

PATENT ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	LICENSE
CONVEYING PARTY DATA	
Name	Execution Date
Academisch Medisch Centrum	12/28/2004
RECEIVING PARTY DATA	
Name:	MicroVision Medical Holding B.V.
Street Address:	Meibergdreef 45
City:	Amsterdam
State/Country:	NETHERLANDS
Postal Code:	1105 BA
PROPERTY NUMBERS Total: 2	
Property Type	Number
Application Number:	13273118
Patent Number:	8064976
CORRESPONDENCE DATA	
Fax Number:	6123328352
Phone:	(858) 623-3227
Email:	dglisson@granllp.com
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>	
Correspondent Name:	William Anderson c/o PortfolioIP
Address Line 1:	P.O. Box 52050
Address Line 4:	Minneapolis, MINNESOTA 55402
ATTORNEY DOCKET NUMBER:	MVM-0100-CT
NAME OF SUBMITTER:	William B. Anderson reg. no. 41,585
Total Attachments: 16 source=041228 Exclusive license and Transfer Agreement AMC and MVM_Redacted#page1.tif source=041228 Exclusive license and Transfer Agreement AMC and MVM_Redacted#page2.tif	

OP \$80.00 13273118

source=041228 Exclusive license and Transfer Agreement AMC and MVM_Redacted#page3.tif
source=041228 Exclusive license and Transfer Agreement AMC and MVM_Redacted#page4.tif
source=041228 Exclusive license and Transfer Agreement AMC and MVM_Redacted#page5.tif
source=041228 Exclusive license and Transfer Agreement AMC and MVM_Redacted#page6.tif
source=041228 Exclusive license and Transfer Agreement AMC and MVM_Redacted#page7.tif
source=041228 Exclusive license and Transfer Agreement AMC and MVM_Redacted#page8.tif
source=041228 Exclusive license and Transfer Agreement AMC and MVM_Redacted#page9.tif
source=041228 Exclusive license and Transfer Agreement AMC and MVM_Redacted#page10.tif
source=041228 Exclusive license and Transfer Agreement AMC and MVM_Redacted#page11.tif
source=041228 Exclusive license and Transfer Agreement AMC and MVM_Redacted#page12.tif
source=041228 Exclusive license and Transfer Agreement AMC and MVM_Redacted#page13.tif
source=041228 Exclusive license and Transfer Agreement AMC and MVM_Redacted#page14.tif
source=041228 Exclusive license and Transfer Agreement AMC and MVM_Redacted#page15.tif
source=041228 Exclusive license and Transfer Agreement AMC and MVM_Redacted#page16.tif

DATED

December 28th

2004

**Academic Medical Center
DIVISION CHOPIN
Department Physiology**

- and -

MicroVision Medical Holding BV

Intellectual Property License Agreement

RF imaging and photospectrometry

This Agreement is made the day of December 28th 2004

BETWEEN:-

The Department of Physiology of the Academic Medical Center at the University of Amsterdam, having its principal place of business at Meibergdreef 9, 1105 AZ Amsterdam, represented in this matter by the Executive Board, mr. E.H. Broekhuizen
Hereinafter referred to as "AMC";

and

MicroVision Medical Holding BV, having its principal place of business at Meibergdreef 45, 1105 BA Amsterdam, The Netherlands, lawfully represented in this matter by Drs. J.M. ter Riet and Prof dr. C. Ince
Hereinafter referred to as "Company";

Hereinafter collectively referred to as the "Parties".

WHEREAS:-

- A. AMC is active in the field of research and development pertaining to Reflectance Filtering Imaging and photospectrometry (further described as "Field");
- B. AMC's above research and development activities have resulted in a number of patent(s) (applications) and a number of research and development programs under supervision of Prof. dr. C. Ince all of which have has resulted in program specific know-how;
- C. AMC wishes to transfer the rights and obligations as laid down in certain agreements concluded with third parties to the Company;
- D. AMC in particular Prof. dr. C. Ince has been granted a so called Biopartner 'First Stage Grant' by NWO/ALW;
- E. the grant is being granted in order to facilitate the start of a so-called start-up company (hereinafter referred to as "Company");
- F. This agreement shall become into effect only after incorporation of this Company;
- G. This agreement constitutes said license of intellectual property rights.

