

names, brands, inventions, discoveries, works, data, databases, designs and circuit layouts.

means the Licensed Patents and all Intellectual Property Rights owned by UniServices and subsisting in the Licensed Know-How.

means the technical information which relates to the Licensed Patents and is not generally publicly known, including pre-clinical, clinical, chemical, biochemical, toxicological, manufacturing, formulation and scientific research information, whether or not capable of precise separate description.

means:

- (a) the patents and patent applications described in Schedule 1; and
- (b) from the date of filing, all patents and patent applications owned by UniServices and which claim priority from, are divided from, or are continued from, a patent or patent application referred to Schedule 1; and
- (c) from the date of filing, all patents and patent applications owned by UniServices in respect of Improvements developed by or on behalf of the Research Team.

means any product the making, disposition, use, import or keeping of which would, but for the licence granted under this Agreement, infringe any of the Licensed Intellectual Property Rights.

means all gross amounts invoiced in respect of Sales, less documented:

- (a) trade and quantity discounts, returns, allowances and wholesaler chargebacks, allowed and taken in amounts customary in the trade;
- (b) import, export, excise, GST and other taxes, tariffs and duties to the extent that such items are included in the gross amount invoiced;
- (c) freight, handling, transportation and insurance to the extent that such items are included in the gross amount invoiced; and
- (d) amounts allowed or credited for retroactive price reductions or rebates in amounts customary in the trade,

provided that the amount invoiced in respect of a Sale to an Affiliate of the seller is deemed to be the greater of (i) the actual amount invoiced, or (ii) the amount which would have been invoiced had the Sale been on an arms' length basis.

means any new technology developed by the Research Team relating to the subject matter of the Licensed Intellectual Property Rights licensed to the Licensee under this Agreement, other than Improvements licensed to the Licensee under this Agreement.

has the meaning given in clause 12.1.

means each of the periods:

- (a) 1 January to 31 March;
- (b) 1 April to 30 June;
- (c) 1 July to 30 September; and
- (d) 1 October to 31 December.

has the meaning given in clause 7.1.

means *[insert]*.

~~2.2~~ The licence granted in clause 2.1 includes the ability to sublicense in accordance with clause 3.

2.3. Despite this clause 2, UniServices retains the right (including the right to permit the University and its personnel) to do any act under the Licensed Intellectual Property Rights for academic research (including non-commercially funded research) and teaching purposes.

3.1. The Licensee may Sublicense some or all of the rights granted to the Licensee under this Agreement to an Affiliate of the Licensee (other than a person who becomes an Affiliate of the Licensee after the Start Date) without the consent of UniServices.

3.2. Subject to clause 3.1, t

10.5. The party responsible for the enforcement under clause 10.2 or 10.4 will retain any monies recovered in any judgment or settlement of the relevant action.

10.6.

- (a) If the Licensee intends to commence (or to assist any other person to commence) any action to invalidate, or challenge UniServices' ownership of, any of the Licensed Intellectual Property Rights, it must notify UniServices at least three months before commencing that action, including full details of all prior art or other relevant circumstances that it believes supports the claim of invalidity or no ownership.
- (b) If the Licensee commences (or assists any other person to commence) any action to invalidate, or challenge UniServices' ownership of, any of the Licensed Intellectual Property Rights, then:
 - (i) the applicable amounts payable by the Licensee under clause 5.1(b) will be two times the stated rates for Licensed Products Sold during the pendency of the action;
 - (ii) if the outcome of the action determines that any claim of a Licensed Patent is both valid and covers a Licensed Product, the applicable amounts payable by the Licensee under clause 5.1(b) will increase to three times the stated rates for Licensed Products Sold with effect from the date of that determination; and
 - (iii)

12.1.

and demands (including those brought by third parties), liabilities, damages, losses, costs and expenses () arising from:

- (a) the making, hiring, selling, other disposition of, offering to make, hire, sell or otherwise dispose of, using, importing or keeping for the purpose of doing any of the foregoing, Licensed Products by the Licensee, its Affiliates or Sublicensees;
- (b) the exercise of any of the Licensee's other rights under this Agreement; and
- (c) any breach by the Licensee of this Agreement (including any warranty).

