



CEDARS-SINAI MEDICAL CENTER.

[Standard]
COOPERATION AGREEMENT

THIS COOPERATION AGREEMENT (“Agreement”) is made and entered into effective as of the _____ day of _____, 200_, by and between Cedars-Sinai Medical Center, a California nonprofit public benefit corporation, having its principal place of business at 8700 Beverly Boulevard, Los Angeles, California 90048-1865 (“Medical Center”); and _____, having its principal place of business at _____ (“_____”).

RECITALS

A. _____ and _____ (collectively referred to herein as the “Inventors”) have made an invention in the field of _____ which is described and claimed in United States Patent Application Serial No. _____ (“Application”) entitled “_____” (“Invention”) filed _____.

B. By assignment from the Inventors, Medical Center and _____ have each acquired an undivided exclusive right, title and interest in and to the Invention.

C. As co-assignees, Medical Center and _____ have orally agreed that Medical Center will manage the securing of patent rights including the Application, its progeny and every foreign counterpart application, and that any gross income arising therefrom shall be shared equally between Medical Center and _____.

Now, therefore, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

Article 1 DEFINITIONS

1.1 “Application” shall mean the following:

(a) United States Patent Application Serial No. _____ entitled “_____” filed _____;

(b) The technology, materials, compositions, methods and apparatus claimed in said U.S. patent application, whether or not patentable;

- (c) Every foreign counterpart application;
- (d) Every application for a reissue, continuation, continuation-in-part or divisional patent, as well as any modification or amendment which may be filed in the United States or a foreign country based in whole or part on said United States Patent Application;
- (e) Any patents issuing from such applications; and
- (f) Any improvements in said technology, materials, compositions, methods, and/or apparatus, whether or not patentable, in which Medical Center or _____ has any rights.

1.2 "Patent Licenses" shall mean any and all grants of a license, whether exclusive or non-exclusive, to one or more third parties under any Application or any patents which issue thereon in either the United States or a foreign country.

1.3 "Licensed Products" shall mean any material, organism, composition, method or apparatus which is defined by one or more of the claims of any Application or which infringes one or more claims of any patent issuing on any Application, whether in the United States or a foreign country, or any material, organism, composition or apparatus produced or manufactured using a method which is defined in one or more claims of any Application or which infringes one or more claims of any patents issuing on any Application, whether in the United States or a foreign country or which constitutes an improvement, whether or not patentable, covered by this Agreement.

1.4 "Gross Royalty Income" shall mean any and all royalties and other income derived from sales or other commercialization of Licensed Products as a result of any and all Patent Licenses entered into between Medical Center, _____ and any third party, including royalties and other income derived from any sublicenses granted under the Patent Licenses. Gross Royalty Income shall not mean, and nothing contained herein is meant to commingle, any future grants awarded to Medical Center or _____.

Article 2 PROSECUTION OF APPLICATION

2.1 It is agreed between the parties hereto that Medical Center shall continue to file and/or prosecute every Application in the United States Patent and Trademark Office, as well as inter parties prosecution of any patent interferences initiated between Application and patent applications filed by third parties. Where, based upon the advice of competent counsel, an appeal from any decision adverse to the patentability of any Application appears to be justified, Medical Center shall undertake such appeal through the appropriate administrative tribunals and courts of appeal. It is further agreed between the parties hereto that Medical Center shall have the right to file and prosecute an Application in any foreign country. Notwithstanding the foregoing provisions of this Paragraph 2.1, it is understood and agreed that with the exception of U.S. Patent Application Serial No. _____, Medical Center will not file any Application without first receiving the prior written approval of _____, such approval not to be unreasonably withheld.

2.2 Medical Center shall be responsible for initially paying all maintenance and prosecution fees for all patents issuing on any Application filed and/or prosecuted by Medical Center in accordance with Paragraph 2.1 above and subject to reimbursement in accordance with Paragraph 2.3 below.

