Non-Binding Term Sheet

by

Universität,
represented by its President, …, having its principal place of business at …., . („**UNIVERSITY**“)

and

NEWCO,
represented by Founder ABC
(“**NEWCO**”)

UNIVERSITY supports the foundation of a company, NEWCO, for the further development and commercialization of the Intellectual Property Rights (“IPR”) defined below.

Further, UNIVERSITY intends to enter into a License Agreement with NEWCO under the following terms and conditions:

PROPOSED TERMS LICENSE AGREEMENT BETWEEN UNIVERSITY and NEWCO

OVERVIEW	
PARTIES	Universität, address („UNIVERSITY“) ; and NEWCO, address (“NEWCO”). NEWCO and UNIVERSITY are each a “Party”.
SUBJECT	This nonbinding proposal (“Term Sheet”) summarizes the terms and conditions of a proposed license agreement (“Agreement”) between UNIVERSITY and NEWCO. This Term Sheet is intended for discussion purposes only and is nonbinding. The terms set forth herein and any agreement are subject to review and approval by the senior management and the governing boards of each Party.
PURPOSE	The Parties plan to enter into an Agreement under which NEWCO would develop, manufacture and commercialize the Products on a worldwide basis subject to the terms and conditions described herein. NEWCO will have certain obligations in relation to the Licensed Intellectual Property including the obligation to compensate UNIVERSITY as outlined in more detail below.
DEFINITIONS	
AFFILIATE	Affiliate means any corporation or other entity, which directly or indirectly controls, is controlled by or is under common control with a party. A corporation

	or other entity shall be regarded as in control of another corporation or entity if it owns or directly or indirectly controls more than fifty percent (50%) of the voting stock or other ownership interest of the other corporation or entity, or if it possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation or other entity or the power to elect or appoint more than fifty percent (50%) of the members of the governing body of the corporation or other entity.
EFFECTIVE DATE	The effective date of a definitive Agreement in between the Parties.
LICENSED INTELLECTUAL PROPERTY	Licensed Intellectual Property means the Patent Rights, Software Rights, and Know-How Rights collectively.
PATENT RIGHTS	The patents and patent applications set forth in Exhibit A which cover the making, having made, use, sale, offering for sale or importation of Products in the Field in the Territory including, without limitation, any and all existing and future patents issuing herefrom, patent applications, divisionals, continuations, continuations-in-part, utility models, supplementary protection certificates, and re-issues.
SOFTWARE RIGHTS	UNIVERSITY's rights in any software and/or database and/or copy rights listed in Exhibit B attached hereto.
KNOW-HOW RIGHTS	Any rights in technical information, know-how, trade secrets, preclinical, clinical data, processes, procedures, compositions, devices, methods, formulas, protocols and techniques which are not covered by the Software or Patent Rights or improvements related thereto but which are necessary for the use of, or desirable for practicing the Software/copy Rights or Improvements or to make, use, or sell Products.
PRODUCT	Product means any product or service that • is based on, includes or uses Licensed Software or Know-How Rights, or • is covered by a Valid Claim of the Licensed Patent Rights.
VALID CLAIM	A Valid Claim means an issued or pending claim of an unexpired patent or patent application included within the Licensed Patent Rights, which has not lapsed, been abandoned, been revoked or deemed unenforceable or invalid by a non-appealable decision or an appealable decision from which no appeal was taken within the time allowed for such appeal of a court or other governmental agency of competent jurisdiction.
FIELD	Field means all fields. */limitation to specific fields*
TERRITORY	Territory means Worldwide. */limitation to specific countries*
NEWCO DEVELOPMENT PLAN	All activities that are conducted by or on behalf of NEWCO for the Territory.
NET SALES	"Net Sales" shall hereinafter mean the total amount billed or invoiced by NEWCO, its Affiliates, or its sublicensees *(/Alternative: sublicensing fee below)* on sales of Products to third parties, after deduction of volume discounts, sales rebates, credits to customers on account of settlement of complaint, allowances, value added taxes ("VAT") and other taxes directly linked to the sales of Products.
RIGHTS AND RESPONSIBILITIES	

