid to Licensor or Licensee to cover any litigation costs it incurred in excess of the litigation costs of the other. Any remaining recoveries shall be allocated as follows:
- (a) for any suit that is initiated by Licensee, Licensor shall receive [REDACTED] of the recovery (in lieu of royalties and other payments due under this Agreement on such amounts) and Licensee shall retain the remainder; and

(b) for any suit that is initiated by Licensor, Licensee shall receive [REDACTED] of such recovery, and Licensor shall retain the remainder.

2.4.6 Each Party will reasonably cooperate and assist with the other in litigation proceedings instituted hereunder but at the expense of the Party who initiated the suit (unless such suit is being jointly prosecuted by the Parties). If Licensor is subjected to Third Party discovery related to the Licensed Patents or Products licensed to Licensee hereunder, Licensee will pay Licensor's documented out of pocket expenses with respect to same.

## 2.5 Sub-license Rights.

2.5.1 As long as [REDACTED] (i) serves on the Board of Directors of Licensee and (ii) directly or indirectly holds at least [REDACTED] of the total shares of Licensee, Licensee shall have the right to sub-license the rights granted under Section 2.1 solely for the purpose of contracting with a Third Party, approved by the Licensor (such approval not to be unreasonably withheld, conditioned or delated), for the manufacture of Products. The manufacturer operating under the sublicense may not directly or indirectly refer to this Agreement in any oral or written communication. Any unlicensed sales by sub-licensee to a Third Party shall be considered a violation of the licensed rights to the Licensee, and Licensee shall use commercially reasonable efforts to enforce its agreement with such sublicensee.

2.5.2 Commencing upon such time as either condition under Section 2.4.1 (i) and/or (ii) is not met, then this Section 2.4.2 shall apply in lieu of Section 2.4.1. Licensee shall have the right to grant sublicenses through multiple tiers of sublicensees, under the license granted in Section 2.1, to its Affiliates and other Persons; *provided* that any such sublicenses shall be consistent with, and expressly made subject and subordinate to, the terms and conditions of this Agreement. Licensee shall cause each sublicensee to comply with the applicable terms and conditions of this Agreement, as if such sublicensee were a Party to this Agreement. Licensee hereby (x) guarantees the performance of its Affiliates and permitted sublicensees and the grant of any such sublicense shall not relieve Licensee of its obligations under this Agreement, and (y) waives any requirement that Licensee exhaust any right, power or remedy, or proceed against any sublicensee for any obligation or performance under this Agreement prior to proceeding directly against Licensee. A copy of any draft sublicense agreement shall be provided to Licensor prior to its execution and a copy of any sublicense agreement executed by Licensee shall be provided to Licensor within fourteen (14) days after its execution; *provided* that in each case the financial terms of any such sublicense agreement to the extent not pertinent to an understanding of a Party's obligations or benefits under this Agreement may be redacted. Licensee shall provide Licensor with any additional materials reasonably requested by Licensor in order for Licensor to verify that such sublicense is in compliance with the terms and conditions of this Agreement.

2.5.3 Without limiting the foregoing subsections of Section 2.4, , in the event that a Third Party with multinational (including outside of the Territory) presence makes a commercially reasonable offer to the Licensee to manufacture for the sale of a Product outside of the Territory, then Licensor agrees to reasonably cooperate with Licensee in pursuing the offer to enter into an agreement with such Third Party, on terms that provide commercial benefits to both Licensee and Licensor.

