

**LICENSE AND SALE AGREEMENT**

by and among

**IMMUNOTECH s.r.o.**

and

**CHARLES UNIVERSITY**

**INSTITUTE OF MACROMOLECULAR CHEMISTRY OF THE CAS**

**INSTITUTE OF ORGANIC CHEMISTRY AND BIOCHEMISTRY OF THE CAS**

Dated: 21.5.2020



## LICENSE AND SALE AGREEMENT

This License and Sale Agreement (the “*Agreement*”) is entered into effect on the 21<sup>st</sup> day of May, 2020, by and among IMMUNOTECH s.r.o., being a part of Beckman Coulter group, having a place of business at Radiová 1, 10227 Prague 10, Czech Republic, represented by Ing. Vojtěch Drbohlav, Managing Director (“*BEC*”), and Charles University (Univerzita Karlova), Id. No.: 00216208, whose registered office is at Ovocný trh 560/5, Prague 1, Zip Code: 116 36, Czech Republic (“*CU*”), which is hereby represented by Charles University Innovations Prague s.r.o. based at Ovocný trh 560/5, 110 00 Prague 1, Czech Republic, represented by Mgr. [REDACTED] MPA, based on the mandate (“*CUIP*”), Institute of Macromolecular Chemistry of the CAS (Ústav makromolekulární chemie AV ČR, v. v. i.), Id. No.: 61389013, whose registered office is at Heyrovského náměstí 1888/2, Prague 6 – Břevnov, Zip Code: 162 06, Czech Republic; represented by Ing. Jiří Kotek, Dr., Institute Director (“*IMC*”) and Institute of Organic Chemistry and Biochemistry of the CAS (Ústav organické chemie a biochemie AV ČR v. v. i.), Id. No.: 61388963, whose registered office is at Flemingovo náměstí 542/2, Prague 6, Zip Code: 166 10, Czech Republic; represented by RNDr. PhDr. Zdeněk Hostomský, CSc., Institute Director (“*IOCB*”) where IOCB, CU and IMC are referred to herein collectively as the “*LICENSOR*”. BEC and LICENSOR are referred to herein collectively as the “*Parties*” and each individually as a “*Party*.”

### Background

- (1) WHEREAS, LICENSOR owns certain intellectual property rights to the technology [REDACTED] and their use in various fields (the [REDACTED]);
- (2) WHEREAS, LICENSOR wishes to grant BEC the non-exclusive right to use iBodies for [REDACTED] as identified [REDACTED] and to the [REDACTED] as [REDACTED] as [REDACTED] (the [REDACTED] both developed by LICENSOR for the purposes of their use in Products pursuant to the Material Transfer Agreement dated January 23, 2019, and to incorporate them into certain manual immunoassay products to be developed by BEC [REDACTED] (the “*Products*”);
- (3) WHEREAS, IMC wishes [REDACTED], on [REDACTED], [REDACTED] in the quantities and at the prices [REDACTED] for incorporation into the Products;
- (4) WHEREAS, BEC is willing to manufacture the Products and purchase the [REDACTED] and [REDACTED].

NOW, THEREFORE, in consideration of the mutual promises made herein, and for other good and valuable consideration, the Parties agree as follows:

### Article 1 Definitions

- 1.1 In addition to any other defined terms in this Agreement, the following terms have the following meanings:

- (1) “*Affiliate*” means each and every corporation or other business entity controlled by, controlling or under common control with, a Party. For the purposes of this definition the word and root “control,” in the context of a corporation, means direct or indirect beneficial ownership



[REDACTED]

(11) **“Intellectual Property Rights”** means trade secrets, trademarks, patents, copyrights, know-how, registered designs, mask works, and similar rights of any type under the law of any governmental authority, domestic or foreign, including all applications and registrations thereto.

(12) **“Effective Date”** means the date of obligatory publication of this Agreement in the Czech Register of Contracts (subject to Section 19.2).

(13) **“First Commercial Sale”** means the [REDACTED].

(14) **“Licensed Patent Rights”** shall mean the [REDACTED].

(15) **“Licensed Technology”** shall mean (i) [REDACTED]  
(ii) [REDACTED]  
, (iii) the Documentation, and (iv) the Trade Secrets [REDACTED]. For the avoidance of doubt, Licensed Technology shall not include or extend to any of the LICENSOR’s technology, processes, know-how and intellectual property related to the [REDACTED].

(16) **“LICENSOR Intellectual Property Rights”** means [REDACTED].

(17) **“LICENSOR Technology”** means the Licensed Technology existing as of the Effective Date.

(18) **“LICENSOR Trademarks”** has the meaning set forth in Section 2.1.

(19) **“Net Sales”** means [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]





[REDACTED]

[REDACTED]

(20) “*New Product Technology*” has the meaning given to such term in the definition of BEC Technology.

(21) “*Product(s)*” has the meaning set forth in the preamble hereto.

(22) “*Territory*” means world-wide.

(23) “*Trade Secrets*” means any non-public formula, process, procedure, trade secret, confidential information and know-how, and any compilation thereof, in any format including written, visual, verbal or electronic, relating to the manufacture and/or to process control and quality assurance of the Product, which provides an opportunity to obtain an advantage over competitors who do not know or use it. Trade Secrets may include, without limitation, some or all of the Documentation in addition to Undocumented Trade Secrets.

