LICENSE AGREEMENT

by and among

IMMUNOTECH s.r.o.

and

BIOTECHNOLOGICKÝ ÚSTAV AV ČR v. v. i.

and

ÚSTAV ORGANICKÉ CHEMIE A BIOCHEMIE AV ČR v. v. i.

LICENSE AGREEMENT

This License Agreement (the "Agreement") is entered into on the 13th day of August, 2021, by and among IMMUNOTECH s.r.o., being a part of Beckman Coulter group, with its registered office at Radiová 1122/1, 10227 Prague 10, Czech Republic, ID No.: 60197994, registered in the Commercial Register kept by the Municipal Court in Prague, file No.: C 185210, represented by Ing. Jiří Kulhánek, Executive Director ("BEC"), and Biotechnologický ústav AV ČR v. v. i. (Institute of Biotechnology of the CAS), with its registered office at Průmyslová 595, Vestec, Zip Code: 252 50, Czech Republic; Id. No.: 86652036, registered in the Register of Public Research Institutions, represented by prof. Ing. Bohdan Schneider, DSc., Director ("IBT") and Ústav organické chemie a biochemie AV ČR v. v. i. (Institute of Organic Chemistry and Biochemistry of the CAS), Id. No.: 61388963, whose registered office is at Flemingovo náměstí 542/2, Prague 6, Zip Code: 166 10, Czech Republic; registered in the Register of Public Research Institutions, represented by RNDr. PhDr. Zdeněk Hostomský, CSc., Institute Director ("IOCB") where IOCB and IBT are referred to herein collectively as the "LICENSOR". BEC and LICENSOR are referred to herein collectively as the "Party."

Background

- (1) WHEREAS, LICENSOR owns certain intellectual property rights to certain material and methods applicable in manual immunoassay products for
- (2) WHEREAS, the Parties entered into the Material Transfer Agreement dated December 12, 2020 (the "MTA"), whereby certain quantity of Material was transferred to BEC for evaluation of the Material in and pursuant to this evaluation BEC identified for Commercialization in BEC products;
- (3) WHEREAS, LICENSOR wishes to grant BEC an exclusive right to use the Material and the Licensed Technology in Products (as defined in Section 1.1.22);
- (4) WHEREAS, IBT wishes to sell to BEC, on one-time basis, Material in the quantities and at the prices identified on Exhibit B for incorporation into the Products;
- (5) WHEREAS, BEC is willing to manufacture the Products and purchase the Material.

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:
 - 1.1.1 "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 of at least 50% of the shares entitled to vote for members of the board of directors of such corporation, and, in the context of any other business entity,

- means the right to receive at least 50% of the net, after tax income of such business entity or the power to direct the management of such business entity.
- 1.1.2 **BEC Improvements**" has the meaning given to such term in the definition of BEC Technology.
- 1.1.3 "BEC Indemnified Parties" has the meaning given to such term in Section 12.5.
- 1.1.4 "BEC Independent Technology" has the meaning given to such term in the definition of BEC Technology.
- 1.1.5 "BEC Intellectual Property Rights" means any Intellectual Property Rights which presently or hereinafter exist in or protect BEC Technology or which are otherwise presently or hereinafter become owned by BEC or licensed to BEC.
- 1.1.6 "BEC Technology" means:
 - (a) all technology and information (whether or not protected by patent, copyright, trade secret or trademark), including, but not limited to, all inventions, compositions of matter, compounds, reagents, processes, methods, devices, systems, components, software, mask works, unique design elements, experience, drawings, models, specifications, protocols, data, information and other technology which relates to any of the Products developed, conceived or produced by BEC independently of LICENSOR and without use or reference to Licensed Technology, Material, or LICENSOR Intellectual Property Rights ("BEC Independent Technology"). For the avoidance of doubt, Licensed Technology and any part thereof shall not be deemed to be BEC Independent Technology;
 - (b) any improvement, derivation or modifications made to the BEC Independent Technology ("BEC Improvements"); and
 - (c) to the extent it is not Licensed Technology, all technology and information (whether or not protected by patent, copyright, trade secret or trademark), including, Design and Registration Documents, inventions, compositions of matter, compounds, reagents, processes, methods, devices, systems, components, software, mask works, unique design elements, experience, drawings, models, specifications, protocols, data, information and other technology that is developed, conceived or produced in connection with or related to the development, production and manufacture of the Products (the "New Product Technology").
- 1.1.7 "Business Day" means any day other than Saturday, Sunday or other day on which the banks in the Czech Republic are closed.
- 1.1.8 "Confidential Information" means any and all unpublished patentable and non-patentable technical or other information, ideas, know-how, Trade Secrets, unpublished patent applications, unpublished structures of compounds, mixtures and biological effects of these substances or mixtures, drawings, plans, patterns, processes, specifications, formulas, methods, models, assays, research plans, procedures, protocols, designs for experiments and tests and results of experimentation and testing (including results of research or development) processes (including manufacturing processes, specifications and techniques), laboratory records, chemical, pharmacological, toxicological, clinical,