14.2. UniServices shall indemnify and hold the Licensee, its directors, officers, employees, agents and Affiliates harmless against all claims, proceedings and demands (including those brought by third parties), liabilities, damages, losses, costs and expenses (also, a Claim) arising from a breach by UniServices of any of its warranties under clause 13.1.

14.3. An indemnified party must:

- (a) give prompt written notice to the indemnifying party of the Claim, but failure to so notify will not relieve the indemnifying party of its obligation under this clause 14 except and to the extent that the failure materially impacts on the ability of the indemnifying party to defend the Claim;
- (b) not make any admission of liability and not otherwise prejudice or settle the Claim without the indemnifying party's prior written consent (not to be unreasonably p1h!92 *nBT64BDC q,r.91314Tm2(i)-16(n)-5(g)-3(T/F2 9.96 Tf1 0 0 1 518.5

17.1. This Agreement starts on the Start Date and, unless terminated earlier in accordance with its provisions, expires automatically on the expiry of the last Licensed Patent or [X] years from the first commercial Sale of a Licensed Product, whichever occurs last.

18.1. UniServices may terminate this Agreement on immediate notice to the Licensee if the Licensee:

- (a) fails on request to demonstrate its compliance with clause 4.1(a) to the satisfaction of UniServices (acting reasonably), provided that the earliest time at which termination may take effect under this provision is the date that is [X years/months] from the Start Date;
- (b) notifies UniServices it does not wish to retain some or all of the rights licensed to it under this Agreement; or
- (c) fails to meet a Development Milestone by the stated date.

18.2.

- (a) A party () may terminate this Agreement immediately on notice to the other party if the other party:
 - (i) commits a material breach of this Agreement and either the breach is incapable of remedy or the other party fails to remedy that breach within 30 days of the first party notifying it of the breach; or
 - (ii) is subject to an Insolvency Event.
- (b) A failure by the Licensee to pay any amount to UniServices by the due date for payment is deemed to be a material breach capable of remedy for the purposes of clause 18.2(a).

18.3. UniServices may at its discretion, on notice to the Licensee, instead of exercising any right it has to terminate this Agreement:

- (a) convert a territory within the Territory to non-licensed (e)6(a)1.1
- (b) reduce the scope of the Field or the Licensed Products;
- (c) remove the Licensee's rights in respect of Improvements; and/or
- (d) in resn3(h)-17(e)6(br)-7(e)6(a)-12(ch;)-5(o)7(r)] TJETQq0.000008871 0 595.32 (e)6(a)1.1

- (ii) all rights and responsibility in respect of any Licensed Products, including transferring or destroying (at UniServices' option) any stocks of Licensed Products in existence as at the date of termination or expiry.
- (d) clauses 5.2, 7 (for a period of one year from the date of termination or expiry), 8, 11, 14, 15, 16, 18.4, 18.5 and 20, and any other clauses intended to survive, continue in force.

19.1. A party will not be liable for any failure or delay in the performance of its obligations under this Agreement to the extent such failure or delay is due to a Force Majeure Event, provided that it:

- (a) notifies the other party as soon as practicable of the nature and expected duration of the Force Majeure Event;
- (b) uses all reasonable efforts to mitigate the effect of the Force Majeure Event and to carry out its obligations under this Agreement to the extent practicable; and
- (c) resumes full performance as soon as practicable.

20.1. A party must not issue any legal proceedings (other than for urgent interlocutory and/or injunctive relief) in respect of any dispute in connection with this Agreement, unless it has first complied with this clause 20.

~~20.2.~~ A party claiming a dispute has arisen under or in connection with this Agreement must notify the other party of the dispute (), along with reasonable detail of the Dispute.

20.3. Each party must use all reasonable efforts to resolve the Dispute through an authorised representative with authority to settle the Dispute on its behalf.

20.4. If the Dispute remains unresolved after a period of 20 Business Days from the receipt of the notice under clause 20.2

- 21.1.** This Agreement shall be governed by and construed in accordance with the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand.
- 21.2.** Each party must, at the other party's request and cost, provide all

A party may enter this Agreement by signing (including electronically) and sending (including by email) a counterpart copy to the other party.

[insert details of the licensed patents]