(24) “*Transferred [REDACTED]*” means [REDACTED] and/or [REDACTED] delivered by LICENSOR to BEC under this Agreement and/or under the Sale Agreement.

(25) “*Undocumented Trade Secret*” means any Trade Secret not included within the Documentation, including without limitation secret information passed through visual demonstration and/or verbal communication.

1.2 General Interpretive Principles – For purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

1.2.1 The use of the singular form includes the plural, and the use of the plural form includes the singular.

1.2.2 The use of any gender herein shall be deemed to include the other gender.

1.2.3 The captions and section headings used in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define or limit the scope or content (and shall not affect the construction or interpretation) of this Agreement or any provision hereof.

1.2.4 The term “include” or “including” shall mean without limitation by reason of enumeration.

1.2.5 Any reference to an “Article” of this Agreement shall include all Sections of such Article. Similarly, each reference to a Section shall include all subsections of such Section.

1.2.6 Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all applicable rules and regulations promulgated thereunder.

[REDACTED]

**Article 2**  
**Grant of License**

- 2.1 License. (a) LICENSOR hereby grants a [REDACTED] license, [REDACTED], to BEC under the Licensed Technology to [REDACTED] the Products and to use the Licensed Technology, to [REDACTED] the Products and to practice any and all methods and processes in the [REDACTED] thereof, and to [REDACTED]. (b) LICENSOR hereby grants BEC [REDACTED] license to use the trademarks [REDACTED] (the "*LICENSOR Trademarks*") on Products or in connection with the [REDACTED] of Products. BEC may [REDACTED]
- 2.2 Ownership and Retained Rights. [REDACTED]
- 2.3 Design and Registration Documents - The Parties agree that all designs, design files, design history files, manufacturing records, Registrations and similar information or documents related to the design, development and registration of the Products (the "*Design and Registration Documents*") shall [REDACTED]

**Article 3**  
**Transfer of Manufacturing**

- 3.1 Delivery of Documentation. LICENSOR shall provide all Documentation to BEC within thirty (30) days of the Effective Date. LICENSOR shall provide BEC with such additional information in LICENSOR's possession as are necessary to use the [REDACTED] and to [REDACTED] upon BEC's request.
- 3.2 Responsibilities. LICENSOR shall provide BEC with all reasonable assistance required in order to incorporate and use the Licensed Technology in the Products. The assistance provided by LICENSOR [REDACTED] of one technical expert having knowledge of the Licensed Technology assigned by LICENSOR. Upon BEC's request and [REDACTED], LICENSOR will further assist BEC, and BEC will reimburse all reasonable costs incurred by LICENSOR in connection with such technical assistance. BEC or [REDACTED] the Products. The Parties agree that BEC shall be the [REDACTED] of the Products and shall be [REDACTED]; provided, however, that LICENSOR shall provide BEC with such information as is reasonably necessary for BEC to obtain such registrations.
- 3.3 Manufacture by BEC. BEC will [REDACTED] the Products and [REDACTED] the Products during the Term of this Agreement; provided, however, that BEC [REDACTED] the First Commercial Sale [REDACTED] of a [REDACTED]

Product in [REDACTED] pursuant to Section 9.2.2 hereunder. Notwithstanding the foregoing, in the event that BEC either (a) [REDACTED] or (b) [REDACTED] (1) year, then:

- (a) [REDACTED]; and
- (b) [REDACTED] Section 3.3 (i) above, [REDACTED]; and
- (c) [REDACTED]  
[REDACTED]  
[REDACTED] n.

#### Article 4

##### Specifications

- 4.1 Specifications. [REDACTED] supplied by IMC will conform to the specifications [REDACTED] (hereinafter only as "*Specifications*"), and all quality and regulatory requirements set forth in this Agreement.
- 4.2 [REDACTED] Documentation. LICENSOR will supply to BEC, [REDACTED] all Documentation, [REDACTED] (i) necessary for the purpose of shipment, [REDACTED], and (ii) reasonably requested by BEC that is necessary to [REDACTED] [REDACTED]).

#### Article 5

##### and Purchase Terms

- 5.1 [REDACTED] The Parties hereby confirm and agree that, as to the Effective Date of this Agreement, IMC delivered to BEC, and BEC received and accepted, [REDACTED] [REDACTED]. The Parties hereby confirm and agree that the aforementioned delivery met the agreed quantity and Specifications [REDACTED] and no [REDACTED] were rejected by BEC.
- 5.2 [REDACTED]. As consideration for the delivery by IMC to BEC of the [REDACTED], BEC will pay to IMC the transfer price ("*Transfer Price*") [REDACTED].
- 5.3 Payment of Invoices. Unless otherwise agreed in writing by both Parties, BEC will pay the invoice it receives from IMC [REDACTED] delivery within 90 days following BEC's receipt of such invoice (any such date, a "*Payment Due Date*").
- 5.4 Other than as set forth in Section 5.1, LICENSOR will have no obligation to [REDACTED] hereunder. Notwithstanding the foregoing, BEC and IMC may enter into a separate written agreement [REDACTED] (the "*Sale Agreement*"), in which case the following terms shall apply:



- 5.4.1 Within 60 days from the effective date of the Sale Agreement (the “*Agreed Delivery Date*”), IMC will [REDACTED] set forth in the Sale Agreement.
- 5.4.2 BEC’s obligation to [REDACTED] will be subject to the conditions that [REDACTED] conform to the specifications set forth in the Sale Agreement, and BEC may [REDACTED] that [REDACTED]. If BEC rejects any [REDACTED] for failure to meet the specifications, BEC shall request a return authorization from IMC and IMC shall provide such return authorization within five (5) Business Days. [REDACTED]  
[REDACTED].
- 5.4.3 [REDACTED]. As consideration for [REDACTED] of ordered quantities of [REDACTED] BEC will pay to IMC the transfer price (“*Sale Price*”) [REDACTED]. The Sale Price [REDACTED] shall be [REDACTED].
- 5.4.4 Payment of Invoices. Unless otherwise agreed in writing by both Parties, BEC will pay the invoice it receives from IMC for the [REDACTED] delivery within 90 days following the later of (a) BEC’s receipt of such invoice and (b) delivery [REDACTED] conforming to the Specifications as referenced in such invoice (any such date, a “*Payment Due Date*”).
- 5.4.5 BEC Extensions. BEC may extend [REDACTED] [REDACTED], provided, however, that BEC so notifies IMC sufficiently in advance of the Agreed Delivery Date.
- 5.4.6 Delivery Delays and Short Shipments. If IMC is unable to deliver the Agreed Quantity [REDACTED] ordered by the Agreed Delivery Date, IMC must immediately notify BEC. In the event IMC fails to deliver the agreed quantity on the Agreed Delivery Date, then [REDACTED] period that delivery is delayed. Nothing in this Agreement or the Sale Agreement will require that BEC accept for any partial delivery, or unauthorized deliveries of [REDACTED]; [REDACTED]. For the avoidance of doubt, IMC’s [REDACTED] on the Agreed Delivery Date. [REDACTED] shall be applicable.
- 5.4.7 Shipments; Delivery Terms. BEC will pick up the [REDACTED] at [REDACTED] expense.





- 5.4.8 Temperature Control Requirements. IMC is responsible for maintaining temperature and responsibility will pass to BEC only upon pick up of such [REDACTED].
- 5.4.9 Shelf Life. [REDACTED]
- 5.4.10 IOCB as subcontractor for [REDACTED]. Should the Sale Agreement contain an obligation of IMC to deliver [REDACTED] IOCB will act as IMC's subcontractor and will provide to IMC necessary support.

## Article 6

### Warranty

- 6.1 Warranty – IMC warrants that, for the Warranty Period (defined below or in the respective Sale Agreement as the case may be), the [REDACTED] transferred either under this Agreement or under the Sales Agreement are free from defects (except of defects caused by inappropriate handling of [REDACTED] by BEC or any other third party) in materials and workmanship, conform to the Specifications and will perform in accordance with product literature published by LICENSOR with respect to [REDACTED] including, but not limited to, all user and other manuals, application sheets, material safety sheets, technical materials, Documentation, and related writings. The "*Warranty Period*" for each [REDACTED] by BEC will be the shelf life [REDACTED].
- 6.2 Warranty Applicability – LICENSOR and BEC further acknowledge and agree that IMC's warranty obligations under this Article 6 cover and apply to all [REDACTED] regardless of where [REDACTED], and regardless of who may [REDACTED], including, without limitation, BEC, BEC's Affiliates, [REDACTED], [REDACTED], and regardless of whether BEC has any obligation under any contract or any other legal obligations to such parties. Notwithstanding the foregoing, the Warranty obligations of IMC under this Article 6 shall not be applicable in case of negligence or willful misconduct of BEC, BEC's Affiliates, [REDACTED] and regardless of whether BEC has any obligation under any contract or any other legal obligations to such parties, whose handling or use of the [REDACTED] or Products is not conform to the LICENSOR's product literature published by LICENSOR with respect to the [REDACTED] including, but not limited to, all user and other manuals, application sheets, material safety sheets, technical materials, Documentation, and related writings.
- 6.3 No Limitations – The warranty in this Article 6 in no way limits LICENSOR's indemnification obligations under Article 12.

## Article 7

### Regulatory Compliance

- 7.1 General. During the Term, LICENSOR will at all times develop, manufacture and store the [REDACTED] in compliance with all laws and regulations applicable to the development, manufacture, storage and use of the [REDACTED] and Products (as applicable), and in compliance with all LICENSOR's product literature published by LICENSOR with respect to the [REDACTED] including, but not limited to, all user and other manuals, application sheets, material safety sheets, technical materials, Documentation, and related writings.

**Article 8**  
**Right to Sell**

8.1

[REDACTED]

8.2

[REDACTED]

8.3

[REDACTED]

**Article 9**  
**Intellectual Property**

9.1 Ownership of BEC and LICENSOR Intellectual Property Rights

9.1.1 LICENSOR hereby

[REDACTED]

9.1.2 BEC hereby

[REDACTED]

9.2

[REDACTED]

9.2.1

[REDACTED]

9.2.2

[REDACTED]

9.2.3

[REDACTED]

9.3 BEC and LICENSOR agree to execute and to cause their employees, officers, agents, and Affiliates to execute any necessary assignment or declarations or other documents required and reasonably necessary to effect the intent of this Article 9.