analytical and quality control data, trial data, case report forms, data analyses, reports or summaries and information contained in submissions to and information from ethical committees and regulatory authorities, trade secrets, information on prices, business partners financial and marketing plans, intellectual property rights, trade, research and development activities of either Party. Any portion of Licensed Technology, any portion of BEC Technology, and BEC's customer lists and customer information shall be deemed confidential at all times until the relevant Party (with regards to individually owned rights) states otherwise in writing (including electronic forms of communication).

- 1.1.9 "Cover" shall mean, with respect to a patent or a Product, that the Commercialization of such Product by an unlicensed third party would infringe a Valid Claim in such Licensed Patent; provided, however, that in determining whether a claim of a pending patent application would be infringed, it shall be treated as if issued in the form then currently being prosecuted. "Covered" and "Covering" shall have the correlative meanings.
- 1.1.10 "Commercialization" shall mean for-profit activities directed to development, registration, manufacture, production, testing, offering, marketing, promoting, distributing, importing, exporting or selling of Products; "Commercialize" and "Commercial" shall have the correlative meaning.
- 1.1.11 "Design and Registration Documents" has the meaning given such term in Section 2.4.
- 1.1.12 "Documentation" means all documents and other physical manifestations relating to the Material supplied to BEC under Article 5 of this Agreement, or copies thereof necessary for the implementation of the Licensed Technology by BEC and/or manufacture of the Products.
- 1.1.13 "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.
- 1.1.14 "Effective Date" means the date of obligatory publication of this Agreement in the Czech Register of Contracts (subject to Section 19.2).
- 1.1.15 "Field" means the field of in-vitro diagnostics.
- 1.1.16 "First Commercial Sale" means the first transfer by BEC or any of BEC's Affiliates, Distributors to any of BEC's customers or end users, for value of Product for use or consumption in a country in the Territory.
- 1.1.17 "Licensed Patent Rights" shall mean the Intellectual Property Rights listed in Exhibit C, including all existing and future substitutions, extensions, reissues, reexaminations, renewals, divisions, continuations, improvements or continuations-in-part therefore or thereof, and all foreign equivalents of any of the foregoing, which presently or hereinafter Cover the Licensed Technology and which are presently or hereinafter owned and controlled (by assignment or license or otherwise) by LICENSOR.

1.1.18 "Licensed Technology" shall mean



1.1.19 "Material" the material developed by and proprietary to LICENSOR identified in Exhibit B attached hereto;



- 1.1.21 "New Product Technology" has the meaning given to such term in the definition of BEC Technology.
- 1.1.22 "Product(s)" any manual immunoassay product or service in the Field developed, made, used, distributed, imported, exported or sold by BEC, its Affiliates or Sublicensees, that (in whole or in part) has been developed or made, comprises, constitutes, embodies, requires use or practice of any of the Material or Licensed Technology, or is Covered by any Licensed Patent Rights; a list of Products BEC intends to Commercialize under this Agreement is listed on Exhibit A hereto (for the avoidance of doubt, the Exhibit A may be amended by removing or adding Products only upon mutual agreement by both Parties by executing a written amendment hereto).
- 1.1.23 "Territory" means
- 1.1.24 "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.
- 1.1.25 "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 <u>General Interpretive Principles</u>. 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.