NOW THEREFORE THE PARTIES TO THIS AGREEMENT HAVE AGREED AS FOLLOWS:

1. Definitions

"Affiliate"	means any corporation or other entity which controls, is controlled by, or is under common control with Licensee. 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 has the power to elect or appoint more than fifty percent (50%) of the members of the governing body of the corporation or other entity.
"Field"	means Reflectance Filtering Imaging and photospectrometry for all applications.
"Effective Date"	has the meaning given at the start of this Agreement.
"First Commercial Sale"	means in any jurisdiction under valid Patent Rights the first bona fide arm's length sale of any Licensed Product by Licensee or its Sublicensees.
"Licensed Know-how"	means all of AMC's technology, inventions, technical information and the like, whether patentable or not, directly related to Subject Technology, that is necessary or useful in connection with the manufacture, use or sale of any Licensed Product; and owned by AMC.
"Licensed Product"	means any device, item and/or method which is covered by at least one claim in the Patent Rights and/or makes use of the Licensed Know-how in the country of manufacture or supply, excluding any consumables used therewith
Net Sales Price	Means: the gross amount invoiced, directly or indirectly, to third parties in arms'-length commercial transactions for sales by Licensee, its sublicensees agents or consignees of Licensed Products less the following: <ul style="list-style-type: none">i) discounts, returns and allowances actually taken in customary in trade;ii) sales, use, taxes, tariffs or duties directly imposed against gross sales and actually paid by the selling party;iii) outbound transportation prepaid or allowed and separately invoice; and amounts allowed or credited on return or retroactive price

reductions.

In any transfers of Licensed Products between Company and an Affiliate, the Net Sales Price shall be calculated based on the final sale of the Licensed Product to an independent third party. In the event that Company or a Sublicensee receives non-monetary consideration for any Licensed Products, the Net Sales Price shall be calculated based on the Fair Market Value of such consideration.

RF imaging	Means Reflectance Filtering imaging or any related photospectrometry as described in the patent(s)
"Patent Rights"	means (a) the patents and patent applications listed in Schedule A , and (b) any divisionals, continuations and continuations-in-part thereof (to the extent the claims are directed to subject matter specifically described therein), and any U.S. patents issued thereon and any reissues or re-examinations of any such patents, and any foreign corresponding patent filings or counterparts to such patents and patent applications.
"Personnel"	means officers, employees, consultants, agents, representatives, contractors and advisers.
"Royalty Period"	means the partial calendar quarter commencing on the date on which the first Licensed Product is sold or used and every complete or partial calendar quarter thereafter during which either (a) this Agreement remains in effect or (b) Company has the right to complete and sell work-in progress and inventory of Licensed Products.
"Subject"	means RF imaging and photospectrometry.
"Subject Technology"	means all associated patents and patent applications, know-how and data regarding the use of Subject, and any materials developed using Subject and all technology claimed by Patent Rights and/or included in Licensed Know-how.

2. Description of IP rights

- 2.1 The IP rights subject to exclusive license under this agreement consist of the following:

patent applications as related to Subject Technology;

- 2.2 The IP rights specified under 2.1 consist of all existing and future intellectual property rights, be it patentable or not, that result from the mentioned patent(s) application(s).
- 2.3 The IP rights specified under 2.1 consist of all knowledge, know-how and future intellectual property rights – among which future patent applications - in all of which research lines Prof. dr. C. Ince has been involved.

3. Grant of the exclusive license of IP rights

- 3.1 Subject to the terms of this agreement, AMC hereby grants an exclusive license to Company on the IP rights as specified in article 2.1, which license is hereby unconditionally accepted by Company.
- 3.2 Subject to the terms of this agreement, AMC hereby grants in advance and in conformity with article 3:97 of the Dutch Civil Code an exclusive license to Company on future IP rights as specified in article 2.3 which upfront license is hereby unconditionally accepted by Company. Future IP rights consist of future patent applications and the IP rights under article 2.1.
- 3.3 The above license of (future) IP rights as specified in article 2 may on request of Company be converted in a transfer of these IP rights when Company has successfully complied with the Milestones 1 and 2 or 3 as set forth in the Due Diligence Schedule B.