9.4 Any undisputed amounts not paid by BEC when due under this Agreement will be subject to interest from and including the date payment is due through and including the date upon which

[REDACTED]

9.5 Records and Audit. During the Term of this Agreement and for a period of three (3) years thereafter, BEC will keep complete and accurate records in sufficient detail to permit LICENSOR to confirm the accuracy [REDACTED]. LICENSOR will have the right to cause an independent, certified public accountant to audit such records to confirm [REDACTED] prior written notice to BEC and during regular business hours, for up to one (1) time per calendar year; provided, however, that such auditor will enter into a confidentiality agreement with BEC and shall not disclose BEC's confidential information to LICENSOR, except to the extent such disclosure is necessary to verify the payments due under this Agreement. LICENSOR will [REDACTED]

[REDACTED]. In such case, BEC will [REDACTED]. BEC will [REDACTED] to LICENSOR within thirty (30) days of the results of such audit. In the case where an audit discloses an [REDACTED], LICENSOR will [REDACTED] identified by such audit ([REDACTED]) to BEC within thirty (30) days of the results of such audit. The terms of this Section 5.5 will survive any termination or expiration of this Agreement for a period of three (3) years.

**Article 10**  
**Term, Termination**

10.1 Term – The term (“*Term*”) of this Agreement begins as of the Effective Date and shall continue until the expiration of the last Licensed Patent Right. Notwithstanding the





foregoing, any provision of this Agreement that by its terms survives the termination of this Agreement will survive the Term, as if those provisions were a separate understanding between the Parties.

10.2 Termination for Default – If either Party is in default as to any of its material obligations in this Agreement and, within 45 days of written notice from the non-defaulting Party (“*Cure Period*”), the defaulting Party has not effected a complete cure of such default in all material aspects, then the non-defaulting Party may terminate this Agreement in its entirety, upon delivery of ten days prior written notice of termination to the defaulting Party; *provided*, that:

- (i) such termination will only relieve the Parties of obligations that would have arisen under this Agreement after the effective date of termination and will in no way relieve the Parties from any obligations existing on the date of such termination, including but not limited to the obligation to pay outstanding invoices and fill outstanding Purchase Orders, and including the obligation of BEC to pay to LICENSOR any and all royalties that have accrued during the period before the effective date of termination; and,
- (ii) the failure of the non-defaulting Party to terminate this Agreement for any cause will not constitute a waiver of such right in the future as to any subsequent default for the same or similar cause.

For the avoidance of doubt, material breach of this Agreement shall mean particularly (but not limited to) violation of any of the following clauses: Section 2.1, Article 3, Article 4, Sections 5.2, 5.3, 6.1, 7.1, 8.1, Article 9, Sections 12.1, 12.5, 12.6, 12.7, and Article XIII. In the event of termination under this Section 10.2, the non-defaulting Party will also have all other remedies available at law or in equity.

10.3 Immediate Termination – The following events will constitute a default for which the non-defaulting Party may terminate this Agreement immediately by written notice:

- (i) a receiver is appointed for the defaulting Party or its property;
- (ii) the defaulting Party makes, or attempts to make, an assignment of this Agreement for the benefit of its creditors;
- (iii) any proceedings are commenced against the defaulting Party by a court of law or other relevant government entity under any bankruptcy, insolvency, or applicable debtor’s relief law; or
- (iv) the defaulting Party liquidates or dissolves, or attempts to liquidate or dissolve.

10.4 Effect of Termination – All invoices existing prior to the expiration or non-renewal of the Term, and all invoices issued after the expiration or non-renewal of the Term concerning amounts that have accrued before the expiration or non-renewal of the Term will be honored by the Parties in accordance with the terms of this Agreement, unless the Parties agree to different terms in writing. Articles 6, 7, 9, and 10 through 20 shall survive any termination of this Agreement.

Upon termination of this Agreement pursuant to Section 10.2 or 10.3:

(a) BEC shall immediately cease, and shall cause BEC's Affiliates [REDACTED] to [REDACTED], Licensed Technology, Licensed Patent Rights, LICENSOR Intellectual Property, LICENSOR Confidential Information, and Documentation;

(b) each receiving Party shall immediately cease, and shall cause its Affiliates and distributors to immediately cease, to use the disclosing Party's Confidential Information.

10.5 Upon termination of this Agreement due to expiration of the Term, BEC shall [REDACTED] [REDACTED] the Products and to use the Licensed Technology, to [REDACTED] the Products and to [REDACTED] [REDACTED] in the manufacture, testing, production, distribution, and use thereof, and to [REDACTED] of Products from it and its Affiliates and to incorporate into and utilize the [REDACTED] in the Product shall survive.

#### **Article 11** **Force Majeure**

11.1 Force Majeure – Neither Party will be in breach of this Agreement or responsible for damages caused by such Party's delay or failure to perform in full or in part its obligations hereunder, where such delay or failure is due to one of the following events of force majeure (each, a "*Force Majeure Event*"): fire, earthquake, catastrophic weather, strike, government sanctioned embargo, flood, act of God, war, act of any public authority or sovereign government, civil disorder, delay or destruction caused by public carrier, terrorist event or any other circumstance substantially beyond the control of such Party and that cannot be reasonably forecast or prevented.

11.2 Notification – Each Party agrees to notify the other promptly upon discovery of a Force Majeure Event and, to the extent possible, to work around the Force Majeure Event so as to minimize any delays or losses. Notwithstanding the provisions of Section 11.1, a delay in performance due to a Force Majeure Event will be excused only so long as such event continues or until a commercially reasonable alternative method of performance can be implemented. If performance by either Party hereunder is delayed more than 45 days due to a Force Majeure Event, then either Party may terminate this Agreement upon 10 day's notice.

