

Instructions for executing this Antibody license

This Ready-to-Sign license agreement (RtS) includes non-negotiable, standard terms and conditions that are designed to enable rapid licensing. In order to enter into an RtS license agreement and to receive rights to use the intellectual property described in the license, please follow the instructions outlined below.

- Fill in the required company information on pages 1, 6, and 8 of the agreement
- Do not alter or write in any other areas of the agreement.
- Sign the completed RtS license using the appropriate company or organization officer signature. The OTM does not accept digital signatures but does accept scanned wet-ink signatures in PDF format.
- Email the scanned signed copy of the RtS license agreement and any other required documentation to otm@illinois.edu, or send the signed original RtS license agreement to the following address:

Office of Technology Management
Attention: Director
University of Illinois
319 Ceramics Building, MC-243
105 South Goodwin Avenue, Urbana, IL 61801

- OTM will review the license and either sign it or contact you.

If signed by the University, a fully executed copy of the RtS license agreement will be returned to you using the contact information you provided. After executing the license, OTM will invoice you for fees due, as explained in section 3.1.

Please send any questions concerning these instructions to otm@illinois.edu or call (217) 333-7862. Thank you for your interest in licensing University of Illinois technologies

NON-EXCLUSIVE LICENSE AGREEMENT

License Agreement (“**Agreement**”), effective as of date of last signature (“**Effective Date**”) between THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS, a body corporate and politic of the State of Illinois (the “**University**”), and _____, a(n) _____ (“**Licensee**”).

University holds certain rights to the materials described below and desires to have the materials perfected and exploited for commercial purposes. Licensee wishes to obtain the non-exclusive right to exploit such materials in commercial settings. Therefore, in consideration of the mutual obligations set forth below and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, University and Licensee agree as follows.

ARTICLE 1

DEFINITIONS

The following capitalized terms are used in this Agreement with the following meanings:

“**Field**” means the field of use described on Schedule 1.

“**Materials**” mean 25 mL of rabbit anti-sera against XPLN and polyclonal antibodies isolated therefrom (“**Polyclonal Antibodies**”), from the laboratory of University Professor Jie Chen, supplied by University to Licensee.

“**Net Sales**” means all cash amounts and the fair market value of all other consideration received due to or by reason of the sale, distribution or use of Products, less the following deductions:

- (i) customary trade, quantity or cash discounts and rebates taken;
- (ii) refunds, replacements or credits given to purchasers for return of Products for which a royalty was paid under this Agreement; and
- (iii) unreimbursed freight and other transportation costs, including insurance charges, and unreimbursed duties, tariffs, sales and excise taxes actually paid.

“**Product**” means Polyclonal Antibodies isolated from the Materials and/or any product or process that incorporates, utilizes or is made with use of the Polyclonal Antibodies.

“**Royalty Period**” means one of two six (6) month periods during a calendar year, the first beginning on January 1 and ending June 30 and the second beginning on July 1 and ending December 31, except that the initial Royalty Period shall begin on the Effective Date and end on December 31 of that same calendar year.

“**Territory**” means the territory set forth on Schedule 1.

ARTICLE 2

GRANT OF LICENSE

2.1. **Grant.** Conditioned upon Licensee’s continuing compliance with the terms and conditions of this Agreement, University hereby grants to Licensee the non-exclusive right to use the Materials to make, have made, use, export, lease, sell, have sold and offer for sale, Products within the Field and within the Territory. This grant does not include the right to transfer or sublicense the anti-sera provided as part of Materials to third parties.

ARTICLE 3

COMMERCIALIZATION, PAYMENTS AND REPORTS

3.1 **License Fees.** Within thirty (30) days of date of invoice from University, Licensee shall pay University a nonrefundable licensing fee in the amount(s) set forth on Schedule 1 attached to this Agreement (the “**Licensing Fee**”).

3.2 **Transfer of Materials.** Upon University’s receipt of the Licensing Fee, University will, within thirty (30) days thereof, provide Licensee via overnight courier using Licensee’s courier account number, to the address set

forth in Schedule 1, Section 6.3(c), with a sample of the Materials, except, however, the parties understand and agree that unforeseen circumstances might delay delivery, in which case University will not be in breach of this Agreement for any such delayed transfer. Licensee agrees to pay promptly all shipping and packaging costs in connection with the transfer of the Materials.

3.3. **Payments on Licensee's Net Sales.** Licensee shall pay University a royalty on Licensee's Net Sales in the percentage set forth on Schedule 1.