4. General license conditions

- 4.1 The license granted under article 3 of this agreement is worldwide and for all applications.
- 4.2 Company is entitled to sublicense the license granted under article 3 of this agreement. If Company is to sublicense said rights to any third party, it will ensure that the provisions under article 4.1, 4.3, 4.5, 4.6, 4.7, 5.8, 7.2, 7.3, 7.4, 8 and 9 of this agreement – applicable to the license grant to Company – are equally agreed upon with said third party, unless AMC previously consents otherwise.
- 4.3 AMC shall always be entitled to use the existing and future IP rights for its own internal research, including research with patients, and education on a non-commercial basis.

- 4.4 As from the effective date of this agreement, being the date of last signature under this agreement, Company shall be responsible for the full maintenance of the licensed IP rights and shall attend to all matters, contacts and correspondence regarding inter alia all patents and patent applications in an adequate way. All cost incurred for the maintenance of current and future IP rights shall be borne by Company. Company is entitled to decide for which countries any patent is to be maintained, unless any of the other agreements as mentioned in article 1 of this agreement, indicate(s) otherwise.
- 4.5 Company is not allowed to reduce the designated countries in any patent (application) in such a way that it is reasonably to be considered as abandoned. Furthermore, Company is to inform AMC of any wish to abandon any patent (application) or refrain from application although patentable subject matter can be found. AMC is then to decide and confirm in writing whether Company is allowed to abandon as planned or wishes to have transferred back all related rights, with the possibility, expressly pursuant to article 7 of this agreement, for AMC to file a patent application itself.
- 4.6 Company shall use commercially reasonable efforts to distribute and commercialise the IP rights as broad as possible, unless the reason of application of any patent among the IP rights has been purely defensive. If the latter applies, Company shall at AMC's first request show in a written report, within a one month term, that no competitive product or process is developed or exploited by Company that is not subject to this Agreement.
- 4.7 Every year, at the latest May 1st of the following year, Company shall furnish AMC with a report concerning the licensed IP rights. This report shall contain:
- 4.7.1 the status of the several patents in the various countries, including actions and applications foreseen;
 - 4.7.2 the cost of the several patents in the previous year;
 - 4.7.3 the status of commercialisation, including actions foreseen.

5. Payment

- 5.1 In return for the exclusive license rights granted pursuant to article 3, Company shall pay royalties in the form of a percentage of Company's Net Sales Price generated with the

licensed IP rights and/or milestone lump sum payments as defined in article 5.4.

5.2 If Company has to pay third parties a royalty in order to be able to enforce IP Rights as granted under article 3.1, Company may deduct 50% of such paid royalties from the amount of royalty payable to the AMC under article 5.3

5.3 Company shall pay to AMC a royalty of percent (%) of the Net Sales Price of Licensed Products sold and/or supplied by Company, or its Sublicensees for the duration of the exclusive licence granted under article 2.1 for the relevant License Product in the relevant country. Notwithstanding this article 5.3, it is explicitly agreed between the parties to this Agreement that in case the Net Sales Price of Licensed Products sold and/or supplied by Company, or its Sublicensees is not higher than Euro for each of the first two fiscal years, no royalties are due

If Company supplies any Licensed Product to a third party other than on normal arms-length commercial terms, the Net Sales Price of the Licensed Product supplied shall be whichever is the higher of:

- (i) the fair market value of such Licensed Product; or
- (ii) the actual price at which Licensee sold the Licensed Product to the third party.

Under no circumstances shall the aggregate deductions from royalty payments due to Licensor in a Royalty Period exceed % of the sums otherwise payable under article 5.2.

5.4 The milestone payments for other (future) IP rights as specified under article 3.2 are as follows: Euro for each independent IP patent application series.

5.5 The royalty rates and the milestone payments payable are to be increased with BTW (Dutch VAT).

5.6 Royalties and milestones payable to AMC under article 4 in respect of Licensed Products supplied during a Royalty Period shall be paid within thirty (30) days of the end of that Royalty Period.

5.7 Sums payable to Licensor under article 4.2 in respect of Sublicense Income received by Company during a Royalty Period shall be paid to AMC within thirty (30) days of the end of that Royalty Period.

