

## OPTION AGREEMENT

This Option Agreement (“Option” or “Agreement”) between THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY (“Stanford”), an institution of higher education having powers under the laws of the State of California, and \_\_\_\_\_ (“Optionee”), a corporation having a principal place of business at \_\_\_\_\_, is effective on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (“Effective Date”).

### 1 BACKGROUND

Stanford is the assignee of an invention (insert marketing description here) also known as “\_\_\_\_\_,” invented in the laboratory of \_\_\_\_\_, and described in Stanford Docket \_\_\_\_\_ (“Invention”). The Invention was made in the course of research supported by the \_\_\_\_\_.

Stanford wants to have the invention perfected and marketed as soon as possible so that resulting products may be available for public use and benefit.

*(Special background of particular license)*

### 2 DEFINITIONS

- 2.1 "Exclusive" means that, subject to Articles 3 and 4, Stanford will not grant further licenses under the Licensed Patent in the Licensed Field of Use in the Licensed Territory.
- 2.2 “Licensed Field of Use” means \_\_\_\_\_.
- 2.3 "Licensed Patent" means Stanford's U.S. Patent Application, Serial Number \_\_\_\_\_, filed \_\_\_\_\_, any foreign patent application corresponding thereto, and any divisional, continuation, or reexamination application, and each patent that issues or reissues from any of these patent applications. Any claim of an unexpired Licensed Patent is presumed to be valid unless it has been held to be invalid by a final judgment of a court of competent jurisdiction from which no appeal can be or is taken. “Licensed Patent” excludes any continuation-in-part (CIP) patent application or patent.
- 2.4 “Licensed Territory” means \_\_\_\_\_.
- 2.5 "Technology" means the Licensed Patents and that additional information or materials listed in Appendix A that will be provided by Stanford to Licensee. Technology may or may not be confidential in nature.
- 2.6 “Stanford Indemnitees” means Stanford and Stanford Hospitals and Clinics, Lucile Packard Children’s Hospital and their respective affiliates, trustees, officers, employees, students, and agents.

- 2.7 "Licensed Product" means a product or part of a product in the Licensed Field of Use:
- (A) the making, using, importing or selling of which, absent this license, infringes, induces infringement, or contributes to infringement of a Licensed Patent; or
  - (B) which is made with, uses or incorporates any Technology.

### 3 GRANT

- 3.1 **Grant.** Subject to the terms and conditions of this Option, Stanford grants Optionee an option to acquire an Exclusive license under the Licensed Patent in the Licensed Field of Use to make, have made, use, import, offer to sell and sell Licensed Product in the Licensed Territory (collectively "Option Rights"). This Option does not give Optionee any Option Rights prior to entering into a license agreement.
- 3.2 **Term.** The term of this Option is until (\*\*insert date\*\*).
- 3.3 **Exercise.** Optionee may exercise this Option by providing written notice to Stanford stating Optionee's intent to enter into a license agreement with Stanford. Optionee may exercise this Option at any time during the term of the Option.
- 3.4 **Negotiation.** If Optionee elects to exercise this Option, Stanford and Optionee will promptly commence negotiation of a license agreement. Optionee and Stanford will execute a license agreement no later than three (3) months after the date of the exercise of the Option under Section 3.3. THE LICENSE AGREEMENT, IF EXECUTED, WILL INCLUDE OTHER STANDARD AND CUSTOMARY TERMS NORMALLY CONTAINED IN SIMILAR LICENSE AGREEMENTS GRANTED BY STANFORD. THE PARTIES WILL NEGOTIATE THE LICENSE AGREEMENT IN GOOD FAITH.
- 3.5 **Retained Rights.** Stanford retains the right, on behalf of itself and all other non-profit academic research institutions, to practice the Licensed Patent and use Technology for any non-profit purpose, including sponsored research and collaborations. Optionee agrees that, notwithstanding any other provision of this Agreement, it has no right to enforce the Licensed Patent against any such institution. Stanford and any such other institution have the right to publish any information included in the Technology or a Licensed Patent.
- 3.6 **Specific Exclusion.** Stanford does not:
- (A) grant to Optionee any other licenses, implied or otherwise, to any patents or other rights of Stanford other than those rights granted under Licensed Patent, regardless of whether the patents or other rights are dominant or subordinate to any Licensed Patent, or are required to exploit any Licensed Patent or Technology; or

- (B) agree to furnish to Optionee any technology or technological information other than the Technology or to provide Optionee with any assistance.