Article 2 Grant of License

<u>License</u> . LI	CENSOR hereby	
	hereinafter also as the "License").	
-		
Right to Moc	fy Products	
reight to woo	Ty Troducts.	
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2.3 Ownership and Retained Rights. LICENSOR shall retain legal ownership of all Licensed Technology and may retain one or more copies of Documentation. LICENSOR shall retain the right to use any and all of the Licensed Technology and LICENSOR Confidential Information for any and all purposes, provided, however, that to the extent BEC enjoys exclusive rights and in the Field, the LICENSOR shall refrain from any Commercial use of the Licensed Technology in the

- Field. For the avoidance of doubt, LICENSOR shall be free to provide the Material to third parties for Research Use Only purposes. BEC shall retain ownership of all BEC Technology.
- 2.4 <u>Design and Registration Documents</u>. 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 be owned by BEC.

Article 3 Transfer of Manufacturing

3.1 <u>Delivery of Documentation</u>. LICENSOR shall provide all Documentation to BEC within thirty (30) days of the Effective Date. Upon BEC's request and within a reasonable time period agreed by the Parties, LICENSOR shall provide BEC with such additional information in LICENSOR's possession as are necessary to use the Licensed Technology for the purposes of exercising the License granted pursuant to Section 2.1.

3.2 Responsibilities.

- 3.2.1 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 shall not exceed a total of ten (10) working hours of one technical expert having knowledge of the Licensed Technology assigned by LICENSOR.
- 3.2.2 Upon BEC's request, the Parties may negotiate and conclude a separate agreement whereby LICENSOR will further assist BEC, and BEC will reimburse all reasonable costs incurred by LICENSOR in connection with such technical assistance.
- 3.2.3 BEC or its designee shall be responsible for the development, validation, verification and manufacture of the Products. The Parties agree that BEC shall be the legal manufacturer of the Products and shall be solely responsible for registration of the Products worldwide; provided, however, that LICENSOR shall provide BEC with such information as is reasonably necessary for BEC to obtain such registrations.
- 3.2.4 BEC may perform any portion of its responsibilities hereunder through a third party designee ("Designee"), provided, however, that prior to initiating any collaboration with such Designee, BEC shall cause that such Designee is bound in writing by the terms equivalent to the terms of this Agreement, BEC will inform LICENSOR of the Designee, and that BEC shall remain fully and directly responsible and accountable for any and all actions and omissions of such Designee.





Article 4 Material Specifications

- 4.1 <u>Specifications</u>. The Material supplied by IBT will conform to the specifications set forth in Exhibit B (hereinafter only as "*Specifications*"), and all quality and regulatory requirements set forth in this Agreement.
- 4.2 <u>Material Documentation</u>. LICENSOR will supply to BEC, promptly and without charge, all Documentation, as specified in Exhibit B (i) necessary for the purpose of shipment, marketing, service, technical support and maintenance of the Material, and (ii) reasonably requested by BEC that is necessary to satisfy any applicable regulatory requirements or regulator requests.

Article 5 Material Supply and Purchase Terms

- 5.1 Sale. Within sixty (60) days from the Effective Date of this Agreement, IBT shall deliver to BEC the quantity of Material set forth on Exhibit B. IBT undertakes that the Material will conform to the Specifications and BEC shall have the right to reject any Material that fails to do so. Should BEC reject any Material for failure to meet the Specifications, BEC shall request a return authorization from IBT and IBT shall provide such return authorization within five (5) Business Days. At BEC's request, IBT shall replace the returned Material within thirty (30) days from receipt of the rejected Material. BEC's inspection and acceptance of the Material will not relieve IBT of its warranty and reliability obligations.
- 5.2 <u>Material Transfer Prices.</u> As consideration for the delivery of the Material by IBT to BEC, BEC shall pay to IBT the transfer price ("*Transfer Price*") equal to the amount set forth in Exhibit B hereto.
- 5.3 <u>Payment of Invoices</u>. Unless otherwise agreed in writing by both Parties, BEC will pay the invoice it receives from IBT for the Material delivery within ninety (90) days following BEC's receipt of such invoice (any such date, a "*Payment Due Date*").