## 2.5 Ownership.

- (a) As between the Parties, Licensor shall solely own (i) any Technology and any Developed Technology developed by or on behalf of Licensor and/or its Affiliates and (ii) any Licensed Patents.
- (b) As long as [REDACTED] (i) serves on the Board of Directors of Licensee and (ii) directly or indirectly holds at least [REDACTED] of the total shares of Licensee, as between the Parties, Licensor shall solely own any proprietary technology and know-how in the Field that is developed by or on behalf of Licensee and/or its Affiliates using the Technology or any ingredient produced using the Technology. For clarity, such technology and know-how shall be deemed Developed Technology, and any patents covering such technology and know-how shall be deemed Licensed Patents.
- (c) Commencing upon such time as either condition under the preceding sub-clause (b) (i) and/or (ii) is not met, then, as between the Parties, Licensee shall solely own any proprietary technology and know-how developed by or on behalf of Licensee and/or its Affiliates, including if developed using the Technology or any ingredient produced using the Technology. For clarity, in no event shall such technology or know-how be deemed Developed Technology, and in no event shall any patents covering such technology be deemed Licensed Patents.

2.6 Compliance with Laws. Licensee shall be responsible for compliance with all applicable regulations related to making and selling of Products in each region within the Territory where the Licensee elects to sell, or have sold, Products.

## 3. **Non-Disclosure**

3.1 Nondisclosure Obligation. All Confidential Information disclosed by or on behalf of one Party to the other Party under this Agreement that is marked “confidential” or “proprietary”, and in the case of oral information, is summarized in a writing that is marked “confidential” or “proprietary” and delivered to the other Party within thirty (30) days of disclosure of such information, shall be maintained in confidence by the receiving Party and shall not be disclosed to a non-Party or used for any purpose whatsoever without the prior written consent of the other Party, except to the extent that such Confidential Information:

- (a) is known by recipient at the time of its receipt, and not through a prior disclosure by or on behalf of the disclosing Party, as documented by contemporaneous business records;
- (b) is properly in the public domain through no fault of the recipient;
- (c) is subsequently disclosed to a receiving Party by a Third Party who may lawfully do so and is not directly or indirectly under an obligation of confidentiality to the disclosing Party, as documented by written business records in existence prior to the receipt of such information from the disclosing Party;
- (d) is developed by the recipient independently of, and without reference to or use of, Confidential Information received from the disclosing Party;

(e) is required to be disclosed to governmental or other regulatory agencies in order to obtain patents, to obtain approval to conduct clinical trials or to market Products, or to comply with applicable governmental or stock exchange or quotation system regulations; provided, however, that such disclosure may be only to the extent reasonably necessary to obtain patents or approval, or to comply with laws or regulations as appropriate and that confidential treatment will be sought to the extent reasonably practicable;

(f) is disclosed by Licensee to actual or potential permitted sub-licensees and/or other Third Parties (1) for the purpose of conducting activities under this Agreement (or for such actual or potential permitted sub-licensees or permitted assignees and/or other Third Parties to determine their interest in performing such activities) in accordance with this Agreement;

(g) is disclosed to employees, officers, directors, consultants, agents, investors or potential investors (including underwriters), of, or lenders or potential lenders to, the Party making such disclosure; provided, however, that such employees, officers, directors, consultants, agents, investors, potential investors, lenders and potential lenders have agreed to be bound by confidentiality obligations substantially equivalent to the terms herein for no less than five (5) years from the date of disclosure; and provided further that notwithstanding the provisions set forth above in this subsection (g), neither Party shall disclose Confidential Information of the other Party to potential investors (including underwriters) or potential lenders except to the extent that such disclosure is made in the context of such potential investors' or potential lenders' due diligence investigation of the Party making such disclosure;

(h) is used by the receiving Party for the purpose of conducting activities under this Agreement in accordance with its respective terms or is used by the receiving Party for the purpose of allowing the receiving Party to effectively exploit its rights under this Agreement and obtain all of the benefits under this Agreement to which such receiving Party is entitled as contemplated by this Agreement; or

(i) is required to be disclosed by law, regulation or court order; provided that notice is promptly delivered to the other Party in order to provide an opportunity to challenge or limit the disclosure obligations; and provided further that such disclosure may be only to the extent reasonably necessary to comply with the applicable law, regulation or court order.

