

CONFIDENTIAL

**AGREEMENT
FOR THE TRANSFER OF
INTELLECTUAL PROPERTY RIGHTS**

between

Charles University
as Assignor

and

Oxygen Biotech LLC
as Assignee

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This Agreement is made on December 22, 2020 (the “**Closing Date**”)

Between:

- (1) **Oxygen Biotech LLC**, a limited liability company formed and existing under the laws of Delaware in the United States of America (the “**Assignee**”);
- (2) **Charles University**, a university existing under the laws of the Czech Republic, with its registered office at Ovocný trh 560/5, 116 36 Prague, Czech Republic, ID: 00216208, VAT ID: CZ00216208 (the “**University**” or the “**Assignor**”),

represented according to a Special Mandate Agreement by **Charles University Innovations Prague s.r.o.**, a company formed and existing under the laws of the Czech Republic, with its registered office at Ovocný trh 560/5, 110 00 Prague, Czech Republic, ID: 07236239, VAT ID: CZ07236239, registered with the Municipal Court in Prague, File C 297343 (“**CUIP**”)

(The Assignee, the Assignor and CUIP hereinafter also jointly as the “**Parties**” or each as the “**Party**”)

INTRODUCTION:

- (A) On ■■■ (the “**Priority Date**”), the University filed a patent application with the Czech Patent Office (in Czech: “*Úřad průmyslového vlastnictví*”) with file number ■■■ (the “**Patent Application**”). The Patent Application is attached in Schedule 1 (*Patent Application*). The Patent Application is titled ■■■ (the “**Invention**”).
- (B) The Invention was developed by ■■■ (all together the “**Inventors**”).
- (C) The Inventors have been employees of the University and disclosed the Invention to the University by submitting a notification of originator to the University before filing of the Patent Application in order to fulfil their notification obligation towards their employer upon the creation of the invention. The University duly and in a timely manner asserted its rights and is the sole owner of the patent rights with respect to the Invention, and associated intellectual property rights.
- (D) The University owns ■■■
- (E) The University intends to transfer the Invention and associated intellectual property rights to the Assignee and the Assignee wishes to purchase the Invention from the University on the terms and subject to the conditions set out in this Agreement.
- (F) The Assignee is planning to ■■■.
- (G) The Assignee acknowledges legal and ethical rules applicable to drug development and drug commercialisation.
- (H) The Parties express their intention to enter into this Agreement and to cooperate in order to achieve the goal of further development and use of the Invention.

IT IS HEREBY AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement:

“**Affiliate**” shall mean any corporation or other entity that directly or indirectly controls, is controlled by, or is under common control with, another corporation or entity;

“**Control**” means ability through ownership, direct or indirect, of voting stock or interest, or income of a corporation or other equity interests, or beneficial interest, or by contract, or otherwise, to direct or cause the direction of the management and policies of a person, as such term is defined by section 74 et seq. of the Czech Act No. 90/2012 Coll., on Business Companies and Cooperatives, as amended, or as such term with similar effect is defined in the applicable jurisdiction;

“**Copyright Act**” means Czech Act No. 121/2000 Coll., Copyright Act, as amended;

“**CZK**” or “**Czech crown(s)**” means Czech crowns, being the legal currency of the Czech Republic;

“**Effective Date**” means the date this Agreement becomes effective as defined in the Agreement;

“**Invention Act**” means Czech Act. no. 527/1990 Coll., Inventions, Designs and Improvement Proposals Act, as amended;

“**Licensee**” shall mean any Third Party that the Assignee has granted a license of the rights transferred to it pursuant to this Agreement. An Affiliate of the Assignee exercising rights hereunder shall not be considered a Licensee;

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“**Paris Convention**” means Convention for the Protection of Industrial Property, international patent law treaty, concluded in 1883, as revised;

“**Patent**” ■;

“**PCT**” means the Patent Cooperation Treaty, an international patent law treaty, concluded in 1970, as revised;

■

“**Product**” ■;

■

“**Third Party**” shall mean any entity or person other than the Assignee, the University and their respective Affiliates;

■

“**Warranties**” mean the warranties referred to in Clause 6 (*Assignor’s Warranties and Undertakings*); and

further defined terms have the meaning given to them in the various provisions of this Agreement.