3.4 **Calculation and Payment of Royalties and Amounts Due.**

(a) Royalties and other amounts due shall be calculated for each Royalty Period as of the last day of each such Period. Payment of royalties and other amounts with respect to each Royalty Period, and the accompanying accounting report set forth in subparagraph (b) below shall be due within forty-five (45) days after the end of such Royalty Period as set forth on Schedule 1, beginning with the Royalty Period in which the first Net Sale accrues.

(b) At the same time that it makes payment of royalties and other amounts due with respect to a Royalty Period, Licensee shall deliver to University a true and complete accounting of Net Sales and other distributions of any Product and revenues from those sales by Licensee for each country of sales origin during such Royalty Period and deductions taken, with a separate accounting for each Product of sales and revenues by country, and a detailed calculation of the payment due University for such Royalty Period, in each case in form and substance reasonably satisfactory to University.

3.5. **Records.** Licensee shall keep accurate records in sufficient and customary detail such that the amounts payable may be verified. During the term of this Agreement and for a period of five (5) years following termination, Licensee shall permit University or its representative to inspect, audit and copy its books and records regarding the sale of Products, during normal business hours. Such examination shall be made at University's expense, except that if such examination discloses a shortage of three percent (3%) or more in the amount of royalties and other payments due University for any Royalty Period, then Licensee shall reimburse University for the reasonable cost of such examination or audit, including any professional fees and out of pocket costs incurred by University. No separate confidentiality agreement will be required to conduct such an examination or audit, and the results of the audit shall be treated as confidential information unless and until a related legal action is taken. Additionally, it is understood that the University or its representative will be allowed to keep a copy of all documents provided by the Licensee hereunder and all documents created by the University or its representative in connection with such examination or audit for archival purposes.

3.6. **Payments.** All amounts owing to University under this Agreement shall be paid in U.S. dollars, by check or other instrument representing immediately available funds payable to "The University of Illinois," or in a wire transfer sent to an account listed on Schedule 1. Any wire transfer fees and bank fees connected to a payment shall be paid by the Licensee. If Licensee receives payment in a currency other than U.S. dollars, such currency will be converted directly from the currency in the country of sales origin to U.S. dollars on the date initial payment was made, without intermediate conversions, and payments will be made based on such conversion.

3.7. **Overdue Payments.** Payments due to the University under this Agreement, if not paid when due, shall be subject to interest of 1.5% per month (or the maximum amount permitted by law if less) of the delinquent amount, and Licensee shall be responsible for all costs of collection incurred by University including attorney fees and court costs. The accrual or receipt by University of interest under this Section shall not constitute a waiver by University of any right it may otherwise have to declare a breach of or default under this Agreement and to terminate this Agreement.

3.8. **Termination Report and Payment.** Within sixty (60) days after the date of termination of this Agreement, Licensee shall make a written report to University which report shall state the number, description, and amount of Products sold by Licensee upon which royalties are payable hereunder but which were not previously reported to University, a calculation of the Net Sales, and a calculation of the royalty and other payments due University for such Products, all in such form and containing such substance as is required hereunder. Concurrent with the making of such report, Licensee shall make the payment due University for such period.

3.9. **Commercialization and Reporting Requirements.** Licensee shall use its best efforts to bring one or more Products to market within the Field and throughout the Territory and to develop such markets through a

thorough, vigorous and diligent program for the commercial exploitation of the Materials. In addition, Licensee shall meet all commercialization and reporting requirements set forth in Schedule 1.

3.10. **No Refunds or Credits.** Other than as set forth herein, all payments made to University hereunder shall be nonrefundable, and any amount paid with respect to an obligation of Licensee under this Agreement shall not be credited against any other amount paid with respect to any other obligation of Licensee under this Agreement.

ARTICLE 4

WARRANTIES; INDEMNIFICATION

4.1. **Limited Representation.** University represents that it has the right, power and authority to enter into and perform its obligations under this Agreement.