5.8 Reports

Within thirty (30) days after the conclusion of each Royalty Period, Company shall deliver to AMC a report in the form of Exhibit C. All such reports shall be considered Licensee Confidential Information and shall be subject to article 7. If no royalties are due to AMC for any Royalty Period, the report shall so state.

5.9 Late Payments

Any payments by Licensee that are not paid on or before the date such payments are due under this Agreement shall bear interest, to the extent permitted by law, at percentage points above the prime rate of interest as reported in the *Wall Street Journal* on the date payment is due, with interest calculated based on the number of days that payment is delinquent.

- 5.10 Company shall maintain and shall cause its Affiliates and sublicensees to maintain complete, accurate and up to date records of Licensed Products that are made, used, sold or performed under this Agreement showing the quantity, description and value of all Licensed Products and any amounts payable to AMC in relation to such Licensed Products, which records shall contain sufficient information to permit AMC to confirm Company's compliance with the provisions of this Agreement and the accuracy of any reports delivered to AMC under article 5.8. The relevant party shall retain such records relating to a given Royalty Period for at least three (3) years after the conclusion of that Royalty Period, during which time AMC shall have the right, at its expense, to cause its internal accountants or an independent, certified public accountant to inspect and make copies of such records during normal business hours for the sole purpose of verifying any reports and payments delivered under this Agreement. Such accountant shall not disclose to AMC any information other than the aforementioned information with regard to verification of royalties due. The parties shall then reconcile any underpayment or overpayment within 30 (thirty) days after the accountant delivers the result of its audit. In the event that the accountant's audit reveals that underpayment exceeds 5% (five percent) in any royalty period under investigation, Company shall ultimately bear the full cost of the audit.

6. Development and Marketing

- 6.1 Company shall use reasonable endeavours to develop a Licensed Product, obtain Product Approval for a Licensed Product and introduce a Licensed Product into the commercial market for commercial sales and distribution throughout the world in accordance with the development timetable set out in Schedule B.

- 6.2 Company shall use at least the same level of resources to develop a Licensed Product as it would use to develop one of its own products with a similar commercial potential to that of the Licensed Product concerned.
- 6.3 If Company does not achieve a milestone within the deadline set out in Schedule B in relation to the development of a Licensed Product, Start-up Company shall notify AMC within thirty (30) days giving reasonable details of the reasons why such goal was not achieved.
- 6.4 If Company does not achieve a milestone within six (6) months after the deadline set out in Schedule B, AMC shall have the right, exercisable with immediate effect, to terminate this Agreement in accordance with the provisions of article 9 (Termination).
- 6.5 Within 30 days of the end of each period of six months from the Effective Date, Company shall provide AMC with a reasonably detailed report on the status of the development of a Licensed Product, including details of the amounts spent by Company developing or obtaining Product Approval for a Licensed Product and the purpose of such expenditure and shall promptly provide AMC with such additional details of such development as AMC may from time to time reasonably request.
- 6.6 Company shall maintain complete, accurate and up to date records of the amounts spent by Company developing or obtaining Product Approval for a Licensed Product and the purpose of such expenditure which records shall contain sufficient information to permit AMC to confirm Company's compliance with the provisions of article 5 and the accuracy of any reports delivered to AMC under article 5.10. Company shall retain such records for at least three (3) years, during which time AMC shall have the right, at its expense, to cause its internal accountants or an independent, certified public accountant to inspect and make copies of such records during normal business hours for the sole purpose of verifying Company compliance with articles 5.8 and 5.10 of this Agreement. Such accountant shall not disclose to AMC any information other than information relating to the compliance of Company with Clauses 5.8 and 5.10.
- 6.7 Company shall use its reasonable endeavours to market and promote each Licensed Product and maximise sales of each Licensed Product in each country where CE marking has been granted for that Licensed Product.