2. SALE AND PURCHASE

2.1 The University hereby transfers (assigns) to the Assignee and the Assignee hereby purchases (accepts):


- (a) the Patent Application as set out in Schedule 1 (Patent Application), the rights, titles and other assets described below in this Clause,
- (b) international priority which is based on the Patent Application in accordance with Article 4 of the Paris Convention;
- (c) rights and titles to any and all applications that claim the benefit of the Patent Application;
- (d) inventions, know-how, data, materials and related intellectual property, disclosed in the Patent Application, related to the Patent Application;
- (e) know-how, data, materials, publications related to the Invention and not covered in the Patent Application, as set out in Schedule 3 (*Description of Related Assets*); and
- (f) confidential information related to the Invention (including trade secrets and the rights to use and protect confidential information) and all other intellectual property rights, in each case whether registered or unregistered and including all applications, registrations granted pursuant to any of the applications and rights to apply for and be granted, renewals or extensions of and rights to claim priority from such rights, and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

together with all rights, titles and interests attached thereto (including the right to sue for past infringement and to collect for all past, present and future damages) and free from any encumbrances, on the terms and subject to the conditions of this Agreement (all together the “**Assets**”).

2.2 The University waives all rights of pre-emption and other restrictions on transfer over the Assets conferred on it and shall approve the transfer of the Assets.

2.3 Unless stated otherwise in this Agreement, the rights and obligations of the Parties under this Agreement shall arise upon execution of this Agreement in line with its terms. The know-how, documentation (including signed Patent Assignment Forms) and data sets shall be handed over to the Assignee within 30 days of the Closing Date together with the hand-over protocol.

2.4 The Parties agree that the Assignee shall have the right to protect and patent the Assets worldwide and for all purposes and use, whether direct use, in particular in the form of production, marketing, placing on the market and use, or indirect use, whether by the Assignee or by a third party licensed to that end.


2.6 If any of the rights under this Clause is not fully or validly transferred or such transfer is challenged, the Parties shall enter into subsequent agreements governing such transfer of rights, as necessary (including a bill of sale). The Parties shall duly cooperate on the subsequent agreements without undue delay and execute such subsequent agreement within 30 days upon prior notice.

3. PURCHASE PRICE AND OTHER PAYMENTS

3.1 The Assignee shall pay the following Purchase Price:

██████████

██████████

██████████

3.3 All payments by the Assignee to the University shall be made via bank transfer to the following bank account of CUIP:

██

Payments under Clause 3.2 may be paid in US dollars, Euros or Czech crowns at the discretion of the Assignee. The University may change their bank account information upon written notice to the Assignee.

██████████

4. COOPERATION

4.1 The Parties shall cooperate and provide each other assistance with the aim to reach the purpose of this Agreement.

4.2 The University shall make all possible efforts and provide all possible assistance to the Assignee to reach the purpose of this Agreement. Should an action and/or assistance of a third party be required for reaching the purpose of this Agreement, the University shall exercise all possible efforts to obtain such action and/or assistance of the third party.

4.3 If an allegation is made or claim is brought by a third party that any activity related to the Invention infringes the intellectual property rights or other rights of such third party, and the University becomes aware of such allegation then the University will give prompt written notice to the Assignee.

4.4 The University shall provide all necessary cooperation to the Assignee, among other:

- (a) to obtain patent or any other protection of the Invention whether in the Czech Republic or worldwide;
- (b) to successfully resolve any claim or dispute on authorship or other aspects of the rights to the Invention;
- (c) to successfully address any rejection, challenge of the patent application or patent to the Invention or application to cancel a patent to the Invention.

5. ASSIGNEE'S UNDERTAKINGS

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[REDACTED]

6. UNIVERSITY'S WARRANTIES AND UNDERTAKINGS

6.1 The University hereby represents and warrants that:

- (a) no rights of any third party to the Invention and Assets are infringed or in any other way unjustifiably affected by this Agreement and no grants nor other similar financing arrangements are breached by this Agreement;
- (b) rights of each one of them respectively to and related to the Invention and Assets are not subject to any lien, restriction, pledge or encumbrance of any kind and any ongoing or threatening administrative or court proceedings or interim injunctions of any kind in any jurisdiction;
- (c) the University is not aware that any third party is misappropriating, infringing, diluting, or violating the Invention and Assets and no such claims have been brought against any third party by the University;
- (d) the inventorship (in Czech: "*přívodcovství*") of the Inventors has not been challenged and there is no such threatening challenge and no third party has asserted the right to inventorship or co-inventorship to the Invention;
- (e) the remuneration of Inventors or of any other employees of the University that are inventors of the Invention has been settled and the Inventors have no claims against the University and have been acquainted and agree with this Agreement;
- (f) the Inventors have been acquainted with the Patent Application and expressly agreed to be the authors on the Patent Application and they have the moral rights to the Invention and Assets;
- (g) the University is the sole owner of the Patent Application in respect of Invention, and associated intellectual property rights, in particular the right to know-how, and the person exercising (in Czech: "*vykonavatel*") proprietary (in Czech: "*majetková*") author's rights associated with the research of the Invention and with the exception of moral non-transferable rights of the Inventors (as set out in this Agreement) no other institution, government agency or other person or entity of any kind has any ownership right or license right with respect hereto.

