

## **Special Instructions For Executing This License**

This Illinois RapidVent ventilator license agreement is a non-exclusive, free license agreement to technology for the creation of the Illinois RapidVent ventilator. The Illinois RapidVent ventilator license agreement is a non-negotiable license with standard terms and conditions that are designed to enable rapid licensing.

In order to enter into this 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 (Licensee) information on pages 1 and 5
- Do not alter or write in any other areas of the agreement
- Sign the completed Illinois RapidVent ventilator license using the appropriate company or organization officer signature
- Email the signed copy of the RapidVent ventilator license agreement and any other required documentation to [mchitamb@illinois.edu](mailto:mchitamb@illinois.edu) with a copy to [otm@illinois.edu](mailto:otm@illinois.edu)

The Office of Technology Management will review the license and either sign it or contact you.

If signed by the University, a fully executed copy of the license agreement will be returned to you using the email contact information you provided. After executing the license, you will be sent instructions on how to access the information needed to facilitate manufacture of the Illinois RapidVent ventilator.

Please send any questions concerning these instructions to [mchitamb@illinois.edu](mailto:mchitamb@illinois.edu) with a copy to [otm@illinois.edu](mailto:otm@illinois.edu).

Thank you.

**UNIVERSITY OF ILLINOIS  
NON-EXCLUSIVE TECHNOLOGY LICENSE AGREEMENT**

This *Non-Exclusive Technology License Agreement* (“Agreement”) is made and entered into as of the Effective Date set forth below between the party identified below (“**Licensee**”) and The Board of Trustees of the University of Illinois, a body corporate and politic of the State of Illinois (the “**University**”). This Agreement consists of Part 1 that identifies the Licensee, the technology rights subject to this Agreement, and other transaction-specific terms (“**Transaction Terms**”); and Part 2 (“**General Terms**”) which contains the general terms and conditions of this Agreement.

The University holds certain rights to the technology described below and desires to have the technology perfected and exploited by entities potentially capable of quickly producing quantities of the end product in accordance with U.S. Food and Drug Administration (FDA) standards. Licensee wishes to obtain the non-exclusive right to exploit such technology rights for near-term production. 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.

**Part 1; Transaction Terms** (the section numbers in the left column correspond to the section numbers in Part 2)

Effective Date	Date of last signature	
Licensee Name		
Business Type		
Contact Name		
Email		
Licensee website		
1.1 “Field”	Ventilators, including additive fabrication and manufacturing thereof	
1.2 “Technology Rights”	Means (a) all of the University’s copyrights in the technology and (b) any non-patented information and know-how that is disclosed by University and provided to Licensee that relates to the Products, including schematics, design files, materials, software, assembly instructions, testing data and results, instructions for use, and other documentation, videos, copyrightable material, and knowhow related to the Illinois RapidVent ventilator or Product design and manufacture.	
1.4 “Territory”	Worldwide	
4.4(b) Insurance Requirements	<p>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.</p> <p>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.</p> <p>Professional Liability: Prior to the offering or providing of any professional services that require use of or are based on the Technology Rights 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.</p>	
6.3 Notices	University	Licensee [insert contact address and FEIN below]
	Office of Technology Management Attention: Director University of Illinois 319 Ceramics Building, MC-243 105 South Goodwin Avenue Urbana, IL 61801	
		FEIN [US companies only]:

## Part 2; General Terms

### ARTICLE 1 DEFINITIONS

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

- 1.1 “**Field**” means the field of Ventilators, including additive fabrication and manufacturing thereof.
- 1.2 “**Technology Rights**” means (a) all of the University’s copyrights in the technology and (b) any non-patented information and know-how that is disclosed by University and provided to Licensee that relates to the Products, including schematics, design files, materials, software, assembly instructions, testing data and results, instructions for use, and other documentation, videos, copyrightable material, and knowhow related to the Illinois RapidVent ventilator or Product design and manufacture.
- 1.3 “**Product**” means any product or process that, in whole or in part, absent the license granted hereunder, would infringe on the Technology Rights, or uses, incorporates or is derived from the Technology Rights, including any process that uses any such product, and any service that uses any such products or processes.
- 1.4 “**Territory**” means worldwide.

### ARTICLE 2 GRANT OF LICENSE

- 2.1 **Grant.** Conditioned upon Licensee’s continuing compliance with the terms and conditions of this Agreement, and with applicable laws and regulations, University hereby grants to Licensee a no-cost, non-exclusive right to use the Technology Rights to identify, develop, make, have made, use, import, export, lease, sell, have sold and offer for sale, Products within the Field and within the Territory. All rights not specifically granted in this Agreement are reserved to University.
- 2.2 **Improvements.** Licensee hereby grants to University a nonexclusive, irrevocable, fully paid-up, royalty-free right to use and disseminate for any purpose (including commercial use) any invention invented from the Technology Rights or improvement or modification to the Technology Rights. Licensee shall cooperate in communicating improvements, modifications, and other feedback on Technology Rights and Products to University.