2.3 One-half of all legal costs and expenses incurred by Medical Center relating to the Application shall be reimbursed by _____ every three (3) months upon the submission of an invoice by Medical Center which invoice shall include relevant documentation to substantiate the invoiced amount. Legal costs and related expenses incurred by Medical Center and covered by this Paragraph 2.3, include, but are not limited to, patent application filing and search fees, patent issue fees, patent maintenance fees, attorneys' fees related directly to the preparation and prosecution of any Application before the U.S. Patent and Trademark Office, any foreign Patent Offices, the U.S. Board of Patent interferences or any appeals tribunals or courts of appeals in the United States or foreign countries, and all attorneys' fees directly related to negotiating and/or procuring Patent Licenses and defending or bringing suit for infringement of any patents issuing on any Application and includes those legal costs and related expenses which were incurred by Medical Center prior to the effective date of this Agreement.

2.4 In the event Medical Center or _____ determines, based upon the advice of competent legal counsel or Medical Center or _____'s reasonable business judgment, that the continued prosecution of any Application in the United States or any foreign country is unproductive or that the maintenance of any patent issued on any Application in the United States or any foreign country is unprofitable, Medical Center or _____ shall have the option to abandon such Application or to allow such patent to lapse. Medical Center or _____ shall provide the other party with sixty (60) days' advance written notice of any intent on the part of Medical Center or _____ to abandon such Application or to allow such patent to lapse. If the other party so desires, Medical Center or _____ will assign all of its right, title and interest in and to such Application and/or patent to the other party, without any further consideration, and the other party may continue the prosecution of such Application or the maintenance of such patent at its own expense, which Application and/or patent shall thenceforth not be covered by this Agreement.

2.5 _____ shall be responsible for paying all maintenance fees for all patents assigned to _____ under Paragraph 2.4 above and for all patents issuing on any Application assigned to _____ under Paragraph 2.4 above, which fees are incurred subsequent to such assignment.

2.6 _____ and Dr. _____ agree to execute formal patent application papers relating to Medical Center's filing of any Application in the United States or any foreign country as described in Paragraph 2.1 above, and to render assistance in any prosecution matter, interference or opposition proceeding involving any Application in the United States or any foreign country, such assistance including the giving of testimony and the furnishing of any documents in the possession of _____ or Dr. _____ necessary to support Medical Center's position in such prosecution matter, interference or opposition proceeding. In the event _____ elects not to share in the payment of expenses associated with such prosecution matter, interference or opposition proceeding, _____ nevertheless agree to provide assistance at Medical Center's expense and with the understanding that _____ will not share in the proceeds of such prosecution matter, interference or opposition proceeding.

2.7 Subject to the prior written approval of _____, as set forth above in the last sentence of Paragraph 2.1, Medical Center shall have the right to file and prosecute any other United

States or foreign patent applications for further improvements in the invention of the Application. Improvements in the invention of the Application as set forth in Paragraph 1.1(f) above, shall be covered by this Agreement.

2.8 It is further agreed between the parties hereto that the right and/or obligation to file and/or prosecute any Application in the United States or any foreign country may be transferred to any third party licensee under the Patent Licenses, but only upon the prior written approval of _____ and _____. Where the right and/or obligation to file and/or prosecute any such Application in the United States or any foreign country has been transferred to a third party licensee under such Patent Licenses, such third party licensee shall pay all costs relating to filing or prosecuting any Application, as well as maintenance fees, and Medical Center and _____ shall not be liable to each other for failure to such third party licensee to actually file and/or prosecute, or pay all costs relating to filing or prosecuting, any such Application, or pay such maintenance fees.

Article 3 NEGOTIATION OF LICENSES

3.1 Subject to the restrictions below, it is agreed between the parties hereto, that Medical Center will make reasonable and diligent efforts, and shall have the sole right to negotiate and procure Patent Licenses with a third party for the purpose of producing and marketing Licensed Products.

3.2 It is further agreed that the terms and conditions of any Patent License negotiated and/or procured by Medical Center, including, but not limited to, exclusivity, royalty and termination provisions, shall be determined at the discretion of Medical Center in accordance with reasonable business practices and prevailing market conditions, subject to review, advice and prior approval of _____, which prior approval may not be unreasonably withheld by _____. It is also agreed that any such patent license shall include an obligation on the part of the licensee to procure insurance for and to indemnify the interest of Medical Center and _____ pursuant to terms and conditions which shall be mutually satisfactory to Medical Center and _____.