- (h) the University duly and in a timely manner asserted its rights towards the Inventors with respect to its right to patent the Invention and the right to patent to the Invention passed onto the University by operation of law (Section 9 para. 1 of the Invention Act);
- (i) the University will arrange for execution of Assignment Forms by the Inventors in the form as set out in Schedule 4 (*Patent Assignment Form - Inventors*).

7. CONFIDENTIALITY

- 7.1 The Parties agree that any and all information mutually provided in the course of entering herein and performing hereunder, and also information included herein and information that shall be provided or otherwise obtained in relation to the realization hereof, shall be according to the will of the Parties kept confidential. The Parties agree to ensure the confidentiality of information mutually provided in the course of entering herein and performing hereunder, and also information included herein and information that shall be provided or otherwise obtained in relation to the realization hereof also with respect to their employees, statutory bodies and their members, representatives, as well as other cooperating third parties; should such information have been provided to them or made otherwise available to them, the Parties shall ensure that such persons are informed of the confidential nature and agree to be bound by obligations of confidentiality and non-use no less restrictive than those contained herein and the information is provided to them only to the extent that is essentially necessary for the proper performance of this Agreement.
- 7.2 The following information are considered confidential information regardless of the form in which they are captured: any and all information, which were not defined by any of the Parties as public and which relate to this Agreement and its performance, rights and obligations of the Parties, as well as information about prices, or relate to any of the Parties (in particular know-how, inventions, data, discovers, patent applications, and related intellectual property rights, assets, strategies, customers, processes, materials, trade secrets, information on activities, structure, business plans and strategy, information on the Invention and/or Assets, or information under a special regime of classification in particular economic secrets, state secrets, bank secrets, service secrets). Information which are expressly designated by any of the Parties as confidential are also considered as confidential information under this Agreement (the “**Confidential Information**”).
- 7.3 The above obligations do not apply:
- (a) if Confidential Information is or becomes part of the public domain other than through violation of this confidentiality undertaking;
 - (b) if one Party receives information corresponding to Confidential Information from a third party who is under no obligation of confidence to the other Party with respect thereto;
 - (c) if the Party can show by clear written evidence that information corresponding to Confidential Information was in the Party’s possession at the time of disclosure by the other Party, and that such corresponding information is not originating directly or indirectly from the other Party and has not been obtained by violation of any confidentiality obligation due to the other Party;
 - (d) if one Party provides the other Party a prior written consent to disclose the Confidential Information; and/or
 - (e) Confidential Information is disclosed to individuals/legal entities who are under a statutory obligation of confidentiality;

(f) with respect to the Assignee to any information (whether Confidential Information or not) transferred to the Assignee under this Agreement (for avoidance any doubt, the University shall remain to be bound by the confidentiality obligations).

7.4 For the purposes of the University's academic and scientific function, the University shall continue with its research in the sense of academic freedom and in accordance with its mission, while fully respecting the confidentiality character of the Invention and other Assets and conditions as set out in Clause 7.5 below.

7.5 The University may wish to publish results and findings related to the Inventions and Assets in scientific publications. In case of publication or other form of similar disclosure, whether in part or in full, related to or using the Invention or Assets, the Assignee shall have the right to review such drafts prior to their publication. The Assignee shall provide its consent or refuse to provide consent no later than 30 days from receipt of the draft with respect to the confidentiality of the information. In such case the University shall postpone the publication and the Parties shall enter into mutual negotiation to reach mutually agreeable terms of publication or any other solution. For the avoidance of doubt, in case a University publication puts at risk any patent, the Patent Application or a patent application of the Assignee related to the Invention and Assets, i.e. no publication shall be made outside the scope of already published inventive steps within the patent application of the Assignee.

7.6 Notwithstanding the above, the Assignee shall not be authorized to request the University to postpone a publication solely on the basis of negative research results, if no Confidential Information is published.

8. TERMINATION

8.1 Unless expressly stipulated otherwise herein, no Party shall be entitled to rescind (in Czech *odstoupit*) or terminate this Agreement, and the Parties waive all and any rights of rescission which it may have in respect of any matter to the full extent permitted by law.