ACTIVITY EFFORTS	NEWCO will have the sole responsibility for development, and commercial manufacturing of the Products in the Territory. NEWCO will use commercially reasonable efforts to research and develop Products in the Territory. *In case NEWCO won't be successful to commercialize any Product within x years after the Effective Date the License expires.*
EXTENDED ACTIVITY - CLINICAL DEVELOPMENT	NEWCO shall use Commercially Reasonable Efforts to bring a Product to market through a vigorous and diligent program for exploitation of the technology. The program shall include the preclinical and clinical development of the project, including research and development, manufacturing, laboratory and clinical testing and marketing of Product. NEWCO shall continue active, diligent marketing efforts for the Technology and may not reduce such efforts due to the competitive, regulatory or other impact of any other product or method that it owns, licenses or is developing or commercializing. "Commercially Reasonable Efforts" shall mean those efforts utilizing those resources that would be employed by an adequately capitalized reasonable company for the development of a product or compound of similar market potential at a similar stage in its development or product life as the Product taking into account, without limitation, issues of safety and efficacy, product profile, intellectual property situation, regulatory environment and other relevant scientific and commercial factors. *If NEWCO fails to achieve the a first mutual agreed milestone within x years after Effective Date the License expires.*
COMMERCIALIZ ATION	NEWCO will have full control, authority and responsibility for, and will use commercially reasonable efforts to commercialize the Products in the key markets of the Territory. NEWCO will have final decision-making authority relating to the foregoing including pricing and reimbursement, advertising and promotional materials, packaging, sales force training and all interactions with regulatory authorities regarding the commercialization of Products. NEWCO will have sole authority and responsibility for distributing and booking all sales of the Products in the Territory.
EXCLUSIVE LICENSE	The UNIVERSITY will grant to NEWCO an exclusive, royalty-bearing license, with the right to sublicense through multiple tiers, under Licensed Intellectual Property to make, have made, use, offer to sell, sell, and import Products in the Field in the Territory.
SUBLICENSING	NEWCO may grant sublicenses consistent with the license agreement, unless otherwise agreed by the parties, and will notify UNIVERSITY promptly of the grant of such sublicense. NEWCO will be solely responsible for the enforcement of the terms of any sublicense and for collection of payment due thereunder. Each sublicensee shall be bound to terms and conditions not less favorable to UNIVERSITY than those required by NEWCO under the Agreement. In the event of termination of the Agreement by Licensee, each sublicense granted by NEWCO thereunder will automatically terminate. In the event of termination of the Agreement by UNIVERSITY for breach by Licensee, each sublicense granted by NEWCO thereunder shall be converted into a direct license between Licensor and such sublicensee, provided such sublicensee is not the origin for such breach.
RETAINED RIGHTS	UNIVERSITY shall retain the right to make use of the Licensed Intellectual Property for research, teaching, and educational purposes, alone or together with other non-commercial or academic institutions.

	/UNIVERSITY shall retain the right to make use of the Licensed Intellectual Property together with commercial third parties in cooperative research and development projects subject to approval by NEWCO, which should not be unreasonably withhold.	
	COMPENSATIONS	
UPFRONT	NEWCO will pay the following upfront payment upon signing the Agreement	€
ROYALTYIES	NEWCO will pay to UNIVERSITY a royalty on annual Net Sales of the Products in the Territory a Royalty Rate of	%
DURATION	The royalty rate on Products that are covered only by Patent Rights only expires on a Product-by-Product and country-by-country basis at the expiration of the last valid claim of a patent within the Licensed Intellectual Property. */The royalty obligation shall expire ten (10) years after the first sale of a Product, or on the expiration date of the last to expire Patent Right whichever is later*.	
DEVELOPMENT MILESTONES	NEWCO will pay the following milestone payments once per each Product. - Upon first approval of the use of a Product by official boards e.g. EU regulation or foreign equivalent in the Territory. - Upon first commercial sale of a Licensed Product - Upon grant of a first patent of the Licensed Patent Rights in the Territory	€
COMMERCIAL MILESTONES	For cumulative Net Sales of more than x mio € for the first time For cumulative Net Sales of more than xx mio € for the first time	€ €
CLINICAL MILESTONES	NEWCO shall have an obligation to make the following one time payments. Each milestone payment shall be due for each unique and distinguishable Product. Even though there are no valid patent claims covering the Products at a later stage, milestone payments which are already made are non-refundable. - Submission of an Investigational New Drug (IND) Application to support a New Drug Application or a Biologics License Application (BLA), to the EMA or FDA or foreign equivalent, whichever comes first, for a Product. - Enrollment of the first patient in the first Phase 1 clinical trial in a 1st indication	€ €