The disclosing Party shall identify any Confidential Information delivered to the receiving Party that is confidential information of a Third Party and the disclosing Party shall inform the receiving Party of any restrictions, limitations and qualifications imposed on such Confidential Information by such Third Party.

3.2 No Disclosure of Terms. Either Party may disclose the existence of this Agreement, but neither Party shall disclose the terms of this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Notwithstanding the provision in the previous sentence, either Party may disclose such information (a) as required by law, including by regulation or stock exchange or quotation system requirements, and (b) to its directors, consultants, agents, investors or potential



investors (including underwriters), or lenders or potential lenders under a commercially reasonable obligation of confidentiality.

3.3 Press Releases. Notwithstanding anything set forth in this Agreement to the contrary, neither Licensor nor Licensee may issue any news release or other public announcement relating to this Agreement or to the Parties' performance hereunder, without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed, except to the extent required by applicable law, or if/as becomes appropriate by regulation or stock exchange or quotation system requirement, provided that once a press release or other public announcement has been made pursuant to the foregoing sentence, then the information disclosed in such press release or announcement may be disclosed by either Party in subsequent press releases or announcements without approval by the other Party. Notwithstanding the above, the Parties will issue the press release set forth in Exhibit C within 10 days of the Effective Date.

#### 4. **Consideration; Financial Terms**

- 4.1 Royalty. Licensee agrees to pay to Licensor [REDACTED].
- 4.2 In the event Licensee grants a sublicense to a Third Party to produce and sell Product in the Territory, Licensee will pay to Licensor [REDACTED] of all consideration received by Licensee from said Third Party, including license issue fees, milestone payments, and royalty payments, but specifically excluding (a) consideration received for purchase of equity in Licensee or its Affiliates up to the fair market value of such equity, (b) amounts received from a sublicensee for research, development or commercialization services, or (c) amounts received from a sublicensee as reimbursements or funding for reasonable out-of-pocket costs and expenses incurred by Licensee or its Affiliates.
- 4.3 In the event that Licensee is required to enter into an agreement with a Third Party in order to obtain a license from said Third Party for a patent that is reasonably necessary to develop, make and/or commercialize Product in a country in the Territory, Licensee shall be entitled to deduct from the royalties payable hereunder in a given calendar year with respect to such Licensed Product in such country [REDACTED] of royalties paid to such Third Party in such calendar year under such agreement; provided, however, the royalty rate payable to Licensor may not be reduced to less than [REDACTED].
- 4.4 Interest on Overdue Payments. The Royalties set forth in Section 4.1 above shall be payable on a quarterly basis within five business days of the preceding quarter ending on March 31, June 30, September 30, and December 31. Any amounts not paid by Licensee when due under this Agreement shall be subject to interest at LIBOR plus two percent (2%) until paid.
- 4.5 Records; Audit Rights. Licensee shall keep or cause to be kept full and accurate books of account and records containing all particulars that may be necessary to determine, in a manner consistent with generally accepted accounting principles (GAAP), the payments due under this Agreement. Licensor, upon reasonable written notice to Licensee, shall have the right to review the Licensee books and records related to such payments for the sole purpose of verifying the accuracy of payments due and made by Licensee; provided, however, the review will be done by an independent accounting firm reasonably acceptable to Licensee, and Licensor's right to conduct such review shall be limited to a maximum of two (2)

times a year. In the event such review reveals an underpayment by Licensee, Licensor shall so notify Licensee in writing with an explanation and Licensee shall have thirty (30) days to rectify the underpayment. In all cases whereby records of Licensee are audited by Licensor and there is found to be an underpayment by Licensee of ten percent (10%) or more over the period being audited, then Licensee shall be liable for and shall pay for the reasonable cost of conducting the audit within thirty (30) days of the audit being performed.