Article 6 Material Warranty

6.1 <u>Warranty</u>. IBT warrants that, for the Warranty Period (as defined below), the Material transferred either under this Agreement or under the Sales Agreement are free from defects (except of defects

caused by inappropriate handling of the Material by BEC or any other third party) in materials and workmanship, conform to the Specifications and will perform in accordance with literature published by LICENSOR with respect to the Material 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 Material purchased or acquired by BEC will be the shelf life for such Material specified in Exhibit B..

Warranty Applicability. LICENSOR and BEC further acknowledge and agree that IBT's warranty obligations under this Article 6 cover and apply to all Material regardless of where that Material may be, and regardless of who may own that Material, including, without limitation, BEC, BEC's Affiliates, Distributors and BEC's customers, and end users, 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 IBT under this Article 6 shall not be applicable in case of negligence or willful misconduct of BEC, BEC's Affiliates, Distributors and BEC's customers, or end users, 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 Material or Products is not conform to the LICENSOR's product literature published by LICENSOR with respect to the Material including, but not limited to, all user and other manuals, application sheets, material safety sheets, technical materials, Documentation, and related writings.

Article 7 Regulatory Compliance

- 7.1 General. LICENSOR will develop, manufacture and store the Material supplied to BEC under Article 5 of this Agreement in compliance with all laws and regulations applicable to the development, manufacture, storage and use of the Material, and in compliance with all literature published by LICENSOR with respect to the Material including, but not limited to, all user and other manuals, application sheets, material safety sheets, technical materials, Documentation, and related writings.
- 7.2 Availability of Documentation. In relation to each Product, during the longer of (i) the Term, or (ii) ten (10) years after BEC ends the distribution of the last Product to end consumers, LICENSOR shall keep, and make available to BEC upon BEC's request, the Documentation. BEC shall notify LICENSOR of the date when Commercialization of a Product ended. The terms of this Section 7.2 will survive any termination or expiration of this Agreement, provided and to the extent that BEC remains entitled to Commercialize the Products after such termination or expiration.

Article 8 Right to Sell

8.1 Right to Sell;

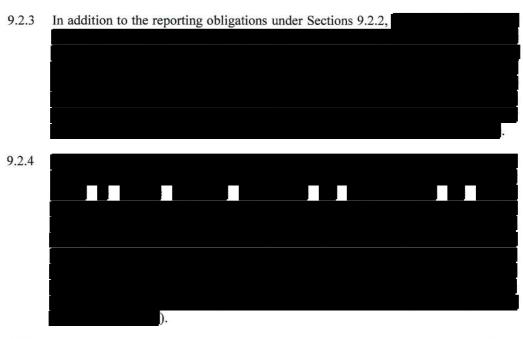
- 8.2 <u>Cost for Sales and Sales Promotion</u>. All sales and sales promotion expenses for the Products within the Territory by BEC will be borne by BEC.
- 8.3 <u>Sub-Distributors</u>. BEC may sell the Products through or to any of its Affiliates as sub-distributors.

Article 9 Intellectual Property and Royalties

- 9.1 Ownership of BEC and LICENSOR Intellectual Property Rights.
 - 9.1.1 LICENSOR hereby acknowledges and agrees that BEC is with respect to as between BEC and LICENSOR the sole owner of the BEC Intellectual Property and BEC Technology including, without limitation, BEC Independent Technology and BEC Improvements (provided, however, that all of the foregoing excludes Licensed Technology, and Material), and LICENSOR agrees that it has no right to use, improve, modify or further develop any BEC Intellectual Property and BEC Technology.
 - 9.1.2 BEC hereby acknowledges and agrees that LICENSOR is with respect to as between BEC and the LICENSOR the owner of the Licensed Technology and agrees that notwithstanding BEC's or LICENSOR's use of any Licensed Technology during the performance under this Agreement, including in the design and development of the Product, that LICENSOR is and will remain the sole owner of all Licensed Technology.
 - 9.1.3 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 Section 9.1.
- 9.2 Royalties and Minimum Royalty Payment.