Article 4 DISTRIBUTION OF GROSS ROYALTY INCOME

4.1 Medical Center and _____ shall each receive one-half of the Gross Royalty Income from any Patent Licenses negotiated and/or procured by or on behalf of Medical Center and _____.

4.2 The parties hereto further agree that if Medical Center or _____ themselves, alone, through any representative, agent, servant, employee or independent contractor, or through any wholly or partially owned subsidiary or business affiliate thereof, undertakes the manufacture or sale of Licensed Products, and such manufacture or sale is not covered by any Patent Licenses, any profits made by Medical Center or _____ as a result of such manufacture or sale shall be treated as Gross Royalty Income for purposes of this Agreement and shall be subject to distribution between the parties hereto as specified in Paragraph 4.1 above. Such undertaking by Medical Center or _____ to manufacture or sell Licensed Products shall be subject to the consent of parties hereto, which consent

shall not be unreasonable withheld. The term "profits" as used in the instant paragraph shall be defined in accordance with generally accepted accounting principles consistently applied.

4.3 It is further agreed that Medical Center and _____ shall retain the right to practice the invention under the Application royalty free for clinical use, research and teaching in their respective institutions.

Article 5 ENFORCEMENT ACTIVITIES

5.1 If any party to this Agreement acquires knowledge that the proprietary rights associated with any Application or patent issuing thereon in the United States or any foreign country are being infringed, or infringement is threatened, then that information and knowledge will be promptly transmitted to the other party. The parties hereto further agree that Medical Center shall use all reasonable measures to enforce and protect such proprietary rights against all infringers.

5.2 It is further agreed between the parties hereto that the terms of any Patent License may transfer the right and/or obligation to enforce and protect such proprietary rights, including the right and/or obligation to sue for infringements or such proprietary rights and to defend against declaratory judgment actions or oppositions involving any Application or any patent issuing thereon, to third party licensee under the Patent License. The appropriateness of the transfer of such right and/or obligation to be decided later by Medical Center and _____. Where the right and/or obligation to sue for such infringements and to defend against such declaratory judgment actions or oppositions has been transferred to a third party licensee under such Patent Licenses, Medical Center and _____ shall not be liable to each other for any failure of such third party licensee to actually bring suit for any such infringements or to actually mount a defense against any such declaratory judgment action or opposition. However, in the event that such right and/or obligation to sue or defend has been transferred to any third party licensee and such third party fails to sue or defend, and Medical Center with notice of such failure also fails to sue or defend, _____ shall then have the right to so sue or defend, at their own expense and with all rights to the Application transferring to _____ upon their commencement of such legal action or defense.

5.3 If a settlement is reached or recovery is awarded as a result of any litigation or other action involving infringement of any patents issuing on any Application in the United States or any foreign country, and such settlement or recovery results in the payment to Medical Center of any monies over and above the expenses incurred by Medical Center in conducting such litigation or other action, such monies shall be treated as Gross Royalty Income for purposes of this Agreement and shall be subject to distribution between the parties hereto as specified in Paragraph 4.1 above.

5.4 Medical Center and _____ hereby agree to join in any legal action covered by Paragraphs 5.1 and 5.2 above where such joinder is necessary, as determined by competent legal counsel, to permit the action to proceed.

5.5 Regardless of the necessity for joining _____ as defined in Paragraph 5.4 above, _____ agrees to render assistance in any legal action covered by Paragraphs 5.1 or 5.2 above, such assistance including the giving of testimony, the signing of affidavits and the furnishing of documents and things necessary to support Medical Center's position in such legal action. In the event

_____ elects not to share in the payment of expenses associated with such legal action, _____ nevertheless agree to provide assistance at Medical Center's expense and with the understanding that _____ will not share in the proceeds of such legal action. It is understood and agreed that nothing in this Paragraph 5.5 shall affect the rights of _____ to share in the distribution of Gross Royalty Income in accordance with Paragraph 4.1 above.