#### **Article 12** **Representations, Warranties, Indemnification, Insurance**

12.1 LICENSOR Representations and Warranties – LICENSOR represents and warrants to BEC:

- (i) There are no pending lawsuits, and LICENSOR has no knowledge of any claims or threats of lawsuits, involving defects in the design, development, qualification, testing or manufacture [REDACTED] [REDACTED] [REDACTED] or the LICENSOR Technology;
- (ii) LICENSOR is the owner or authorized licensee of each element of the LICENSOR Technology incorporated in the Products;





- (iii) None of the LICENSOR Technology (subject to the limitations specified below) infringes, misappropriates or otherwise violates the intellectual property rights of any third party; for the avoidance of doubt, the representations and warranties contained in this clause 12.1 (iii) do not extend to [REDACTED], and the linkers to which the [REDACTED] are attached, which (for the purposes of this clause 12.1 (iii)) shall not be deemed part of the LICENSOR Technology.
  - (iv) there are no pending lawsuits, and LICENSOR has no knowledge of any claim or threat of a lawsuit, asserting that the LICENSOR Technology infringes, misappropriates or otherwise violates the intellectual property rights of any third party;
  - (v) LICENSOR has not entered into any contract and is not subject to any obligation that will prevent or adversely affect its ability to fulfill its obligations under this Agreement; and
  - (vi) LICENSOR has the full right to enter into this Agreement and to grant the licenses, options, and all other licenses that may be granted, under this Agreement.
- 12.2 Nothing in this Agreement excludes or limits the liability of either Party for death or personal injury caused by that Party's gross negligence or willful misconduct.
- 12.3 Subject to clause 12.2. above and other than with respect to any liability or obligations arising under Articles 12, 13 and 14 or Section 5.2 , except in a case of a Party's willful misconduct, neither Party shall be liable to the other Party for any indirect or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill, or otherwise), costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with this Agreement.
- 12.4 **EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, THE LICENSOR DOES NOT GIVE ANY WARRANTY, UNDERTAKING OR REPRESENTATION IN RELATION TO [REDACTED], LICENSED TECHNOLOGY, DOCUMENTATION, LICENSOR PATENT RIGHTS, AND THEIR PROPERTIES OR FITNESS FOR ANY PURPOSE. THE PARTIES UNDERSTAND AND AGREE THAT [REDACTED] AND LICENSED TECHNOLOGY, ARE EXPERIMENTAL IN NATURE AND SUPPLIED UNDER THIS AGREEMENT "AS IS". THE LICENSOR DOES NOT GIVE ANY WARRANTY, REPRESENTATION OR UNDERTAKING THAT ANY OF [REDACTED], LICENSED TECHNOLOGY, DOCUMENTATION, AND LICENSOR PATENT RIGHT ARE FIT FOR ANY PARTICULAR PURPOSE, NAMELY (WITHOUT LIMITATION) FOR USE IN PRODUCTS AS ENVISAGED IN THIS AGREEMENT.**
- 12.5 Indemnification for Products Liability– LICENSOR will defend, indemnify and hold BEC, [REDACTED] (collectively, the "*BEC Indemnified Parties*") harmless from and against any and all losses, claims, suit, proceedings, liabilities, damages, fines, penalties, costs and expenses, including, without limitation, costs and expenses of investigation, judgment and settlement, and all attorneys' fees and expenses (collectively,



"Losses") related to or arising from any claim, suit or proceeding alleging injury to persons, including death, or damage to property or the environment, resulting from or arising out solely and directly (as adjudicated by an arbitral tribunal or court of competent jurisdiction on the basis of written evidence) of LICENSOR's [REDACTED]. This obligation extends to all Losses, whether based on products liability, strict products liability, negligence, warranty or any other theory of liability. BEC will notify LICENSOR in writing within 20 days after BEC receives notice of any claim or of the commencement of any suit or proceeding for such injury or damage received by or brought against BEC. In addition, BEC shall use commercially reasonable effort to assist and cooperate with LICENSOR to defend or resist the matter, including, without limitation, the use of professional advisors nominated by LICENSOR and, to the extent not contractually or legally prohibited, making BEC's documents available as reasonably required to defend such matter. LICENSOR shall be allowed to exclusive conduct of any proceedings; provided, however, that LICENSOR shall not settle any claim without the consent of BEC unless such settlement (i) results in no finding or admission that BEC has violated any law or the rights of any person or entity and (ii) the sole relief provided is monetary damages that LICENSOR pays in full.

- 12.6 BEC will defend, indemnify and hold LICENSOR and LICENSOR's [REDACTED] [REDACTED] ("**LICENSOR Indemnified Parties**") harmless from and against any and all Losses related to or arising from any claim, suit or proceeding alleging injury to persons, including death, or damage to property or the environment, resulting from or arising out solely and directly (as adjudicated by a court of law having jurisdiction on the basis of written evidence) of BEC's, BEC's [REDACTED] [REDACTED] LICENSOR Technology, and/or Products. This obligation extends to all Losses, whether based on products liability, strict products liability, negligence, warranty or any other theory of liability. LICENSOR will notify BEC in writing within 20 days after LICENSOR receives notice of any claim or of the commencement of any suit or proceeding for such injury or damage received by or brought against LICENSOR. In addition, LICENSOR shall use commercially reasonable effort to assist and cooperate with BEC to defend or resist the matter, including, without limitation, the use of professional advisors nominated by BEC and, to the extent not contractually or legally prohibited, making LICENSOR's documents available as reasonably required to defend such matter. BEC shall be allowed exclusive conduct of any proceedings; provided, however, that BEC shall not settle any claim without the consent of LICENSOR unless such settlement (i) results in no finding or admission that LICENSOR has violated any law or the rights of any person or entity and (ii) the sole relief provided is monetary damages that BEC pays in full.