9.2.1	In consideration for the License granted herein, BEC shall pay LICENSOR royalties		
	(hereinafter "Royalty" or "Royalties").		

9.2.2 Within sixty (60) days following the end of each calendar year, BEC will provide to LICENSOR, namely to each of IOCB and IBT, an accounting report



- 9.2.5 On the part of the LICENSOR, IOCB will invoice BEC on behalf of the LICENSOR for the Royalty, and subsequently shall distribute among IOCB and IBT any Royalty payments received from BEC IOCB and IBT. The respective portion of Royalty will be payable within ninety\ (90) days following the date BEC receives the respective invoice. For the avoidance of doubt, any Royalty payment made by BEC to IOCB hereunder shall be deemed to have been made to the LICENSOR and in case of non-payment or delayed payment of the Royalty by IOCB to IBT under such separate agreement, BEC shall not be held liable for any non-payment or delayed payment or provide a guarantee for the payment.
- 9.3 Interest. 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 LICENSOR has

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- 9.4 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 of Royalty payments due hereunder. LICENSOR will have the right to cause an independent, certified public accountant (auditor) to audit such records to confirm the accuracy of BEC's payments upon thirty (30) calendar days 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 bear the full cost of such audit

that should have been paid for the audited period. In such case, BEC will bear the full cost of such audit. BEC will remit any underpayment identified by such audit (plus applicable

interest) to LICENSOR within ninety (90) days of the results of such audit. In the case where an audit discloses an overpayment from the amount that should have been paid for the audited period, LICENSOR will remit any overpayment identified by such audit (plus applicable interest) to BEC within ninety (90) days of the results of such audit. The terms of this Section 9.4 will survive any termination or expiration of this Agreement for a period of three (3) years.

Article 10 Term, Termination

- 10.1 <u>Term.</u> 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 <u>Termination for Default.</u> If either Party is in default as to any of its material obligations in this Agreement and, within forty five (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 (10) 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, Section 2.2, 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 13. 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 <u>Immediate Termination</u>. 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 <u>Effect of Termination</u>. 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.
- 10.5 Upon termination of this Agreement pursuant to Section 10.2 or 10.3:
 - BEC shall immediately cease, and shall cause BEC's Affiliates and distributors to immediately cease, use of any and all Licensed Technology, LICENSOR Confidential Information, and Documentation;
 - (ii) each receiving Party shall immediately cease and shall cause its Affiliates and distributors to immediately cease, to use the disclosing Party's Confidential Information.
- 10.6 Upon termination of this Agreement due to expiration of the Term, and provided that BEC has been duly fulfilling its obligations hereunder, BEC shall have a non-exclusive right to develop, manufacture and sell the Products and to use the Licensed Technology, to develop, manufacture, and sell the Products and to practice any and all methods and processes in the manufacture, testing, production, distribution, and use thereof, and to pass onto direct and indirect purchaser of Products from it and its Affiliates and to incorporate into and utilize the Material in the Product.

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, pandemic and any government restrictions or measures related to the pandemic, 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.
- 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 forty five (45) days due to a Force Majeure Event, then either Party may terminate this Agreement upon ten (10) day's notice.

Article 12 Representations, Warranties, Indemnification, Insurance

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

- 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 or the Licensed Technology;
- (ii) LICENSOR is the owner or authorized licensee of each element of the Licensed Technology;
- (iii) To the best knowledge of LICENSOR, none of the Licensed Technology (subject to the limitations specified below) infringes, misappropriates or otherwise violates the intellectual property rights of any third party; at any time throughout the Term, should the LICENSOR learn (through any patent office's search report or from other sources) that the Licensed Technology infringes, misappropriates or otherwise violates the intellectual property rights of any third party, the LICENSOR shall so notify to BEC and disclose any information it possesses in relation thereto;
- (iv) There are no pending lawsuits, and LICENSOR has no knowledge of any claim or threat of a lawsuit, asserting that the Licensed 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 License 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 and 13, or Sections 2.1 (License limited to the Field), 2.2 (modification of Products) and 9.2 (payment of Royalties), 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 THE LICENSED TECHNOLOGY, DOCUMENTATION, LICENSOR CONFIDENTIAL INFORMATION, AND THEIR PROPERTIES OR FITNESS FOR ANY PURPOSE. THE PARTIES UNDERSTAND AND AGREE THAT THE LICENSED TECHNOLOGY AND ANY PORTION THEREOF IS EXPERIMENTAL IN NATURE AND SUPPLIED UNDER THIS AGREEMENT "AS IS". LICENSOR DOES NOT GIVE ANY WARRANTY, REPRESENTATION OR UNDERTAKING THAT ANY OF THE LICENSED TECHNOLOGY, DOCUMENTATION, AND LICENSOR CONFIDENTIAL INFORMATION ARE FIT FOR ANY PARTICULAR PURPOSE, NAMELY (WITHOUT LIMITATION) FOR USE IN PRODUCTS AS ENVISAGED IN THIS AGREEMENT.