## **5. Representations and Warranties**

5.1 Mutual Representations and Warranties. Each Party hereby represents and warrants to the other Party that:

(a) it is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is incorporated, and has full corporate power and authority and the legal right to own and operate its property and assets and to carry on its business as it is now being conducted and as contemplated in this Agreement;

(b) it has the corporate power and authority and the legal right to enter into this Agreement and perform its obligations hereunder; it has taken all necessary corporate action on its part required to authorize the execution and delivery of this Agreement and the performance of its obligations hereunder; and this Agreement has been duly executed and delivered on behalf of such Party, and constitutes a legal, valid and binding obligation of such Party that is enforceable against it in accordance with its terms;

(c) it has not entered, and will not enter, into any agreement with any Third Party that is in conflict with the rights granted to the other Party under this Agreement, and has not taken and will not take any action that would in any way prevent the granting of the rights granted to the other Party under this Agreement, or that would otherwise materially conflict with or adversely affect the rights granted to the other Party under this Agreement; and

(d) its performance and execution of this Agreement will not result in a breach of any other contract to which it is a party.

5.2 Licensor Representations and Warranties. Licensor represents and warrants that:

(a) Licensor has not taken any action or omission to encumber any of its right, title and interest in and to the Technology licensed hereunder in any way that would have a material adverse effect on the rights and License granted to Licensee hereunder;

(b) Licensor solely owns all title, right and interest in and to the Licensed Patents and the Licensed Technology, and will do all such things and take all such actions as may be necessary to maintain such sufficient rights in good standing during the Term of this Agreement;

(c) To the best knowledge of Licensor, no Third Party has engaged in activities that constitute infringement of any Licensor Patents or misappropriation of any Licensor Know-How; and

(d) To the best knowledge of Licensor, the Technology and its use do not infringe or misappropriate any patents or trade secrets of any Third Party.

(e) Licensor will retain, prosecute, maintain and defend the Licensed Patents, including any assigned Patent rights from Arup Sen and others, as appropriate, during the entire Term of this Agreement and any extensions thereof.

### 5.3 Diligence Requirements.

(a) Licensee has or will procure resources as reasonably necessary to comply with its obligations under Section 5.3(b); and

(b) Licensee will use Commercially Reasonable Efforts to Commercialize the Products in the Territory.

5.4 Limitation of Liability. EXCEPT (a) AS A RESULT OF ANY INFRINGEMENT BY A PARTY OF THE INTELLECTUAL PROPERTY RIGHTS OF THE OTHER PARTY, OR (b) AS A RESULT OF THE FAILURE OF SUCH PARTY TO PERFORM AND OBSERVE ITS CONFIDENTIALITY OBLIGATIONS TO THE OTHER PARTY UNDER THIS AGREEMENT NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR LOST PROFITS OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES OF THE OTHER PARTY IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, HOWEVER CAUSED, UNDER ANY THEORY OF LIABILITY.

5.5 Insurance. The Parties shall each procure and maintain insurance to cover obligations hereunder and that are consistent with normal business practices of prudent companies similarly situated.

## 6. **Termination and Dispute Resolution**

6.1 Termination. Licensee may terminate this Agreement for any reason or no reason if Licensee gives at least one hundred and eighty (180) days prior written notice of termination to Licensor. Licensor may terminate the License if Licensee has failed to make payments due under Section 4 above, provided, however, it gives Licensee a thirty (30) day written notice of such failure and Licensee has failed to remedy. Notwithstanding the foregoing, in the case of breach by Licensee of Section 5.3 that is limited to one or more country(ies) in the Territory, then Licensee's termination rights under this Section 6.1 shall be limited to such country(ies).

### 6.2 Termination by Either Party Upon Bankruptcy or Insolvency.

(a) This Agreement may be terminated in its entirety by either Party by giving written notice of termination to the other Party in the event that such other Party files any bankruptcy, liquidation or receivership proceedings, or in the event that such other Party makes an assignment of a substantial portion of the assets of such other Party

for the benefit of its creditors; provided, however, that, in the case of any involuntary bankruptcy proceeding such right to terminate shall only become effective if such other Party consents to the involuntary bankruptcy or such proceeding is not dismissed within sixty (60) days after the filing thereof.