#### 4 GOVERNMENT RIGHTS

This Agreement is subject to Title 35 Sections 200-204 of the United States Code. Among other things, these provisions provide the United States Government with nonexclusive rights in the Licensed Patent. Optionee will ensure all obligations of these provisions are met.

#### 5 DILIGENCE

Optionee agrees to exercise due diligence in conducting research on potential commercial applications for Licensed Patent and Technology. In particular, Optionee agrees to:

---

(example: obtain \$X Million in funding by date)

#### 6 CONSIDERATION

In consideration of the grant by Stanford of the Option and for Stanford's forbearance from licensing other companies during the term of the Option, Optionee will pay Stanford \$XX,000, payable upon signing this option agreement.

#### 7 INDEMNITY

- 7.1 **Indemnification.** Optionee will indemnify, hold harmless, and defend all Stanford Indemnitees against any claim of any kind arising out of or related to the exercise of any rights granted Optionee under this Agreement or the breach of this Agreement by Optionee.
- 7.2 **LIMITATION ON LIABILITY.** STANFORD IS NOT LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, LOST PROFIT, EXPECTATION, PUNITIVE OR OTHER INDIRECT DAMAGES IN CONNECTION WITH ANY CLAIM ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER GROUNDED IN TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, CONTRACT, OR OTHERWISE.

#### 8 TERMINATION

- 8.1 **Termination by Optionee.** Optionee agrees to promptly notify Stanford at any time during the term of this Option when Optionee has determined not to exercise the Option. Optionee also agrees to provide Stanford, in reasonable detail, the basis for this determination.

8.2 **No Residual Rights.** Upon expiration or termination of this Option, or upon Optionee’s decision not to enter into a license agreement, whichever is earlier, Optionee will have no residual or other rights in Licensed Patent or Technology.

**9 ASSIGNMENT**

Optionee may not assign this Agreement.

**10 NOTICES**

All notices under this Agreement are deemed fully given when written, addressed, and sent as follows:

All general notices to Optionee are mailed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

All financial invoices to Optionee (i.e., accounting contact) are e-mailed to:

\_\_\_\_\_  
\_\_\_\_\_

All general notices to Stanford are e-mailed or mailed to:

Office of Technology Licensing  
1705 El Camino Real  
Palo Alto, CA 94306-1106  
[info@otlmail.Stanford.edu](mailto:info@otlmail.Stanford.edu)

All payments to Stanford are mailed to:

Stanford University  
Office of Technology Licensing  
Department #44439  
P.O. Box 44000  
San Francisco, CA 94144-4439

All progress reports to Stanford are e-mailed or mailed to:

Office of Technology Licensing  
1705 El Camino Real  
Palo Alto, CA 94306-1106

[info@otlmail.Stanford.edu](mailto:info@otlmail.Stanford.edu)

Either party may change its address with written notice to the other party.

## 11 MISCELLANEOUS

- 11.1 **Scope of Agreement.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof. No representative of Stanford or Optionee has been authorized to make any representation, warranty, or promise not contained herein.
- 11.2 **Choice of Law.** This Agreement and any dispute arising under it is governed by the laws of the State of California, United States of America, applicable to agreements negotiated, executed, and performed within California.
- 11.3 **Non-Assignment.** Neither party may add to this Agreement or any interest herein or delegate any of its duties hereunder without the prior written consent of the other party. Optionee shall not have the right to assign its obligations hereunder without express prior written approval of Stanford.
- 11.4 **Electronic Copy.** The parties to this document agree that a copy of the original signature (including an electronic copy) may be used for any and all purposes for which the original signature may have been used. The parties further waive any right to challenge the admissibility or authenticity of this document in a court of law based solely on the absence of an original signature.

The parties execute this Agreement in duplicate originals by their duly authorized officers or representatives.

THE BOARD OF TRUSTEES OF THE LELAND  
STANFORD JUNIOR UNIVERSITY

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

[insert full legal name of optionee here]

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_