	- Enrollment of the first patient in the first Phase 2 clinical trial in a 1st indication - Enrollment of the first patient in the first Phase 3 clinical trial in a 1st indication	€ €
ROYALTY BUY OUT	All payment obligations under the Agreement can be settled earliest x years after first commercial sale of a Product by a payment of This settlement will go along with the assignment of the Patent Rights from UNIVERSITY to NEWCO.	€
SUBLICENSING	Each sublicensee shall be bound to terms and conditions not less favorable to UNIVERSITY than those required by NEWCO under the Agreement	
PATENT COSTS	Future patent costs: Upon execution of the Agreement, NEWCO will be responsible for one hundred forty-three percent (143%) of all newly incurred costs and activities related to patent prosecution, maintenance, enforcement and defense of patents that UNIVERSITY exclusively license as part of the Licensed Intellectual Property as from the signing of the Agreement. Past patent costs include fees paid to national and international patent authorities and costs incurred by UNIVERSITY for services rendered by third party law firms before the Effective Date. NEWCO will reimburse UNIVERSITY for one hundred forty-three percent (143%) of past patent costs within sixty (60) days after successfully conduction financing rounds of accumulated	€
OTHER OBLIGATIONS		
TERM AND TERMINATION	Either party may terminate the Agreement if the other is in material breach of any of its material terms and conditions if such breach is not corrected upon thirty (30) days after written notice has been received of such breach. In the event of any termination of the Agreement, NEWCO shall only be liable for the license payments (as set forth in the Compensation section) that NEWCO has paid to UNIVERSITY as of the Effective Date of termination. All payments made by NEWCO to UNIVERSITY as of the Effective Date of termination cannot be reclaimed. Upon signature of the Agreement NEWCO will provide UNIVERSITY with a development plan for Product(s), including reasonable estimated timelines. NEWCO will use commercially reasonable efforts to meet with provided timelines. Otherwise, UNIVERSITY reserves an exceptional right of termination.	

	/The License granted by UNIVERSITY to NEWCO shall be effective on the Effective Date, and shall expire ten (10) years after the first sale of a Product, or on the expiration date of the last to expire Patent Right, whichever is later, unless sooner terminated by mutual agreement between the parties; provided, that NEWCO may terminate the Agreement at any time upon ninety (90) days' written notice to UNIVERSITY.
USAGE OF NAME	NEWCO may use the designation "Ein Spin-off der UNIVERSITY " or "A Spin-off of UNIVERSITY" as an addition to its name. NEWO shall make appropriate reference to the licensing Agreement by UNIVERSITY. NEWCO shall not use the name of UNIVERSITY or any adaptation thereof for any other purpose, such as in product labeling, promotional or sales literature, without the prior written consent of UNIVERSITY.
PUBLICATIONS	UNIVERSITY will have the right to publish any results resulting from its Retained Rights. NEWCO will be informed in advance to such publication and will have the right to review and comment on proposed publication or disclosure and may request any confidential information of NEWCO to be deleted. Subject to no reaction by NEWCO within 30 days of information, UNIVERSITY is free to publish any such results.
CONFIDENTIALITY	The Parties will keep the content of this Term Sheet and related information confidential.
REPRESENTATIONS AND WARRANTIES	UNIVERSITY represents and warrants to NEWCO that UNIVERSITY is the sole owner of the right, title and interest in Licensed Intellectual Property. UNIVERSITY makes no warranties, express or implied, as to any invention or product conceived, discovered, licensed or developed under the Agreement. There are no express or implied warranties of merchantability, completeness or fitness for a particular purpose of any such invention or product. Further representations and warranties typical for an agreement will be negotiated in the Agreement.
FTO	NEWCO shall defend or settle at its expense any suit or action brought against NEWCO alleging that NEWCO's use of the Licensed Intellectual Property constitutes infringement of others' rights.
FURTHER ASSIGNMENT:	In case of a further assignment all royalty, milestone and re-assignment obligations shall be incurred by any further assignee of the Patent Rights or the successor in business and the any further assignee has an obligation of milestone payments for UNIVERSITY
MISCELLANEOUS	The Agreement would contain such other terms and conditions, to be negotiated by the Parties, including, without limitation, diligence obligations, intellectual property, representations and warranties, covenants, termination, indemnification, confidentiality, reporting and the like.

FEES AND EXPENSES	NEWCO and the UNIVERSITY each will pay their respective legal and other fees and expenses associated with all aspects of the transaction contemplated hereunder.
GOVERNING LAW	The Agreement will be construed and enforced in accordance with the laws of Germany, Place of jurisdiction will be Frankfurt am Main, Germany.

Read and Agreed to:

By: ______________________________________

Name: ______________________________________

Title: ______________________________________

Date: ______________________________________

By: ______________________________________

Name: ______________________________________

Title: ______________________________________

Date: ______________________________________

Exhibit A

Patents & Patent Applications

Exhibit B

Software & Database