- (b) It is the intention of the Parties that this Agreement constitutes an agreement pursuant to which Licensor “has granted a right to use intellectual property” as is contemplated by Section 32(6) of the Companies’ Creditors Arrangement Act (Canada) (“**CCAA**”) and Section 65.11(7) of the Bankruptcy and Insolvency Act (Canada) (“**BIA**”) and should Licensor become subject to proceedings under the CCAA or BIA, it is the intention of the Parties that the protections afforded to licensees of intellectual property provided for in Section 32(6) of the CCAA and 65.11(7) of the BIA be extended to Licensee and its Affiliates and that Licensee and its Affiliates be entitled to continue to use the Licensed Patents and Licensed Technology, subject to and in accordance with the terms of this Agreement, notwithstanding any purported disclaimer or rescission of this Agreement by Licensor or any trustee in bankruptcy, receiver, liquidator, custodian or similar official appointed over or in respect of the licensor.
- (c) Licensor will not transfer, mortgage, pledge, financially encumber, grant a security interest, permit a lien to be created, charge or otherwise dispose of any or all of the rights to the Licensed Patents or Licensed Technology to any Third Party without Licensee’s prior written consent. The Parties intend that this restriction will continue to apply in any insolvency or bankruptcy proceedings, including those under the CAA and BIA (as defined in Section 6.2(b)).
- (d) The Parties acknowledge and agree that Licensee was induced to enter into this Agreement based on the acknowledgment made in Section 6.2(b) and the covenant made by Licensor in Section 6.2(c), and Licensee is relying on such acknowledgement and covenant in performing its obligations under this Agreement.

### 6.3 Termination for Breach.

(a) If either Party (the “**Non-Breaching Party**”) believes that the other Party (the “**Breaching Party**”) is in material breach of this Agreement, then the Non-Breaching Party may deliver notice of such breach to the Breaching Party. The Breaching Party shall have ninety (90) days to cure such breach. Provided that, if cure cannot be reasonably effected within such ninety (90) day period, the Breaching Party may elect to deliver to the Non-Breaching Party within such ninety (90) day period a plan to cure such breach within a timeframe that is reasonably prompt in light of the circumstances then prevailing, and the Non-Breaching Party shall have the right to approve or reject in writing such proposed plan in its absolute discretion. If the Non-Breaching Party approves in writing such proposed plan, then the cure period will be extended in accordance with the terms of such plan and the Breaching Party shall use reasonable efforts to carry out such plan and cure the breach in accordance with the provisions of such plan.

(b) If the Breaching Party fails to cure such breach, the Non-Breaching Party may terminate this Agreement either in part or in its entirety.

(c) If the Non-Breaching Party gives notice of termination under this Section and the Breaching Party disputes whether such termination is proper, then the issue of whether this Agreement may properly be terminated upon expiration of the notice period shall be resolved in accordance with the Dispute Resolution provisions of this Agreement. If as a result of such Dispute Resolution process it is determined that the notice of termination was proper, then such termination shall be deemed to have been effective thirty (30) days following the date of the notice of termination. If as a result of such Dispute Resolution process it is determined that the notice of termination was improper, then no termination shall have occurred and this Agreement shall remain in effect.

6.4 Effect of Expiration or Termination of this Agreement.

(a) In the event of termination or expiration of this Agreement, then, except to the extent otherwise provided in Agreement, neither Party shall have any liability or obligation to the other Party under this Agreement.