8.2 The Parties have expressly agreed to disapply all non-mandatory statutory provisions that may otherwise give any of the Parties the rights to rescind this Agreement, including in particular, Sections 1912(2), 1923, 1969, 1977 through 1979, 2000, 2002, 2003(2), 2004(2), 2004(3), 2106(1)(d), 2106(2) and 2107(3) of the Civil Code.

8.3 Each of the Parties shall bear the risk of a change of circumstances within the meaning of Section 1765(2) of the Civil Code.

9. COSTS AND EXPENSES

Except as provided otherwise in this Agreement, each Party shall pay its own costs and expenses in connection with the negotiation, preparation and performance of this Agreement and any other transaction Document.

10. NOTICES

10.1 Any communication to be made in connection with this Agreement may be made by e-mail. This shall not apply to the acts which aim to alter terms of this Agreement (the “**Notice**”), which as such shall (i) be made in writing and signed by or on behalf of the Party giving it; and (ii) delivered personally or sent by pre-paid recorded delivery or international courier to the address provided below; and (iii) marked for the attention of the person specified in that Clause.

10.2 The addresses and e-mail for service of Notice are:

University:

Name: [REDACTED]

The Assignee:

Name: [REDACTED]

Copy to:
Name: [REDACTED]

Copy to:
Name: [REDACTED]

11. LANGUAGE AND COUNTERPARTS

- 11.1 This Agreement is drawn up in English, except that some of the Schedules are drawn up in Czech only.
- 11.2 This Agreement is executed in four (4) original copies. The University shall retain two copies of this Agreement and the Assignee shall retain two copies of this Agreement.

12. MISCELLANEOUS

- 12.1 To the fullest extent permitted by laws of the Czech Republic, the Parties agree that the following Sections of the Civil Code shall not be applicable to this Agreement: 557, 558(2) second sentence, 1728(2), 1729, 1730, 1740(3), 1793 through 1796, 1798 through 1800, 1809, 1949 through 1951, 1995(2), 2106, 2107, 2901 through 2902, 2950.
- 12.2 For the avoidance of doubt, no obligation under this Agreement constitutes a fixed obligation (in Czech *fixní závazek*) pursuant to Section 1980 of the Civil Code.
- 12.3 This Agreement and all rights and obligations hereunder may not be assigned by the University without prior written consent of the Assignee. The Assignee may assign this Agreement without consent.
- 12.4 The Parties confirm that for the purposes of negotiating and concluding this Agreement they do not consider any of them to be a weaker party within the meaning of Czech law (in Czech *slabší strana*) and they rely on such consideration in entering into this Agreement. Both Parties have been represented and advised by professional advisors in the process of negotiating and concluding this Agreement and neither of the Parties considers rights and obligations stemming therefrom to be in any way unreasonably disproportionate.
- 12.5 This Agreement shall become valid on the date of its execution by the Parties hereto. The Agreement shall come into full force and effect (the “**Effective Date**”) on the day of its publication in the Contracts Register (in Czech: “*Registr smluv*”) according to Act. No. 340/2015 Coll., as amended. A non-confidential version of the Agreement for the Contracts Register shall be agreed by the Parties within 15 days of the Closing Date. The Parties agree that the Assignee shall provide the electronic copy of this Agreement and metadata required by the Contract Register Act to the administrator of the Contracts Register. The Assignee shall

fulfil the obligation within 30 days of execution of the Agreement and shall immediately provide the University with confirmation of the Contracts Register administrator. The Parties may agree that the obligation may be fulfilled by the Assignor.

13. GOVERNING LAW AND SETTLEMENT OF DISPUTES

13.1 This Agreement and any non-contractual obligations arising out of or in connection with this Agreement, is governed by and shall be construed in accordance with Czech law, without reference to its provisions on conflict of laws.

13.2 All and any disputes arising out of or in connection with this Agreement shall be resolved by Czech courts.

This Agreement has been entered into by the Parties on the date first written above.
EXECUTED by the Parties

On the 22nd of December 2020

For **Charles University** as the Assignor



For **Oxygen Biotech LLC** as the Assignee

Tomas Pacak

SCHEDULE 1 - Confidential

PATENT APPLICATION



SCHEDULE 2 - Confidential

DESCRIPTION OF THE INVENTION



**SCHEDULE 3 - Confidential
DESCRIPTION OF RELATED ASSETS**



SCHEDULE 4 - Confidential
PATENT ASSIGNMENT FORM - INVENTORS



SCHEDULE 5 - Confidential
PATENT ASSIGNMENT FORM – UNIVERSITY