## 12.7 Indemnification for Infringement

- 12.7.1 LICENSOR Indemnification – LICENSOR agrees to and will defend, indemnify and hold the BEC Indemnified Parties harmless from and against any and all Losses related to or arising from a claim that [REDACTED] or the LICENSOR Technology (subject to the limitation specified below) infringes, misappropriates or otherwise violates any Intellectual Property Rights of a third party (an "**IP Infringement Claim against BEC**"). For the avoidance of doubt, the LICENSOR indemnification obligations contained in this clause 12.7.1 shall not apply to infringement of any Intellectual Property Rights of a third party by [REDACTED] designed by IMMUNOTECH s.r.o.



used in [REDACTED] and [REDACTED] to which [REDACTED] which (for the purposes of this clause 12.7.1 shall not be deemed part of the LICENSOR Technology.

12.7.2 BEC Indemnification – BEC agrees to and will defend, indemnify and hold the LICENSOR Indemnified Parties harmless from and against any and all Losses related to or arising from a claim that the Products, or [REDACTED], Licensed Technology, and/or the Products undertaken by any of BEC, BEC's [REDACTED] [REDACTED] [REDACTED] misappropriates or otherwise violates any Intellectual Property Rights of a third party (an "*IP Infringement Claim against LICENSOR*")

12.7.2.1 Procedures – If either Party learns of an IP Infringement Claim, such Party will promptly report the matter in full detail to the other Party. The indemnifying Party will then take all steps it deems necessary to defend the indemnified Party, at the indemnifying Party's sole cost and expense, against the IP Infringement Claim and enforce its rights in respect of [REDACTED] the Licensed Technology and/or the Products (as the case may be). The indemnified Party will provide advice and reasonable assistance at the indemnifying Party's request in connection with all steps which may be taken by the indemnifying Party to defend against the IP Infringement Claim, at indemnifying Party's sole cost and expense. The indemnifying Party will be entitled to any and all sums recovered from the third party claimant.

12.7.3 Indemnified Party Defense – If the indemnifying Party fails to defend against any IP Infringement Claim, the indemnified Party may, at its option, take all steps it deems necessary to defend against such claim and enforce its rights in respect of [REDACTED] LICENSOR Technology and/or Products (as the case may be). In the event the indemnified Party undertakes such defense, the indemnifying Party will provide advice and reasonable assistance to the indemnified Party in connection with all steps taken by the indemnified Party to defend the IP Infringement Claim, at the indemnifying Party's sole cost and expense. The indemnified Party will be entitled to any and all sums recovered from the third party claimant.

### **Article 13** **Confidentiality**

13.1 Confidentiality – Each Party will maintain in confidence the terms of this Agreement, all confidential and proprietary information received from the other Party during both the negotiation and the Term of this Agreement, the other Party's Technology and BEC's customer lists and customer information (all the aforementioned information being referred to herein, collectively, as the "*Confidential Information*"), and will not publish, distribute, disseminate or disclose the Confidential Information to any third party or use the Confidential Information except for the furtherance of the purposes, or in accordance with the allowances, of this Agreement without the prior express written consent of such other Party. The obligation of the immediately preceding sentence will not apply to, and the term "*Confidential Information*" will not include, any information that: (a) now or hereafter comes into the public domain, except by breach of this Agreement; (b) is already in the possession of the receiving Party other than as a result of having received it from the disclosing Party and as shown by written records; or (c) is disclosed to the receiving Party by a third party who does not require that it be maintained confidential. Notwithstanding



anything to the contrary, nothing herein will prohibit the receiving Party from disclosing the Confidential Information (i) to the extent required or advisable in order to secure the necessary regulatory approvals to manufacture or market the Product; or (ii) where it is required to be disclosed by a subpoena issued by a court of competent jurisdiction, a court order, the regulations or requirements of any relevant stock exchange or a civil investigative demand; provided, that the receiving Party, subject to such requirement of this subsection (ii), (y) promptly notifies the disclosing Party and cooperates with such disclosing Party to make such disclosure in confidence or subject to a suitable protective order, and (z) the receiving Party discloses only so much of the Confidential Information as is required to comply with such requirement.