(b) Termination of this Agreement shall not relieve either Party of any obligation of such Party accruing prior to such termination. Any termination of this Agreement shall be without prejudice to the rights of either Party against the other accrued or accruing under this Agreement prior to termination. Section 3 of this Agreement shall survive expiration or termination of this Agreement for a period of two (2) years. Licensee's obligation to make payments accrued prior to such termination or expiration pursuant to Section 4 of this Agreement shall survive any termination or expiration of this Agreement. Upon any termination or expiration of this Agreement, any and all sublicenses granted hereunder by Licensee will continue in effect as direct licenses between Licensor and the applicable sublicensee(s).

6.5 Dispute Resolution. The Parties recognize that disputes as to certain matters may from time to time arise during the Term of this Agreement, which relate to either Party's rights and/or obligations hereunder. It is the objective of the Parties to establish procedures to facilitate the resolution of disputes arising under this Agreement in an expedient manner by mutual cooperation and without resort to litigation. To accomplish this objective, the Parties agree to follow the procedures set forth in this Section if and when a dispute arises under this Agreement. Any dispute arising under this Agreement shall, by either Party providing written notice to the other Party, be referred to the respective chief executive officers of the Parties for attempted resolution by good faith negotiations within fourteen (14) days after such notice is received. In the event that the designated officers are not able to resolve such dispute within such fourteen (14) day period, and do not agree to extend the time period for resolving the dispute, or if the terms and conditions of the resolution or settlement of the dispute are breached, the dispute shall be submitted for mediation by a mutually acceptable Third Party within thirty (30) days after expiration of the previous fourteen (14) day period, unless the Parties agree to extend the period for submitting the dispute for mediation. In the event that such dispute is not resolved within thirty (30) days after such dispute is submitted for mediation, unless the Parties otherwise agree to extend the time period for resolving the dispute, then such dispute shall be resolved by arbitration pursuant to the provisions of this Section set forth below. Pending resolution of any dispute covered by this Section, both Parties will continue their performance under this Agreement of any obligations (including, without limitation, payment obligations) that are not the

subject of such dispute, and the licenses and rights granted hereunder will continue in effect.

6.6 **Arbitration.** Any claim, dispute, or controversy arising out of or relating to this Agreement that is not resolved in accordance with the provisions of this Section and that the Parties agree to submit to binding arbitration pursuant to this this Section will be submitted by the Parties to arbitration under rules then in effect (“ICC Rules”) of the International Chamber of Commerce (“ICC”) in Toronto, Ontario, Canada as modified herein or by agreement of the Parties. Any such arbitration shall be conducted in Toronto, Ontario, Canada by three (3) arbitrators. Each Party shall select one (1) arbitrator and such arbitrators shall jointly appoint the third arbitrator who shall act as the chairman. If either Party fails to appoint an arbitrator within thirty (30) days of a request by the other Party, or if the arbitrators selected by the Parties cannot agree on a chairman within thirty (30) days after they have been selected, then either Party may request the ICC to appoint such co-arbitrator (for the non-responsive Party) or the chairman. Such appointment shall be binding on the Parties. Each Party irrevocably and unconditionally (a) consents to the jurisdiction of any such proceeding and waives any objection that it may have to personal jurisdiction or the laying of venue of any such proceeding; and (b) knowingly and voluntarily waives its rights to have disputes tried and adjudicated by a judge and jury except as otherwise expressly provided herein. The Parties will cooperate with each other in causing the arbitration to be held in as efficient and expeditious a manner as practicable. Unless the Parties agree otherwise, they shall be limited in their discovery to directly relevant documents. Responses or objections to a document request shall be served twenty (20) days after receipt of the request. The arbitrators shall resolve any discovery disputes. Nothing herein shall prevent the Parties from settling any dispute by mutual agreement at any time.

## 7. Miscellaneous

7.1 **Force Majeure.** Neither Party shall be held liable or responsible to the other Party nor be deemed to have defaulted under or breached the Agreement for failure or delay in fulfilling or performing any term of the Agreement when such failure or delay is caused by or results from causes beyond the reasonable control of the affected Party including, but not limited to, earthquakes, fire, floods, embargoes, insurrections, riots, civil commotions, strikes, lockouts or other labor disturbances, acts of God, acts of war or terrorism, or acts, omissions or delays in acting by any governmental authority or the other Party. The affected Party shall notify the other Party of such force majeure circumstances as soon as reasonably practical.