Article 6 TERM AND TERMINATION

6.1 This Agreement shall extend for the life of any patent issuing on any Application in the United States or any foreign country.

6.2 This Agreement may not be terminated by any party as long as each party fulfills its duties and obligations as recited herein, and receives notice from the other party so indicating such failure, the defaulting party shall have ninety (90) days following receipt of such notice to fulfill such duties and obligations. Should the defaulting party not fulfill such duties and obligations within ninety (90) days after receipt of such notice, appropriate action under Paragraph 11.4 below may be initiated to enforce any rights under this Agreement, and this Agreement may be terminated at the sole discretion of the non-defaulting party.

6.3 In the event any patent issuing on the Application is declared invalid and/or unenforceable by a final unappealed or unappealable decree of any court or tribunal of competent jurisdiction in the United States or any foreign country, Medical Center shall have the right to terminate this Agreement insofar as such patent or any Patent Licenses based on such patent is concerned. If Medical Center elects not to pursue an appeal of a court or tribunal decision, Medical Center agrees to use its best efforts to notify _____ within sufficient time to allow _____ to pursue such an appeal. _____ may then elect to pursue such an appeal at their own expense, and all rights to the subject matter defined in the claims of such patent shall transfer to _____ without further consideration required. However, such election to appeal by _____ shall not affect Medical Center's right to terminate this Agreement insofar as any such Application or any Patent Licenses based on such Application is concerned.

Article 7 RECORDS

7.1 Medical Center and _____ shall, in accordance with generally accepted accounting principles consistently applied, maintain a separate set of books or records of account directed to the subject matter of this Agreement. Such set of books shall contain all the data reasonably required to ascertain payments due under the distribution of Gross Royalty Income, profits and settlement or recovery provisions outlined respectively in Paragraphs 4.1 and 4.2 above. Medical Center and _____ shall permit such books and records to be examined by the other party or such other party's nominee, or for _____, from time to time during regular business hours and upon reasonable notice.

Article 8
ASSIGNMENT

8.1 Medical Center or _____'s rights and obligations under this Agreement may be assigned or transferred, in whole or in part, with consent of and upon written notice to the other party, which consent shall not be unreasonably withheld. Should Medical Center or _____ elect to assign or transfer their respective rights in and to any Application or any patent issuing thereon to a third party, whether in the United States or any foreign country, Medical Center and _____'s obligations under this Agreement with respect to such Application or patent issuing thereon shall likewise be assigned or transferred to such third party assignee receiving such Application or patent issuing thereon.

Article 9
CONFIDENTIALITY

9.1 Medical Center and _____ agree to disclose to each other in confidence such clinical, technical and other data concerning the Application as is available to them and as might become available to them in the future. All parties agree to hold in strict confidence the confidential information of the other and will treat it with the same degree of care that it exercises with regard to its own proprietary information. The parties hereto further agree to keep confidential and secret all information and documentation concerning the Application and any improvements and additions thereto, and will not use or divulge any such information to any person, firm or corporation except to the extent that it is necessary for the performance of its obligations under this Agreement. This obligation of confidentiality shall not prevent either party from making such disclosures to government bodies, courts or agencies as are required by law, as for example, to obtain the permission of said government body or agency to market products or to file or prosecute a patent application for products and methods directly related to the subject matter of this Agreement. Furthermore, this obligation of confidentiality shall not prevent Medical Center or _____ from disclosing information and providing materials concerning the Application to third parties, wherein the non-disclosing party is advised and the third party recipient executes an appropriate confidentiality agreement.

9.2 The obligation of confidentiality set out herein shall extend for a period of three (3) years beyond the expiration or termination of this Agreement, provided however, that such obligations shall not apply to any information:

- (a) which is for becomes publicly available through no fault of the obligated party; or
- (b) which the obligated party can show was in its possession prior to the furnishing of same by the furnishing party; or
- (c) which the obligated party lawfully receives from a third party; or
- (d) which the obligated party is required to disclose to government authorities of any country for the purpose of obtaining approval testing or marketing of the Licensed Products; or
- (e) which the obligated party is required by law to disclose.