- 13.2 Disposition of Copies – Upon expiration or termination of this Agreement, the receiving Party will, at the disclosing Party’s request, destroy or return to the disclosing Party all copies of the Confidential Information; provided, that counsel for the receiving Party may retain one copy of such information solely for the purpose of monitoring the receiving Party’s obligation of confidentiality under this Agreement.
- 13.3 Compliance Measures – Each Party will be liable for any failure by any of its employees, officers, agents, Affiliates and other Persons who are given access to such Confidential Information to comply with this Article 13.3. Each Party will take such commercially reasonable and prudent steps and precautionary measures as are required to ensure its compliance and the compliance of the forgoing persons with this Article 13.3, including, but not limited to, restricting access to, and revealing the Confidential Information only to, those employees, officers, agents, Affiliates and other persons who need to know the Confidential Information solely for purposes of their work in connection with the Products, and who are bound by confidentiality obligations no less restrictive than those set forth herein.
- 13.4 Injunctive Relief – The Parties agree that no adequate remedy at law exists for a breach or threatened breach of any of the provisions of this Article 13, the continuation of which breach unremedied will cause the injured Party to suffer irreparable harm. Accordingly, the Parties agree that the injured Party will be entitled, in addition to other remedies which may be available to it, to immediate injunctive relief from any breach of any of the provisions of this Article 13 and to specific performance of its rights hereunder, as well as to any other remedies available at law or in equity. A Party’s request to a court for injunctive relief will not be incompatible with, or a waiver of, the Parties’ agreement to mediate under Section 19.3. In seeking injunctive relief, BEC will not have any obligation to post bond. The remedies under this Agreement will be non-exclusive and cumulative.
- 13.5 Reasonableness – The Parties agree that the provisions of this Article 13 are reasonable and necessary for protection of the Parties’ legitimate business interests, and agree that the maximum protection of those legitimate business interests is intended hereby.
- 13.6 Survival of Provisions – The obligations of confidentiality and non-use will continue for five after the termination or expiration of this Agreement, irrespective of the manner in which the Agreement is terminated.
- 13.7 Publications. The LICENSOR, or IOCB, IMC or CU individually, including any of their officers, researchers, and employees (the “**Publishing Party**”), shall have the right to make publications related to the research and/or use of Licensed Technology and/or [REDACTED] [REDACTED] in scientific publications or presentations (both oral and written). The



Publishing Party shall provide BEC with a written summary of any proposed oral disclosure or a full manuscript of any proposed publication thirty (30) days in advance of the proposed disclosure or publication for the purposes of protection of BEC Technology or BEC Intellectual Property Rights. BEC shall answer within fifteen (15) days of receipt of such summary or manuscript whether publication or disclosure can proceed with or without amendments or omissions of information related to any of BEC Technology or BEC Intellectual Property Rights, and whether any delay in publication or disclosure is required by BEC for the purposes of protection of any BEC Technology or BEC Intellectual Property Rights. If no comment to the intended publication or presentation is delivered within fifteen (15) days of the receipt of the said summary or manuscript, then the Publishing Party is free to proceed with the intended publication or presentation. Notwithstanding the foregoing, oral or written disclosures concerning the Licensed Technology, [REDACTED] or LICENSOR Intellectual Property, shall not be subject to the requirements of this Section if such disclosures concern information that has already been made public through the process outlined in this Section or by any patent offices through patent prosecution.

#### **Article 14**

##### **Notices**

- 14.1 All notices provided for in this Agreement will be in writing and will be considered delivered if: (a) personally delivered to the person to be notified; (b) sent by email or facsimile, with confirmation of transmission received; (c) deposited in the mail of the United States of America, certified first class air mail, postage prepaid, return receipt requested (if local delivery); or (d) delivered to reputable overnight courier (if international delivery), addressed to the respective Parties as set forth below. Such notices will be effective immediately if delivered in person or by confirmed email or facsimile and will be effective upon the date acknowledged to have been received in return receipt if mailed or upon the date of receipt if sent by overnight courier. The acts under Article 10 of the Agreement (namely notices of termination of the Agreement, notices to remedy/cure material breach of the Agreement) shall be delivered either personally or by registered email with confirmation of delivery.

If to BEC:  
IMMUNOTECH s.r.o.  
a Beckman Coulter Company  
Radiová 1, 10227  
Prague 10,  
Czech Republic

With a copy to:  
BECKMAN COULTER, INC.  
250 S. Kraemer Blvd  
Brea, California 92821  
Attention: General Counsel

Facsimile: [REDACTED]  
Telephone: [REDACTED]

If to CU:  
Charles University Innovations Prague s.r.o.  
Ovocný trh 560/5  
110 00 Prague 1  
Czech Republic

If to IMC:  
Ústav makromolekulární chemie AV ČR, v. v. i.  
Heyrovského náměstí 1888/2  
Prague 6 – Břevnov, Zip Code: 162 06  
Czech Republic

If to IOCB:  
Ústav organické chemie a biochemie AV ČR v. v. i.  
Flemingovo náměstí. 542/2  
Prague 6, Zip Code: 166 10  
Czech Republic

#### **Article 15** **Assignment**

- 15.1 No Party shall assign its rights or obligations under this Agreement without the prior written consent of the other Parties, such consent not to be unreasonably withheld. Any other purported assignment by either Party will be void. This Agreement will be a binding obligation of the successors and permitted assigns of each Party.

#### **Article 16** **Public Statements**

- 16.1 With the exception of Art. 2.1 (b), neither Party will make any public announcement or authorize or author any statement to the press regarding this Agreement or any of its terms or conditions or the relationships between the Parties created by this Agreement without the prior written consent of the other Party, which will not be unreasonably withheld. This Agreement will be maintained as confidential in accordance with Article 13 above.

#### **Article 17** **Severability**

- 17.1 Invalid or Unenforceable Provision - In the event an arbitral tribunal or court of competent jurisdiction holds any provision of this Agreement to be invalid or unenforceable, such holding will have no effect on the remaining provisions of this Agreement and they will continue in full force and effect.
- 17.2 Conflict with Applicable Statute - If any of the provisions of this Agreement are in conflict with any applicable statute or rule of law, then such provisions will be deemed inoperative to the extent that they conflict therewith and will be deemed to be modified so as to conform with such statute or rule of law.
- 17.3 Effect and Remedies - In the event that the provisions of this Agreement are materially altered as a result of Sections 19.1 or 19.2, the Parties will renegotiate the affected terms and conditions to resolve any inequities.