7.2 **Assignment.** Neither Party may assign its rights or obligations hereunder without the prior written consent of the other Party which will not be unreasonably withheld or delayed; provided that each Party may assign this Agreement to a Third Party pursuant to a merger, consolidation or sale of substantially all of the assigning Party’s assets or stock (or other ownership interests) to which this Agreement relates, without such prior written consent so long as said acquirer agrees to be bound by the terms of this Agreement. Except as set forth above, Licensor may not assign or otherwise transfer the Licensed Patents without Licensee’s prior written consent.

7.3 Severability. In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby, unless the absence of the invalidated provision(s) adversely affect the substantive rights of the Parties. The Parties shall in such an instance use their best efforts to replace the invalid, illegal or unenforceable provision(s) with valid, legal and enforceable provision(s) that, insofar as practical, implement the purposes of this Agreement.

7.4 Notices. All notices or other communications that are required or permitted hereunder shall be in writing and sufficient if delivered personally, sent by email and promptly confirmed by personal delivery, registered or certified mail or overnight courier, sent by internationally-recognized overnight courier, addressed as set out in the signature blocks of this Agreement (which signature blocks shall include email addresses); or to such other address as the Party to whom notice is to be given may have furnished to the other Party in writing in accordance with this Agreement. Any such communication shall be deemed to have been given when delivered if personally delivered on a business day, on the business day after dispatch if sent by internationally recognized overnight courier.

7.5 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws in the province of Ontario, Canada. The Parties irrevocably consent to the exclusive personal jurisdiction (except as to actions for the enforcement of a judgment, in which case such jurisdiction shall be non-exclusive) in \_\_\_\_\_.

7.6 Entire Agreement. The Agreement contains the entire understanding of the Parties with respect to the subject matter hereof. All express or implied agreements and understandings, either oral or written, heretofore made are expressly merged in and made a part of the Agreement. Except as expressly set forth in this Agreement, the Agreement may be amended, or any term hereof modified, only by a written instrument duly executed by both Parties.

7.7 Headings. The captions to the several sections hereof are not a part of the Agreement, but are merely guides or labels to assist in locating and reading the several sections hereof.

7.8 Independent Contractors. It is expressly agreed that each of the Parties shall be an independent contractor and that the relationship between the two Parties shall not constitute a partnership, joint venture or agency. Neither Party shall have the authority to make any statements, representations or commitments of any kind, or to take any action, which shall be binding on the other, without the prior consent of the other Party.

7.9 Waiver. The waiver by either Party hereto of any right hereunder or the failure to perform or of a breach by the other Party shall not be deemed a waiver of any other right hereunder or of any other breach or failure by said other Party whether of a similar nature or otherwise.

7.10 Counterparts. The Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

7.11 Waiver of Rule of Construction. Each Party has had the opportunity to consult with counsel in connection with the review, drafting and negotiation of this Agreement. Accordingly, the rule of construction that any ambiguity in this Agreement shall be construed against the drafting Party shall not apply.

7.12 Third-Party Beneficiaries. Nothing herein expressed or implied is intended or shall be construed to confer upon or to give to any Third-Party any rights or remedies by reason of this Agreement. Except as otherwise expressly provided in this Agreement, there are no intended Third-Party beneficiaries under or by reason of this Agreement.

**APPROVED AND AGREED BY LICENSOR:**

s/"Arup Sen"  
\_\_\_\_\_

By: Arup Sen  
Its: Chief Executive Officer  
Date: April 20, 2018

**APPROVED AND AGREED BY LICENSEE:**

s/"Charles Shin"  
\_\_\_\_\_

By: Charles Shin  
Its: President  
Date: April 20, 2018