9.3 Neither party will originate any publication, information, publicity, news release, or other public announcement or comment, written or oral, whether to the press, to stockholders, or otherwise relating to this Agreement or the subject matter of this Agreement, without the consent of the other party except for such announcement which, in accordance with the advice of legal counsel to the party making such announcement, is required by law. The party making any announcement which is required by law will give the other party an opportunity to review the form and content of such announcement and comment before it is made, with the understanding that the final form and content shall be determined by the party making the announcement in accordance with the advice of its legal counsel.

9.4 The foregoing obligation of confidentiality shall not apply to articles prepared for publication in scientific journals, nor to oral presentations to be given at technical seminars or conferences. However, such articles prepared for publication in scientific journals and the contents of such oral presentations prepared for technical seminars or conferences, shall be submitted in advance to the other parties who shall have 30 days in which to convey comments to the author or authors.

Article 10
WARRANTIES AND REPRESENTATIONS

10.1 Medical Center and _____ expressly warrant and represent to the best of their knowledge and belief after reasonable review and inspection, that they have no outstanding encumbrances or agreements, either written, oral or implied in connection herewith and have not granted and will not authorize the granting of during the term of this Agreement or any renewal hereof, any similar rights, license, consent or privilege with respect to the right granted herein, subject to the rights afforded the United States of America under 35 U.S.C. §§200-212, to the extent that the development of the Application was sponsored, in whole or in part, by the U.S. Department of Health and Human Resources.

10.2 The parties hereto expressly represent and warrant that they have the full power and authority to enter into this Agreement and to carry out the transactions contemplated hereby.

10.3 Medical Center and _____ expressly represent and warrant to the best of their knowledge and belief after reasonable review and inspection, with respect to their respective contribution, that no other person, academic institution, corporation, association, clinic, hospital or any local, state or federal government except the United States as set forth in Paragraph 10.1 above, holds any property or inventorship rights or any other claim to any of the subject matter of this Agreement.

Article 11
MISCELLANEOUS

11.1 Nothing contained in this Agreement shall be construed as a warranty or representation that any letters patent will issue in any country on any Application.

11.2 Any written notice or payment required or permitted between the parties hereto by this Agreement shall be given by telefax or certified mail, postage prepaid, return receipt requested and shall be sent if to Medical Center at:

Cedars-Sinai Medical Center
8700 Beverly Boulevard
Los Angeles, California 90048-1865
Attn: Senior Vice President for Academic Affairs

with a copy to: Senior Vice President for Legal Affairs and
General Counsel

and if to _____ at:

Attn: _____

11.3 Medical Center or _____ shall be held liable or responsible for failure or delay in fulfilling or performing their respective obligations under this Agreement in the event that such failure or delay is due to acts of God, strikes or other labor disputes, governmental regulations or actions, inability to obtain material, labor, equipment or transportation, or any other condition beyond the reasonable control of the parties.

11.4 Any disputes, controversies or claims between Medical Center and _____ arising out of or relating to this Agreement shall be settled by binding arbitration according to the rules of the American Arbitration Association before a panel of three arbitrators reasonably knowledgeable with respect to the technology and business to which this Agreement relates, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Such arbitration, if brought by _____ shall take place in Los Angeles, California, and, if brought by Medical Center shall take place in _____. All parties shall have the right to discovery, and the arbitrators shall be selected, pursuant to the rules of the American Arbitration Association. Arbitration fees shall be shared equally.

11.5 This Agreement may not be amended except in writing signed by the parties hereto and the terms and provision contained herein constitute the entire agreement between the parties and shall supersede all previous communications, representations, agreements or understandings, either oral or written, between Medical Center and _____ with respect to the subject matter of this Agreement.

11.6 Should any of the provisions of this Agreement be determined to be unenforceable or prohibited by any applicable law, this Agreement shall be considered separable as to such provisions, which shall then be inoperative, but the remaining provision of this Agreement shall be valid and binding.

IN WITNESS THEREOF, the parties hereto have affixed their authorized signature.

_____ CEDARS-SINAI MEDICAL CENTER

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Acknowledged and Agreed:

Date: _____

Date: _____