4.2. **Disclaimer of Warranties.** The Materials are licensed "AS IS." EXCEPT AS SPECIFICALLY SET FORTH IN SECTION 4.1 ABOVE, UNIVERSITY DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND OR NATURE, WHETHER EXPRESS OR IMPLIED, RELATING TO PERFORMANCE, MARKETABILITY, TITLE OR OTHERWISE IN ANY RESPECT RELATED TO THE MATERIALS or PRODUCTS. UNIVERSITY FURTHER DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY REGARDING INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER RIGHTS OF THIRD PARTIES IN CONNECTION WITH THE MATERIALS OR THE MAKING, USING OR SELLING OR OTHER DISTRIBUTION OF PRODUCTS BY ANY PERSON OR ENTITY. LICENSEE ASSUMES THE ENTIRE RISK AND RESPONSIBILITY FOR THE SAFETY, EFFICACY, PERFORMANCE, DESIGN, MARKETABILITY, TITLE AND QUALITY OF ALL PRODUCTS. Without limiting the generality of the foregoing, University does not warrant or represent (a) the accuracy of any information provided to Licensee or (b) the accuracy, safety, or usefulness for any purpose of any of the Materials or Products.

4.3. **Limitation of Liability.** University assumes no liability in respect of any infringement of any patent or other right of third parties due to the activities of Licensee or end users of Licensee's Products ("End User") under this Agreement. In no event shall University or its affiliates, including its trustees, directors, officers, faculty, staff, students, employees, consultants and agents (collectively, the "Agents"), be responsible or liable for any indirect, special, punitive, incidental or consequential damages or lost profits to Licensee, End User or any other individual or entity regardless of legal theory. The above limitations on liability apply even though University or its affiliates, or any of their Agents, may have been advised of the possibility of such damage. Licensee shall not make any statements, representations or warranties or accept any liabilities or responsibilities whatsoever with regard to any person or entity that are inconsistent with any disclaimer or limitation included in this Article 4.

4.4. **Indemnification.**

(a) None of the University, any of its affiliates, or any of their respective Agents (each an "Indemnified Person") shall have any liability or responsibility whatsoever to Licensee, End User or any other person or entity for or on account of (and Licensee agrees and covenants not to sue any Indemnified Person in connection with) any injury, loss, or damage of any kind or nature, sustained by, or any damage assessed or asserted against, or any other liability incurred by or imposed upon, Licensee, End User or any other person or entity, whether direct, indirect, special, punitive, incidental, consequential or otherwise arising under any legal theory (and further excluding without limitation any existing or anticipated profits or opportunities for profits lost by Licensee), arising out of or in connection with or resulting from (i) the production, use, or sale of the Products by Licensee or the use of Products by End User, (ii) the use of any Materials by Licensee or End User, (iii) any advertising or other promotional activities with respect to either of the foregoing, or (iv) the production, use, or sale of any product, process or service identified, characterized or otherwise developed by Licensee or End User with the aid of the Materials. Licensee shall indemnify and hold each Indemnified Person harmless against all claims, demands, losses, damages or penalties (including but not limited to reasonable attorney's fees and expenses at the pretrial, trial or appellate level) made against any Indemnified Person with respect to items (i) through (iv) above, whether or not such claims are groundless or without merit or basis.

(b) Licensee shall obtain and carry insurance in full force and effect with the coverages and limits as are reasonably adequate to ensure that Licensee can meet its obligations to University pursuant to this Article 4, the nature and extent of which insurance shall be commensurate with usual and customary industry practices for similarly situated companies, but in any event not less than the amounts set forth on Schedule 1. Such insurance will be written by a reputable insurance company reasonably acceptable to the University authorized to do business in

the State of Illinois, will name the University as an additional insured under all general liability and product liability policies and shall require thirty (30) days written notice to be given to University prior to any cancellation or substantive policy change. Upon receiving notice of a product liability claim, University may request Licensee to provide, and upon such request Licensee shall provide appropriate certificates of insurance sufficient to cover its obligations hereunder.

(c) Licensee's obligations under this Article 4 shall survive the expiration or earlier termination of all or any part of this Agreement.

ARTICLE 5

TERM AND TERMINATION

5.1. **Term.** Unless terminated earlier under Section 5.2 or 5.3, this Agreement shall become effective as of the Effective Date and shall remain in effect for the term set forth in Schedule 1, unless earlier terminated as specified herein.

5.2. **University Right to Terminate.** University shall have the right (without prejudice to any of its other rights conferred on it by this Agreement or otherwise) to terminate this Agreement if Licensee:

(a) is in default in payment of any amount or other consideration or reimbursement required under this Agreement, or the making of any reports required under Section 3.4(b) to be made by Licensee pursuant to this Agreement, and Licensee fails to remedy any such default within thirty (30) days after written notice thereof by University;

(b) is in breach of or defaults with respect to any other provision of this Agreement, including failing to meet any requirement under Section 3.9, and Licensee fails to remedy any such breach or default within forty-five (45) days after written notice thereof by University;

(c) makes any materially false report and such termination shall be upon written notice to Licensee; or

(d) commences a voluntary case as a debtor under the Bankruptcy Code of the United States or any successor statute (the "**Bankruptcy Code**"), or if an involuntary case is commenced against Licensee under the Bankruptcy Code, or if an order for relief shall be entered in such case, or if the same or any similar circumstance shall occur under the laws of any foreign jurisdiction and Licensee fails to vacate or have such case dismissed within thirty days of filing.