7. Representations, warranties and indemnification

- 7.1 Company hereby states in advance that as soon as the company becomes perfect according to the laws of The Netherlands, it will confirm this agreement and the acts intending to have legal effect therein, under pay of joint and several liability of its managing directors as registered at the Chamber of Commerce at the effective date of this agreement.
- 7.2 AMC does not warrant that any of the patent applications under the IP rights as mentioned in article 3, will result in a patent grant, nor that those patent applications and/or the patents as a result thereof, will not infringe better rights of third parties. Furthermore AMC disclaims all warranties, expressly or implied among others with regard to, but restricted to, the inherent properties of the licensed IP rights and its fitness for any purpose, the merchantability of any of the IP rights or the corresponding products or processes, or its fitness for the purpose of therapeutic and/or diagnostic application. In this respect, AMC does not warrant the merchantability of the IP rights, provided however, that to the best of AMC's knowledge the IP rights and corresponding products and/or processes will be able to result in appropriate therapeutic and diagnostic application.
- 7.3 AMC shall not be liable for and Company shall defend, indemnify and hold AMC and its respective individuals harmless against any and all liability (including product liability), damages, losses, cost, or expense of any nature (among which reasonable attorney's fees and litigation fees) in connection with any claims resulting from or arising out of the use of the IP rights as set forth in article 3 or the products or processes that result from it.
- 7.4 Company shall be responsible for settling or litigating any infringement on IP rights subject to this agreement. AMC is not obliged to undertake such action against any such third party. However, AMC agrees to assist Company in its enforcement of IP rights.
- 7.5 If for any reason Company fails to initiate or prosecute proceedings against any Infringer then without prejudice to any other right or remedy available to Company, AMC may at its absolute discretion and at its own cost and expense take proceedings (or continue any existing proceedings commenced by Company) against such Infringer. Company shall provide such assistance as AMC may from time to time reasonably request in connection with such proceedings including but not limited to making available to AMC such records, information and evidence in Company's possession or control which may be of assistance to AMC. AMC shall be

entitled to retain any damages, proceeds, settlement sums or amounts received by AMC in relation to any such Infringement.

8. Confidentiality

8.1 Except as provided in article 8.2 below the parties to this agreement agree that during the term of this agreement and for a period of five year of the expiration or termination thereof, each party will not use, except as needed for the purpose of this agreement, or disclose to any third party without previous consent of the other party, any information – among which non-patentable know-how and unpublished patent applications – which is identified or reasonably to be considered to be confidential, that has been received from the other party.

8.2 The above confidentiality obligation does not apply if the party receiving the information can prove that the piece of information:

8.2.1 is in the public domain, or later becomes generally available to the public by use, publication or the like, through no fault of the receiving party; or

8.2.2 is obtained from a third party who had the legal right to disclose such information to the receiving party without an obligation of confidentiality to the disclosing party; or

8.2.3 is already in its possession, as evidenced by its written records predating receipt thereof from the disclosing party; or

8.2.4 is required to be released under law or court order; provided, however, that for any exception under this clause (d) to apply, the receiving party must furnish the disclosing party with written notice of such requirement as soon as practicable following notification of such requirement and in advance of such release.

8.3 Whenever there is reasonable doubt for Company whether or not it is allowed to use confidential information as set forth in article 8.1, it shall confer with AMC and prior consent of AMC for the use of said information is required.

8.4 AMC shall be entitled to publish or otherwise publicly disclose results of the research provided, unless otherwise written agreed, that:

- 8.4.1 AMC has first submitted to Company a complete copy of the proposed text of the publication (or an abstract which includes the results to be published) at least 30 days prior to its disclosure to any third party;
- 8.4.2 AMC has first submitted to Company a complete copy of the proposed text of oral presentation at least 7 days prior to its disclosure to any third party; and
- 8.4.3 Company has given its prior written consent to the publication and/or presentation.
- 8.5 The parties to this agreement will establish that the confidentiality provisions as set forth in this article, will equally apply to its employees, agents, consultants and investigators and all persons either party may deem fit, in order to prevent the transfer or disclosure of confidential information.
- 8.6 In order to secure the confidential data with respect to the IP rights, Company undertakes to return to AMC or to destroy – if AMC so desires any of the product and/or its documentation and/or data and/or any information on whatever medium, with respect to any confidential information, within 30 (thirty) working days after termination of this agreement or any license on a IP right pursuant to this agreement.