12.5 <u>Indemnification for Products Liability</u>.

- 12.5.1 LICENSOR Indemnification. LICENSOR will defend, indemnify and hold BEC, BEC's Affiliates, Designees and their respective customers, directors, officers, employees, agents, attorneys, successors and assigns (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 design, development, manufacture, storage, service or repair of the Material, or LICENSOR's failure to notify BEC in case that LICENSOR learns of any adverse effects or change of properties of the Material (for the avoidance of doubt, nothing in this agreement shall be interpreted as an obligation of LICENSOR to investigate or perform any research having as an objective to identify or verify any such potential problems). 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 twenty (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.
- BEC Indemnification. BEC will defend, indemnify and hold LICENSOR and 12.5.2 LICENSOR's Affiliates and their respective customers, directors, officers, employees, agents, attorneys, successors and assigns (collectively, the "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 Affiliates, distributors and Designees' design, development, manufacture, handling, storage, sales, use, service or repair of any portion of the Licensed 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 twenty (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.

12.6 Indemnification for IP Infringement.

- 12.6.1 <u>LICENSOR Indemnification</u>. LICENSOR agrees to and will defend, indemnify and hold the BEC Indemnified Parties harmless from and against any and all proven and enforceable Losses related to or arising from a claim that the Licensed Technology (subject to the limitation specified below) infringes, misappropriates or otherwise violates any Intellectual Property Rights of a third party in contradiction with the LICENSOR's representations under Section 12.1.(iii) (an "*IP Infringement Claim against BEC*").
- 12.6.2 <u>BEC Indemnification.</u> BEC agrees to and will defend, indemnify and hold the LICENSOR Indemnified Parties harmless from and against any and all proven and enforceable Losses related to or arising from a willful misconduct of the BEC, BEC's Affiliates, Designees for which LICENSOR would be held liable due to infringement, misappropriation or other violation of any Intellectual Property Rights of a third party caused by BEC's, BEC's Affiliates' and Designees' conduct consisting of any design, development, manufacture, handling, storage, sales, use, service or repair of any portion of the Licensed Technology included in the Products in contradiction with the License granted herein (an "*IP Infringement Claim against LICENSOR*").
- 12.7 <u>Indemnification Procedures.</u> 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 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.
- 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 the Material, Licensed 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 Information of the other Party it learns or obtains during both the negotiation and the Term of this Agreement, and will not publish, distribute, disseminate or disclose such Confidential Information to any third party or use such 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.
- 13.2 The obligation in Section 13.1 will not apply to, and the term "Confidential Information" shall 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, 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 of the foregoing, 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 or other administrative body having the competence and right to issue such subpoena, a court or administrative order, the applicable laws and regulations or requirements, 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), (iii) 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 (iv) the receiving Party discloses only so much of the Confidential Information as is required to comply with such requirement.
- 13.3 <u>Disposition of Copies</u>. 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 other Party's 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.
- 13.4 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. 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, 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.
- 13.5 <u>Injunctive Relief.</u> 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. The remedies under this Agreement will be non-exclusive and cumulative.
- 13.6 <u>Reasonableness</u>. 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.
- 13.7 <u>Survival of Provisions</u>. The obligations under Section 2.2, Section 2.3, Section 7.2, Section 9.3, Section 9.4, Section 12.5, Section 12.6., Section 12.7, 12.8, and Article 13 will continue for five after the termination or expiration of this Agreement, irrespective of the manner in which the Agreement is terminated.
- 13.8 Publications. The LICENSOR, or IOCB and IBT 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 any portion of the Licensed Technology (including the Material) 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 thirty (30) 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, or LICENSOR's 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

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, 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.