5.3. **Licensee Right to Terminate.** Licensee may terminate this Agreement at any time by written notice to University at least ninety (90) days prior to the termination date specified in the notice.

5.4. **Effect of Termination.**

(a) If this Agreement terminates for any reason, on the effective date of termination, Licensee shall immediately cease using, making, having made, exporting, leasing, selling, having sold and offering for sale the Materials and Products, and shall return to University or destroy the Materials and Products then in its possession.

(b) Notwithstanding the termination of the other provisions of this Agreement pursuant to Section 5.2 or 5.3, the following provisions of this Agreement shall survive such termination:

(i) Licensee's obligation to pay any fees accrued or perform obligations remaining unpaid or unperformed under the terms of this Agreement prior to such termination;

(ii) Licensee's obligations under Section 3.8 (Termination Report and Payment), Article 4, this Section 5.4 and Article 6 below;

(iii) any cause of action or claim of Licensee or University, accrued or to accrue, because of any breach or default of this Agreement by the other party.

ARTICLE 6

MISCELLANEOUS

- 6.1. **Assignment.** Except in the event of a merger or sale of substantially all stock or assets of Licensee, this Agreement shall not be assigned by Licensee without the prior written consent of University granted or withheld in the discretion of the University. Prior to any such assignment becoming effective, all amounts due must be paid in full and a permitted assignee must agree in writing to become bound by this Agreement.
- 6.2. **Entire Agreement, Amendment and Waiver.** This Agreement (including any attached schedules) contains the entire understanding of the parties with respect to the subject matter of this Agreement and supersedes any and all prior written or oral discussions, arrangements, courses of conduct or agreements. This Agreement may be amended only by an instrument in writing duly executed by the parties. The waiver of a breach hereunder may be effected only by a writing signed by the waiving party and shall not constitute a waiver of any other breach.
- 6.3. **Notices.** All notices required or desired to be given under this Agreement, and all payments to be made to University under this Agreement, shall be delivered to the parties at the addresses set forth on Schedule 1. Notices may be given (i) by hand, (ii) by a nationally recognized overnight delivery service, or (iii) by U.S. first class registered or certified mail, postage prepaid, return receipt requested. The date of personal delivery, the date of deposit with the overnight delivery service for next business day delivery, or three (3) days following the date of deposit for mailing, as the case may be, shall be the date such notice is deemed delivered under this Agreement.
- 6.4. **Severability.** If any one or more of the provisions of this Agreement should for any reason be held by any court of competent jurisdiction to be invalid, illegal or unenforceable, such provision or provisions shall be reformed to approximate as nearly as possible the intent of the parties, and the validity of the remaining provisions shall not be affected.
- 6.5. **Governing Law.** This Agreement is governed and interpreted under the laws of Illinois, excluding its conflict of laws provisions.
- 6.6. **Jurisdiction.** In consideration of the performance by University of this Agreement, Licensee agrees that, unless otherwise agreed by University in writing, all actions or proceedings related to this Agreement shall be litigated in courts located within the State of Illinois. Licensee (i) consents and submits to the jurisdiction of any local or state court located within said state, (ii) consents to delivery and service of process by means of the notice provisions established in this Agreement, and (iii) shall not bring any action or claim against University in any other jurisdiction without the prior written consent of University granted in University's sole discretion.
- 6.7. **Export Controls.** Licensee agrees to strictly comply with any and all applicable United States export control laws and regulations and foreign export or import laws and regulations.
- 6.8. **Implementation.** Each party shall, at the request of the other party, execute any document reasonably necessary to implement the provisions of this Agreement.
- 6.9. **Counterparts/Facsimiles.** This Agreement may be executed in multiple counterparts, each of which when taken together shall constitute one and the same instrument. The parties agree that duplicated or facsimile signatures shall be deemed original for all purposes.
- 6.10. **Relationship of Parties.** The parties to this Agreement are independent contractors. There is no relationship of principal to agent, master to servant, employer to employee, or franchiser to franchisee between the parties. Neither party has the authority to bind the other or incur any obligation on its behalf.
- 6.11. **Headings.** The headings of the sections, subsections, and paragraphs of this Agreement have been added for convenience only and shall not be deemed to be a part of this Agreement, nor shall they affect the interpretation or construction of this Agreement in any manner.
- 6.12. **Advertising.** Licensee shall not use the names of University or Agents, or any adaptation thereof, in any commercial activity, marketing, advertising or sales brochures without the prior written consent of University, which consent may be granted or withheld in University's sole and complete discretion. Notwithstanding the foregoing, Licensee may use the name of University in a non-misleading fashion in (i) executive summaries, business plans, offering memoranda and other similar documents used by Licensee for the purpose of raising financing for the