### ARTICLE 3 REGULATORY APPROVAL AND GREATER GOOD

- 3.1 Prior to sale, distribution, or other transfer of any Product for use with humans, Licensee agrees to secure necessary approvals from competent authorities. For any Products intended for use within the United States, Licensee must obtain approval from the FDA, including FDA Emergency Use Authorization (EUA) if applicable. For Products intended for use outside the United States, Licensee must obtain equivalent approval as required by the appropriate regulating entity.
- 3.2 Licensee agrees that it will seek no more than usual and customary profit margins within the field of passive medical devices for any sale of Products.

### 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 Technology Rights 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 TECHNOLOGY RIGHTS 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 PRACTICE OF THE TECHNOLOGY RIGHTS OR THE MAKING, USING OR SELLING OR OTHER DISTRIBUTION OF PRODUCTS BY ANY
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PERSON OR ENTITY. LICENSEE ASSUMES THE ENTIRE RISK AND RESPONSIBILITY FOR THE LEGAL AND REGULATORY COMPLIANCE, SAFETY, EFFICACY, PERFORMANCE, DESIGN, MARKETABILITY, TITLE AND QUALITY OF ALL PRODUCTS. Without limiting the generality of the foregoing, University does not warrant or represent the accuracy of any information provided to Licensee, or the accuracy, safety, or usefulness for any purpose of any of the Technology Rights or Products. Nothing contained in this Agreement shall be construed as either a warranty or representation by University as to the validity or scope of any Technology Rights.

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 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 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 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 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, (ii) the use of any Technology Rights by Licensee, (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 with the aid of the Technology Rights. 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 **Part 1**. Licensee shall provide proof of insurance to University within two (2) business days of University’s written request for such proof. Such insurance will be written by a reputable insurance company reasonably acceptable to the University and 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 terminate one year after Effective Date.

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 is in breach of or defaults with respect to any provision of this Agreement and Licensee fails to remedy any such breach or default within thirty (30) days after written notice thereof by University; or if Licensee takes any action that purports to cause any Technology Rights to be subject to any liens or encumbrances, and fails to cause such purported lien or encumbrance to be removed within 30 days after notice from the University. Notwithstanding any other provision in this Agreement, the Agreement is immediately terminated, with no opportunity to cure, if Licensee sells, distributes, or otherwise

transfers Products for human use without the requisite approval of the competent authorities (the FDA in the case of use within the United States).

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, importing, exporting, leasing, selling, having sold and offering for sale the Technology Rights and Products, and shall return to University, or deliver or destroy as University directs, the Technology Rights documents (both hard copy and electronic) 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, Licensee's obligations under Section 2.2, Article 4, this Section 5.4 and Article 6 below shall survive such termination, as shall 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 **No Assignment or Third Party Beneficiaries.** This Agreement shall not be assigned by Licensee without University's prior written consent. There are no third-party beneficiaries of any kind to this Agreement except as set forth herein.

6.2 **Entire Agreement, Amendment and Waiver.** This Agreement 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 shall be delivered to the parties at the addresses set forth on Part 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 the Illinois Court of Claims. Licensee (i) consents to delivery and service of process by means of the notice provisions established in this Agreement, and (ii) 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 **Marking.** Licensee shall place in a conspicuous location on any Product (or its packaging where appropriate) made or sold under this Agreement a notice specifying that the Product is only to be used for patients without access to a ventilator that has received approval through standard, non-emergency, or other non-expedited procedures, from the FDA or other applicable regulatory entity.

6.8 **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.

6.9 **Implementation.** Each party shall, at the request of the other party, execute any document reasonably necessary to implement the provisions of this Agreement.

6.10 **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.

6.11 **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.

6.12 **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.

6.13 **Advertising.** Licensee shall not use the names or logos of University or Agents, the name "Illinois RapidVent," or any adaptation thereof, in any commercial activity, marketing, advertising, publicity, 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 Technology Rights have been licensed by Licensee from University, and to inform a reader of the identity and published credentials of the University faculty members listed as inventors of the Technology Rights, and (ii) any securities reports required to be filed with the Securities and Exchange Commission.

6.14 **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://research.uillinois.edu/policy/coci>, 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 Technology 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: \_\_\_\_\_  
Avijit Ghosh, Comptroller Date

\_\_\_\_\_  
Signature of Comptroller Delegate Date

\_\_\_\_\_  
Printed Name and Title of Comptroller Delegate

Attest: \_\_\_\_\_  
Dedra M. Williams, Secretary

LICENSEE:

\_\_\_\_\_  
*Print Licensee Name*

By: \_\_\_\_\_  
*Signature*

Name: \_\_\_\_\_  
*Print Signature Name*

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Approved for form University legal counsel DS 03/2020