9. Term and termination

- 9.1 This agreement shall come into effect on the date of the last signature of either party to this agreement and shall be valid until the expiration of the last patent (either on the effective date an application or not), unless specified otherwise in this article.
- 9.2 In the event that either party to this agreement commits a material breach of any of its obligations under this agreement, and this party fails to remedy the breach within a 30 (thirty) day period after written notice thereof, the other party is entitled to immediately terminate this agreement upon written notice to the breaching party. Such a termination of the agreement does not prevent the terminating party from demanding damages.
- 9.3 This agreement also terminates by operation of law without any notification in case of bankruptcy or liquidation of Company or its petition for a moratorium on payment.

9.4 Termination of this agreement will automatically terminate possible sublicenses granted by Company, which shall then – as far as possible – be converted (automatically) into license agreements with AMC.

9.5 Article 8, 9, 10.2 and 10.3 shall survive this agreement.

10. Miscellaneous

10.1 This agreement, including all rights and obligations, shall not be transferable by either party without the written previous consent of the other party.

10.2 This agreement shall be governed by the law of The Netherlands.

10.3 The parties to this agreement hereby irrevocably consent and submit to the exclusive jurisdiction of the District Court of The Hague, The Netherlands, in any dispute of any type, arising out or relating to this agreement.

10.4 In the event that any provision of this agreement shall, for any reason, be held to be invalid or unenforceable in any way, such invalidity or unenforceability shall not affect any other provision of the agreement nor the entire agreement itself, and the parties to this agreement shall negotiate in good faith the valid alternative, judicially closest to the provision held invalid or unenforceable.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in multiple parts and this Agreement may be signed in separate counterparts.

Academisch Ziekenhuis bij de Universiteit van Amsterdam

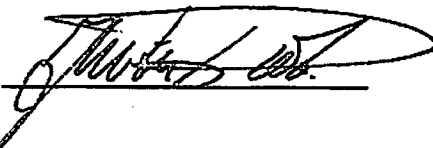
Signed: 

Print name: mr E.H. Broekhuizen

title: Member of the Board

date: December 28th 2004

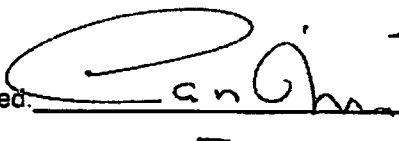
MicroVision medical Holding B.V.

Signed: 

Print name: Drs. J.M. ter Riet

title: Statutory director

date: December 28th 2004

Signed: 

Print name: Prof. dr. C. Ince

title: Statutory director

date: December 28th 2004

Schedule A: List of Patent Rights

Patent Rights owned by AMC

- Reflectance Filtering imaging, optional combined with photospectrometry imaging apparatus

[and all patent applications] having patent application number;

OPS II (C. Ince)	Stradling, Yocca, Carlson & Rauth	00010 US PRIO	Prio: 03-SEP-2003 Prio Nr: 60/508,347
OPS II 2de (C. Ince)	Stradling, Yocca, Carlson & Rauth 14560-0003	00010-01 US PRIO	Prio: 29-MAR-2004 Prio Nr: US 60/557,792
OPS II (C. Ince)	Stradling, Yocca, Carlson & Rauth 14560-0001	00010 WO	Prio: 03-SEP-2003 Prio Nr: 60/508,347 Prio: 29-MAR-2004 Prio Nr: US 60/557,792 Filing: 03-SEP-2004

Schedule B: Due diligence Schedule for a Licensed Product

	Milestone	Deadline
1		months after the Effective Date
2		Withir years after the Effective Date
3		Withir years after the Effective Date

EXHIBIT C: Running Royalties Report

Period:

	/	
--	---	--

 through

	/	
--	---	--

Licensee: _____ Agreement #: _____

If license covers several product lines, please prepare a separate report for each product line. Then combine all product lines into a summary report.

Report Type: ☐ Single Product Line Report: _____
(Product Name)

☐ Multi-Product Summary Report (Page 1 of ____ pages)

Country	Quantity Produced	Gross Sales (€)	*Less Allowances	Net Sales (€)	Royalty Rate	Conversion Rate (if applicable)	Royalties Due this period (€)
USA							
Canada							
Japan							
Europe:							
Other							

Subtotal: _____
Less Advanced Royalty Balance (if any): _____
TOTAL ROYALTIES DUE THIS PERIOD: _____

* Please indicate in the following space the specific types of deductions and the corresponding amounts used to calculate Allowances: _____

Prepared by -- Name: _____
Title: _____
Date: _____