operations of Licensee or entering into commercial contracts with third parties, but in such case only to the extent necessary to inform a reader that the Materials have been licensed by Licensee from University, and to inform a reader of the identity and published credentials of the University faculty members in whose laboratory the Materials were created, and (ii) any securities reports required to be filed with the Securities and Exchange Commission.

6.13. **Conflicts.** Licensee acknowledges and agrees that it will use reasonable efforts to avoid potential conflicts of interest between the University and University employees who may also be employees, consultants, shareholders or directors of Licensee. Licensee agrees to cooperate with University with respect to the University of Illinois Policy on Conflicts of Commitment and Interest, which is available at <http://www.research.uiuc.edu/coi/index.asp>, and to work constructively with University to manage and mitigate any conflicts that may arise in the course of this and related agreements between it and University.

IN WITNESS WHEREOF, the parties hereto have caused this Non-Exclusive License Agreement to be executed by their respective duly authorized officers or representatives on the date indicated below.

UNIVERSITY:

THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS

By: _____

Attest: _____

Date: _____

LICENSEE:

By: _____

Name: _____

Title: _____

Date: _____

Approved for form University legal counsel KAH 09/2015

Schedule 1 to Non-Exclusive License Agreement

Article 1 Definitions

“Field”: research reagents

“Territory”: worldwide

Article 3 Payments/Reports

- 3.1 Licensing Fee: \$5,000
- 3.3 Royalty on Net Sales by Licensee: 15%
- 3.4 Payments & Accounting Due: February 15 of each year (for the Royalty Period ending the prior December 31) and August 15 of each year (for the Royalty Period ending the prior June 30)
- 3.6 Wire Transfer information: JPMorgan Chase Bank, NA
4 New York Plaza, Fl 15
New York NY 10004
ABA/Routing No. 021000021 (US only)
Account Title: University of Illinois Operations
Account Number: 11-12201
Swift code: CHASUS33
Reference Office of Technology Management to help identify the wire.
- 3.9 Commercialization and Reporting Requirements.
- i. On or before the first anniversary of Effective Date, a summary describing Product development activity to date.
 - ii. By the first anniversary of Effective Date, and every year thereafter, advertise availability of Products in printed and online catalogs.

Article 4 Indemnification

4.4(b) Insurance Requirements:

General Liability: Minimums consistent with industry practice, but in any event not less than (i) \$1,000,000 per occurrence, with an aggregate minimum of \$2,000,000 for personal injury or death, and (ii) \$1,000,000 per occurrence, with an aggregate minimum of \$2,000,000 for property damage.

Products Liability: Prior to the sale or transfer to any third party of any Product, products liability insurance in an amount consistent with industry practice, but in any event not less than \$1,000,000 per occurrence and \$2,000,000 in aggregate.

Professional Liability: Prior to the offering or providing of any professional services that require use of or are based on the Materials to any third party, professional liability insurance and/or errors and omissions insurance, as appropriate, in an amount consistent with industry practice, but in any event not less than \$1,000,000 per occurrence and \$3,000,000 in aggregate, provided that if Licensee purchases such insurance coverage on a “claims made” basis, then Licensee must purchase tail coverage for at least ten (10) years following the expiration or termination of the agreement under which services are provided.

Article 5 Term and Termination

- 5.1 Term of Agreement: The term of this Agreement shall be twenty years from the Effective Date, unless earlier terminated as provided herein.

Article 6 Miscellaneous

6.3 Notices:

(a) Address for All Notices and Payments to University: Office of Technology Management
Attention: Director
University of Illinois
319 Ceramics Building, MC-243
105 South Goodwin Avenue
Urbana, IL 61801

(b) Address for Notices to Licensee: _____

(applicable to US companies only) FEIN: _____

(c) Address for Transfer of Materials : _____

Phone: _____
E-Mail: _____