**Article 18**  
**Currency, Independent Contractors, Affiliates**

- 18.1 Currency – All payments made under this Agreement will be paid in Czech Crown (CZK).  
[REDACTED]
- 18.2 Independent Contractor – The Parties are acting as independent contractors and will not be considered partners, joint venturers or agents of the other. Neither Party nor its employees will have the right to act on behalf of or bind the other except as expressly provided for in this Agreement or as may be hereafter agreed in writing. In no event will either Party at any time have authority to make any contracts, commitments or undertake any obligations on behalf of the other. Without limiting the foregoing, LICENSOR agrees that it will not, during or after the Term of this Agreement, represent to any person that it acts for or on behalf of BEC or make use of BEC's name, or advertise its relationship with BEC, without BEC's express written consent in each instance.
- 18.3 Obligations of Affiliates – Each Party may discharge any of its obligations under this Agreement by or through any of its Affiliates; and each Party represents: (a) that either it or its Affiliates has the full and complete capability to discharge any and all of its obligations under this Agreement to the other Party, (b) that all representations and warranties made by a Party are made on behalf of itself and those Affiliates who may perform the Party's obligations under this Agreement, (c) that it will obtain the written agreement of each of its Affiliates that may perform any of the Party's obligations under this Agreement to comply with this Agreement, and (d) that, at the request of the other Party, it will provide such written agreement to the other Party.

**Article 19**  
**Governing Law and Arbitration**

- 19.1 Applicable Law – This Agreement will be governed by and construed in accordance with the laws of the Czech Republic.
- 19.2 BEC acknowledges that LICENSOR is obliged under the laws of the Czech Republic, namely the Act No. 340/2015 Coll., on Special Conditions of Effect of Certain Contracts, the Publishing of such Contracts and the Register of Contracts, as amended (hereinafter as "***Contracts Register Act***") to publish this Agreement in a public Agreement Register available at <https://smlouvy.gov.cz>. Prior to publication of this Agreement, the Parties shall confirm in writing by email exchange the version of the Agreement that may be published by removing parts of this Agreement, including any attachments that the Parties consider to be confidential. BEC acknowledges that this Agreement shall become legally effective on the date of publication of this Agreement in the Czech Register of Contracts, and that such publication is a legal precondition for the Agreement to become valid, effective and enforceable. Publication of this Agreement in the Register of Contracts will be secured by IOCB without any delay after signing the Agreement by the Parties. IOCB also undertakes to inform the Parties about the registration by sending a copy of the confirmation of the administrator of the Register of Contracts on publishing the Agreement without undue delay after receiving the confirmation.
- 19.3 Dispute Resolution – The Parties irrevocably agree that any and all disputes arising out of or relating to this Agreement, or the alleged breach hereof, or in any way relating to the

subject matter of this Agreement or the relationship between the Parties created by this Agreement (hereafter a “*Dispute*”) will be resolved by arbitration as set out below, and finally by litigation where such mediation is not successful:

- 19.3.1 the Parties shall first attempt to settle the matter by negotiation, including through the Project Managers, Steering Committee, and senior executives of the Parties;
- 19.3.2 if the Parties are unable to settle the dispute within 30 (thirty) days after written notice of the dispute has been sent by either Party to the other Party, the Parties shall attempt to settle the dispute by binding arbitration in accordance with the rules of the International Chamber of Commerce;
- 19.3.3 this clause 19.3 is without prejudice to each Party's right to seek interim relief against the other Party through any court of competent jurisdiction to protect its rights and interests, or to enforce the obligations of the other Party.

## **Article 20**

### **Entire Agreement, Modifications, Etc.**

- 20.1 Entire Agreement – This Agreement contains the entire and only agreement between the Parties respecting the subject matter hereof and supersedes any prior understandings or agreements, whether oral or written. Any representation, promise or condition regarding the subject matter of this Agreement not incorporated herein will not be binding on either Party.
- 20.2 Waiver or Modification – No waiver, alteration, modification, renewal or extension of this Agreement will be valid unless made in writing and signed by duly authorized representatives of both Parties.
- 20.3 Mutuality – This Agreement has been drafted on the basis of mutual understanding after considerable negotiation, and neither Party will be prejudiced as being the drafter thereof.
- 20.4 Language – The language of this Agreement is American English. Notwithstanding that this Agreement may be translated into a language other than American English, this American English version of the Agreement will be the authoritative document as to the subject matter contained herein.
- 20.5 Execution – This Agreement may be executed in multiple counterparts, each of which will be deemed to be an original, and all of which together will constitute a single instrument.





IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by their duly authorized representatives as of the Effective Date.

**CHARLES UNIVERSITY**

By: Mgr. [REDACTED], MPA

Title: based on the mandate

Date: 1.6.2020

**INSTITUTE OF MACROMOLECULAR CHEMISTRY OF THE CAS**

By: Ing. Jiří Kotek, Dr.

Title: Institute Director

Date: 8.6.2020

**INSTITUTE OF ORGANIC CHEMISTRY AND**

By: RNDr. PhDr. Zdeněk Hostomský, CSc.

Title: Institute Director

Date: 17.6.2020

**IMMUNOTECH s.r.o.**

By: Ing. Vojtěch Drbohlav

Title: Managing Director

Date: 21.5.2020