With a copy for information purposes only (does not affect effectiveness of delivery to BEC under this Agreement) to:



If to IBT:

Biotechnologický ústav AV ČR v. v. i.

Průmyslová 595

Vestec, Zip Code: 252 50

Czech Republic Attention: Director

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 Attention: Director

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 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.

Article 17 Severability

- 17.1 <u>Invalid or Unenforceable Provision</u>. In the event any 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 <u>Conflict with Applicable Statute</u>. 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 <u>Effect and Remedies</u>. In the event that the provisions of this Agreement are materially altered as a result of Sections 17.1 or 17.2, the Parties will renegotiate the affected terms and conditions to resolve any inequities.

Article 18 Currency, Independent Contractors, Affiliates

- 18.1 <u>Currency</u>. All payments made under this Agreement will be paid in Czech Crowns (CZK). Payments made by BEC to LICENSOR will be made in accordance with the wiring instructions set forth in Exhibit D hereto.
- 18.2 <u>Independent Contractor</u>. 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, each of BEC, IOCB and IBT 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 any of the other Parties or make use of any other Party's name, or advertise its relationship with any of the other Parties, without such Party's express written consent in each instance.
- 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 <u>Applicable Law.</u> This Agreement will be governed by and construed in accordance with the laws of the Czech Republic.

- Register of Contracts. 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 <u>Dispute Resolution</u>. 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 mediation 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 mediation with the assistance of a qualified IP mediator agreeable to both Parties; and
 - 19.3.3 should the mediation pursuant to Section 19.3.2 not lead to a successful resolution of the dispute, the matter shall be submitted to and finally resolved by the competent courts of the Czech Republic;
- 19.4 For the avoidance of doubt, the dispute resolution procedure under Section 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. With the exception of the MTA, 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. For the avoidance of doubt, and notwithstanding the foregoing, the MTA shall remain in force and binding throughout its term.
- 20.2 <u>Waiver or Modification</u>. 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 <u>Mutuality</u>. 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 <u>Language</u>. 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 <u>Execution.</u> This Agreement may be executed electronically with certified electronic signatures or 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.

Biotechno	ologický ústav AV CR v. v. i.	
By:	prof. Ing. Bohdan Schneider, DSc.	
Title:	Director	
Date:		
Ústav org	anické chemie a biochemie AV ČR v. v. i.	
Ву:	RNDr. PhDr. Zdeněk Hostomský, CSc.	
Title:	Director	
Date:		
IMMUNO	OTECH s.r.o.	
Ву:	Ing. Jiří Kulhánek	
Title:	Executive Director	
Date:	_	

EXHIBIT A:



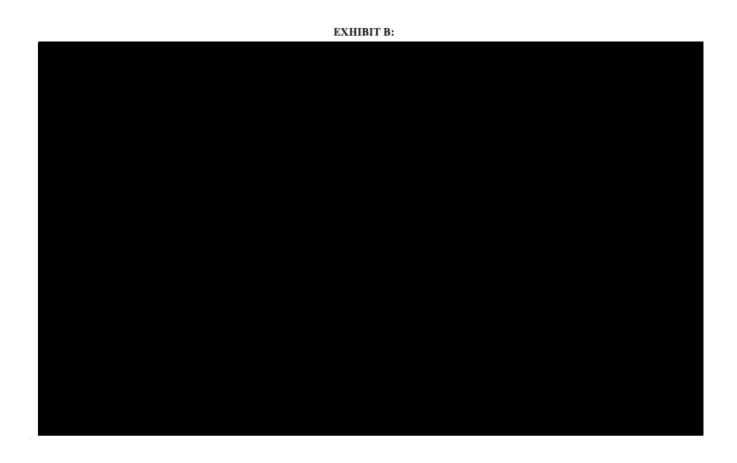




EXHIBIT C:

