

PATENT ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	LICENSE
CONVEYING PARTY DATA	
Name	Execution Date
ENDOGUARD LIMITED	01/28/2011
RECEIVING PARTY DATA	
Name:	CIPHER SURGICAL LIMITED
Street Address:	52 Hawthorne Avenue
City:	Cambuslang, Glasgow
State/Country:	UNITED KINGDOM
Postal Code:	G72 7AE
PROPERTY NUMBERS Total: 1	
Property Type	Number
Application Number:	13382685
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<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	
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ATTORNEY DOCKET NUMBER:	KIL001 P453
NAME OF SUBMITTER:	Jeffrey S. Kapteyn
Signature:	/Jeffrey S. Kapteyn/
Date:	09/05/2013
Total Attachments: 26	

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ASSIGNABLE IRREVOCABLE LICENCE

THIS AGREEMENT is dated 18 January 2011

PARTIES

- (1) ENDO GUARD LIMITED incorporated and registered in England with company number 06438937 whose registered office is at 80 Guildhall Street, Bury St. Edmunds, Suffolk IP33 1QB ("the Licensor"); and
- (2) CIPHER SURGICAL LIMITED incorporated and registered in Scotland with company number 378738 whose registered office is at 52 Hawthorne Avenue, Cambuslang, Glasgow G72 7AE ("the Licensee").

1 BACKGROUND

- 1.1 The Licensor originally commenced the development of the Laparojet System using certain intellectual property in respect of which patents have been applied for and know-how has been developed.
- 1.2 The Licensor wishes to transfer to the Licensee rights in the Licensed IP for the Laparojet System in order to give the Licensee the exclusive right to exploit the Licensed IP while putting in place a mechanism to protect fully the right of the Licensor to continue to receive its due royalty under all possible future circumstances.
- 1.3 The Licensee has agreed to take a licence to develop and commercialise the Laparojet System on the terms set out in this agreement.

2 DEFINITIONS & INTERPRETATION

- 2.1 The definitions and rules of interpretation that apply in this agreement are set out in Schedule One.

3 THE LICENCE

- 3.1 Subject to the provisions of clause 8 the Licensor hereby grants with immediate effect to the Licensee an assignable perpetual irrevocable sub-licensable exclusive licence to exploit the Licensed IP for any purposes whatsoever including (without limitation) by researching, developing, manufacturing, using, and selling or otherwise supplying, any products incorporating the Laparojet System anywhere in the world.

3.2 Subject to the provisions of clause 8 the Licensor undertakes not to exploit the Licensed IP.

4 ROYALTY

4.1 The Licensee shall pay to the Licensor a royalty on the terms set out in Schedule Three in respect of Laparojet Units Manufactured up to the 31st December 2035 (unless such obligation be found unlawful, in which case the royalty shall be payable up to the expiry of the last of the Patents).

5 DURATION

5.1 This agreement is not terminable by either party without the other party's express written consent.

6 ASSIGNMENT AND OTHER DEALINGS

6.1 The Licensee may at any time and without the consent of the Licensor assign, transfer, mortgage, charge, declare a trust of or deal in any other manner with any of its rights or obligations under this agreement provided always that:

6.1.1 it serves notice in writing on the Licensor advising the Licensor of the intended occurrence at any time before or within 30 days after the occurrence of any such event;

6.1.2 the Licensee guarantees the performance of the Licensee's obligations by any assignee (and any further assignees); and

6.1.3 each assignee agrees in writing to be bound by and comply with the terms of this agreement as if the assignee was the Licensee and such agreement is enforceable by the Licensor and its assignees.

6.2 The Licensor may at any time and without the consent of the Licensee assign, transfer, mortgage, charge or deal in any other manner with any or all of its rights or obligations under this agreement provided always that it serves notice in writing on the Licensee advising the Licensee of the intended occurrence at any time before or within 30 days after the occurrence of any such event.

7 SUB-LICENSING & SUB-CONTRACTING

7.1 The Licensee has the right to:

7.1.1 grant sub-licences in respect of the rights licenced to the Licensee under this agreement; and/or

7.1.2 subcontract the performance of any of the Licensee's rights arising under this agreement

provided that in each case the Licensee shall be liable for all acts and omissions of any sub-licensee or sub-contractor and shall indemnify the Licensor against all costs, expenses, claims, loss or damage incurred or suffered by the Licensor, or for which the Licensor may become liable (whether direct, indirect or consequential and including without limitation any economic loss or other loss of profits, business or goodwill) arising out of any act or omission of any sub-licensee or sub-contractor.

8 LOSS OF EXCLUSIVITY AND LICENCE BACK

8.1 In the event that any of the Trigger Events occur the Licensor shall be entitled to use for any purpose in perpetuity the Licensed IP and any Improvements created by or on behalf of the Licensee provided that the Licensor or any of its assignees has served on the Licensee the written notices specified in Schedule Five that entitle it to rely on the provisions of this clause 8.1.

8.2 The Licensor shall be entitled to sub-licence others to use such rights granted to it under clause 8.1.

9 IMPROVEMENTS

9.1 Subject to the provisions of clause 8 any Improvements made by or on behalf of the Licensee shall be the absolute property of the Licensee and the Licensor shall have no right to use such Improvements by reason of the provisions of this agreement.

10 ADDITIONAL LICENSEE OBLIGATIONS

10.1 The Licensee shall comply with the provisions of Schedule Seven.

11 PROTECTION OF THE LICENSED IP

11.1 The Licensee shall at its own cost on the Licensor's behalf diligently prosecute to grant the Patents and all patent applications claiming priority from them so as to secure the broadest monopoly reasonably obtainable consistent with avoiding material prejudice to the validity of such patents and maintain the patents in full force for the full terms thereof in the countries comprising the European Union, the United States of America, Japan, Canada and Australia and such other countries as the Licensee considers appropriate.

11.2 The Licensee shall protect the Licensed IP in accordance with the provisions set out in Schedule Four

12 CONFIDENTIALITY

12.1 The Licensor shall keep secret and confidential:

12.1.1 any information provided to it by the Licensee that is marked confidential; and

12.1.2 until such time it is licensed back pursuant to clause 8 the Licensed Know-How

and shall not use such information for any purpose except for the purpose of exercising or performing its rights and obligations under this agreement, and shall not disclose such information to any person other than any of its officers or employees or representatives or advisers directly or indirectly concerned in or with the exercising of the rights granted under this agreement, provided always that the Licensor shall not be required to keep confidential the terms of this agreement.

12.2 The provisions of clause 12.1 shall not apply to such information that:

12.2.1 is supplied by the Licensee to the Licensor and was known or available on a non-confidential basis to the Licensor before it was disclosed to it by the Licensee;

12.2.2 is or becomes generally available to the public (otherwise than through a breach of this clause 12);

12.2.3 the parties agree in writing is not confidential or may be disclosed;

12.2.4 the Licensor is required to disclose by law, court order or any governmental or regulatory authority provided that, to the extent it is legally permitted to do so, it gives the Licensee as much notice of such disclosure as possible and takes into account the reasonable requests of the Licensee in relation to the content and manner of such disclosure; or

12.2.5 the Licensed Know-How in the event that the Licensor or any of its assignees is entitled to use the same pursuant to clause 8.

13 RECORDAL OF LICENCE

13.1 The Licensee shall, at its own cost, promptly record the licence granted to it pursuant to this agreement (including but not limited to reference to the obligation to pay the royalty, the right to a licence back of the Licensed IP and the right to the licence back of all and any Improvements that are the subject of a patent or patent application by the Licensee or any of its assignees and/or sub-licensees) in the Patents in the territories designated in Clause 11.1.

13.2 The Licensor shall provide reasonable assistance, at the Licensee's cost, to enable the Licensee to comply with clause 13.1.

13.3 In the event that the Licensee fails to comply with the provisions of clause 13.1 the Licensor shall be entitled to record the grant of the licence (including but not limited to reference to the obligation to pay the royalty, the right to a licence back of the Licensed IP and the right to the licence back of all and any Improvements that are the subject of a patent or patent application by the Licensee or any of its assignees and/or sub-licensees) at the Licensee's cost and the Licensee shall:

13.3.1 pay on demand to the Licensor such costs that are incurred by the Licensor in giving effect to this clause 13.3; and

13.3.2 provide reasonable assistance to enable the licensor to rely on this clause 13.3.

14 DISCLAIMER

14.1 Nothing in this agreement shall constitute any representation or warranty that:

14.1.1 the Licensed Know-how or any other know-how supplied to the Licensee is accurate, up to date, complete, or relevant for use for the purposes referred to in clause 3.1;

14.1.2 any Patent is valid or relevant to the Laparojet System;

14.1.3 any Patent, if a patent application, shall proceed to grant or if granted shall be valid; or

14.1.4 the exercise by the Licensee of the rights granted under this agreement will not infringe the rights of any person.

15 LIABILITY, INDEMNITY AND INSURANCE

15.1 To the fullest extent permitted by law, the Licensor shall not be liable to the Licensee or any of its assignees or sub-contractors or sub-licensees for any costs, expenses, loss or damage (whether direct, indirect or consequential and whether loss of profit, loss of reputation, economic loss or other cost, expense, loss or damage) arising from the Licensee's or its assignees or sub-contractors or sub-licensees exercise of the rights granted to the Licensee under this agreement.

15.2 The Licensee shall indemnify the Licensor against all liabilities, costs, expenses, damages or losses (including any direct or indirect consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Licensor arising out of or in connection with the Licensee's or its assignees' or sub-contractors' or sub-licensees' exercise of the rights granted by the Licensor under this agreement or any breach by the Licensee or its assignees or sub-contractors or sub-licensees or any other person for whom the Licensee is responsible of the terms of this agreement.

15.3 Subject to clause 15.5 below, the indemnity referred to in this clause 15 shall apply whether or not the Licensor or its representatives have been negligent or at fault.

15.4 If a payment due from the Licensee under this clause is subject to tax (whether by way of direct assessment or withholding at its source), the Licensor shall be entitled to receive from the Licensee such amounts as shall ensure that the net receipt, after tax,

to the Licensor in respect of the payment is the same as it would have been were the payment not subject to tax.

- 15.5 Nothing in this agreement shall have the effect of excluding or limiting any liability for death or personal injury caused by negligence or for fraud.

16 GENERAL OPERATIVE PROVISIONS

- 16.1 The Licensor and the Licensee agree to be bound by the provisions of Schedule Eight

This agreement has been entered into on the date stated at the beginning of it.

EXECUTED and DELIVERED as
a DEED by ENDOGUARD
LIMITED acting by:

_____)
a duly authorised a director)
in the presence of:)

Witness signature: *[Signature]*

Witness name: *CHARLOTTE GREEN*

Witness address: *53 CHANDLER PLACE*

Witness occupation: *LONDON WEST CITY*

NAVIGATOR

EXECUTED and DELIVERED as
a DEED by CIPHER SURGICAL
LIMITED acting by:

_____)
a duly authorised a director)
in the presence of:)

Witness signature: *[Signature]*

Witness name: *ANDINETTE BYRNE*

Witness address: *53 CHANDLER PLACE*

Witness occupation: *LONDON WEST CITY*

RECEPTIONIST

SCHEDULE ONE

DEFINITIONS & INTERPRETATION

Bad Debt Trigger Event: a Trigger Event that falls within clause 1.1 of Part II of Schedule Five;

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;

Compliance Notice: a written notice referring to clause 8 of this agreement and the provisions of Schedule Five;

Dispute Notice: means a dispute notice as defined in clause 1.1 of Schedule Six;

Higher Multiple Use Sale Proportion: the royalty payable pursuant to clause 1.1.2 of Schedule Three divided by the Single Use Sale Price;

Improvement: any improvement, enhancement or modification to the Patents and/or the technology that is the subject of the Patents or the Licensed Know-how or relates to the Laparojet System;

Insolvency Trigger Event: a Trigger Event that falls within clause 1.3 of Part II of Schedule Five

Laparojet: a product derived from the Laparojet System that is designed to clear the lens of a laparoscope.

Laparojet System: a device, derived from the Patents and/or the Licensed Know-how and/or any subsequent iteration of the Licensed Know-how and/or further research and development relating to any of the Patents and/or the Licensed Know-how that is carried on by or on behalf of the Licensee or its assignees or sub-licensees or sub-contractors, which clears the lens of a laparoscope in situ without the laparoscope having to be withdrawn from the patient's body;

Laparojet Unit: a Laparojet that has been Manufactured by or at the direction of or with the permission of the Licensee or any of its assignees, sub-licensees, or sub-contractors;

Licensed IP: comprises all of the Patents and the Licensed Know-how;

Licensed Know-how: all the know-how so far developed by or for the Licensor relating to the Laparojet System including but not limited to that which is set out in the summary annexed to this agreement as Schedule Two;

Lower Multiple Use Sale Proportion: the royalty payable pursuant to clause 1.1.1 of Schedule Three divided by the Single Use Sale Price;

Manufactured: assembled and sterilised ready for use by an end user;

Material Breach Trigger Event: a Trigger Event that falls within clause 1.2 of Part II of Schedule Five;

Multiple Use Sale Price: the sale price of each multiple use Laparojet Unit charged by the Licensee or its assignees, sub-licensees or sub-contractors as the case may be;

Notice of Intention to Licence Back: a written notice referring to clause 8 of this agreement and the provisions of Schedule Five and the fact that the Licensor and/or its assignees are to be licensed to use the Licensed IP and any Improvements after 30 days have elapsed;

Patents: the "Conduit" patent application number GB0911891.0 and the "Flow Guide" patent application number GB0917857.5 and all patents, granted from, or (whether directly or indirectly,) claiming priority from either or both of such patent applications, and all foreign equivalents to any of the aforesaid, including without limitation the patent applications listed in Schedule Nine;

Quarterly Period: the periods commencing on 1st January, 1st April, 1st July and 1st October each year;

Royalty Credits: the amount paid by way of royalties in respect of Laparojet Units pursuant to this agreement that have been put permanently beyond use prior to shipment from the Warehouse including by reason of their sell by date lapsing;

Single Use Sale Price: the unit sale price charged for the greatest number of single use Laparojet Units sold by the Licensee, its assignees, sub-licensees and sub-contractors in the twelve months immediately preceding the date on which the first multiple use Laparojet Unit is Manufactured;

Trigger Events: any of the events referred to in Part II of Schedule Five;

Warehouse: a primary place of storage where Laparojet Units which have been Manufactured are held to the order of the Licensee or its assignees or its sub-licensees pending distribution.

- 1.2 Unless the context otherwise requires, words in the singular include the plural and in the plural include the singular.
- 1.3 A reference to a statute, statutory provision or subordinated legislation is a reference to it as it is in force from time to time taking account of any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts, provided that, as between the parties, no such amendment or re-enactment shall apply for the purposes of this agreement to the extent that it would impose any new or extended obligation, liability or restriction on, or otherwise adversely affect the rights of, any party.
- 1.4 **Writing** or **written** includes faxes and e-mail provided that a fax receipt or email written acknowledgement is received.
- 1.5 Any words following the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

SCHEDULE TWO

LICENSED KNOW-HOW

[INSERT CONFIDENTIAL KNOW-HOW DOCUMENT]

SCHEDULE THREE

ROYALTY

1. The Licensee shall pay to the Licensors such sum in pounds sterling as is equal to:

1.1 in respect of Laparojet Units that can be used only once:

1.1.1 two pounds sterling (£2:00) (plus VAT or any similar tax) for each Laparojet Unit Manufactured by or at the direction of or with the permission of the Licensee and/or any of its assignees or sub-contractors or sub-licensees if paid within the time period referred to in clause 5.1 below; or

1.1.2 three pounds sterling (£3:00) (plus VAT or any similar tax) for each Laparojet Unit Manufactured by or at the direction of or with the permission of the Licensee and/or any of its assignees or sub-contractors or sub-licensees if the Licensee or the relevant assignee, sub-contractor or sub-licensee chooses to pay within the time period referred to in clause 5.2 below; and

1.2 in respect of Laparojet Units that can be used more than once:

1.2.1 such sum as is equal to the Lower Multiple Use Sale Proportion multiplied by the Multiple Use Sale Price (plus VAT or any similar tax) for each Laparojet Unit Manufactured by or at the direction of or with the permission of the Licensee and/or any of its assignees or sub-contractors or sub-licensees if paid within the time period referred to in clause 5.1 below; or

1.2.2 such sum as is equal to the Higher Multiple Use Sale Proportion multiplied by the Multiple Use Sale Price (plus VAT or any similar tax) for each Laparojet Unit Manufactured by or at the direction of or with the permission of the Licensee and/or any of its assignees or sub-contractors or sub-licensees if the Licensee or the relevant assignee, sub-contractor or sub-licensee chooses to pay within the time period referred to in clause 5.2 below

unless specifically agreed otherwise in writing by the Licensors or any of its assignees.

2. Royalties shall be payable under this agreement even if some part of the manufacture, supply or putting into use of the Laparojet Unit takes place in a part of the world where there is no Patent or where the Laparojet does not fall within the scope of any Patent.
3. Royalties and other sums payable under this agreement are exclusive of VAT (or similar tax) and shall be paid free and clear of all deductions and withholdings whatsoever, unless the deduction or withholding is required by law. If any deduction or withholding is required by law the Licensee shall pay to the Licensor such sum as will, after the deduction or withholding has been made, leave the Licensor with the same amount as it would have been entitled to receive in the absence of any such requirement to make a deduction or withholding. If the Licensee is required by law to make a deduction or withholding, the Licensee shall, within five Business Days of making the deduction or withholding, provide a statement in writing showing the gross amount of the payment, the amount of the sum deducted and the actual amount paid.
4. Royalties and any other sums payable under this agreement shall be paid in sterling to the credit of a bank account to be designated in writing by the Licensor from time to time.
5. Royalties payable:
 - 5.1 under clause 1.1.1 or clause 1.2.1 of this Schedule shall be paid within 30 days of the end of the Quarterly Period in which the relevant Laparojet Units were Manufactured; and
 - 5.2 under clause 1.1.2 or clause 1.2.2. of this Schedule shall be paid after the expiry of 30 days of the end of the Quarterly Period and within 120 days of the end of the Quarterly Period in which the relevant Laparojet Units were Manufactured.
6. The Licensee and its assignees, sub-licensees and sub-contractors shall be entitled to reduce the sum payable for any Quarterly Period by:
 - 6.1 such sum as is equal to Royalty Credits that have accrued in that Quarterly Period;
 - 6.2 such sum as is equal to any Royalty Credits that have accrued in preceding Quarterly Periods that have not been set off against royalties payable in respect of those preceding Quarterly Periods; and
 - 6.3 any other sums that the Licensor or its assignees may agree in writing.
7. In the event of any delay in paying any sum due under this agreement by the due date, the Licensee shall pay to the Licensor interest (calculated on a daily basis) on the overdue payment from the date when such payment was due to the date of

actual payment at a rate of 5% over the base lending rate of the Bank of England from time to time;

8. At the same time as payment of royalties falls due, the Licensee shall submit or cause to be submitted to the Licensor a statement in writing recording the calculation of such royalties payable and in particular:

- 8.1 the Quarterly Period for which the royalties were calculated;
- 8.2 the number of single use Laparojet Units Manufactured during the Quarterly Period;
- 8.3 the number of multiple use Laparojet Units Manufactured during the Quarterly Period;
- 8.4 the amount of royalties due and payable;
- 8.5 the Multiple Use Sale Price for each multiple use Laparojet Unit Manufactured in the Quarterly Period;
- 8.6 the amount of any Royalty Credits to be applied to the Quarterly Period;
- 8.7 the amount of any withholding or other income taxes deductible or due to be deducted from the amount of royalties due and payable;
- 8.8 if the statement is the first statement that relates to the Manufacture of multiple use Laparojet Units details of the Single Use Sale Price; and
- 8.9 any other particulars the Licensor may reasonably require.

9. The Licensee shall and shall procure that it and its assignees, sub-licensees and sub-contractors keep proper records and books of account showing:

- 9.1 the number of single use Laparojet Units Manufactured and by whom;
- 9.2 the number of multiple use Laparojet Units Manufactured and by whom;
- 9.3 the Single Use Sale Price; and
- 9.4 the Multiple Use Sale Prices.

The Licensee shall procure that such records and books shall be kept separate from any records and books not relating solely to the Laparojet and be open during normal business hours to inspection and audit by the Licensor (or its authorised representatives), who shall be entitled to take copies of or extracts from them. If such inspection or audit should reveal a discrepancy in the royalties paid from those payable under this agreement, the Licensee shall immediately make up the shortfall calculated by reference to the price payable under clause 1.1.2 of this

Schedule Three for single use Laparojet Units or clause 1.2.2 of this Schedule Three for multiple use Laparojet Units (as the case may be) plus interest calculated pursuant to clause 7 of this Schedule Three from the original due date and reimburse the Licenser in respect of any professional charges incurred for such audit or inspection.

10. Within six months of the end of each financial year of the Licensee, the Licensee shall submit to the Licenser a written statement certified by the Licensee's auditors of the number of Laparojet Units Manufactured by or at the direction of or with the permission of the Licensee and/or any of its assignees or sub-contractors or sub-licensees in that year and the amount due to be paid for that year under clause 1 of this Schedule Three. If such statement shows that the aggregate amount due from the Licensee for the financial year is greater than the amount paid, the Licensee shall pay to the Licenser within seven days of the submission of the statement an amount equivalent to the difference between the amount paid for that year and the amount due calculated by reference to the price payable under clause 1.1.2 of this Schedule Three for single use Laparojet Units or clause 1.2.2 of this Schedule Three for multiple use Laparojet Units (as the case may be) plus interest calculated pursuant to clause 6 from the original due date on the unpaid amount.
11. The Licensee shall and shall procure that it and any of its assignees, sub-licensees and sub-contractors allow the Licenser and/or its duly authorised representatives access to the sites involved in the manufacturing process and/or the storage of Laparojets at all reasonable times requested by the Licenser or its assignees for the purposes of verifying the payment of royalties pursuant to this agreement.

SCHEDULE FOUR

PROTECTION OF THE PATENTS AND LICENSED KNOW-HOW

1 In the event that any of the following events arise

- 1.1 any actual, suspected or threatened infringement of any patents granted in relation to either of the Patents;
- 1.2 any actual, suspected or threatened unauthorised disclosure, misappropriation or misuse of the Licensed Know-how;
- 1.3 any actual or threatened claim that any patents granted in relation to either of Patents is invalid;
- 1.4 any actual or threatened opposition to any of the patents applied for in relation to either or both of the Patents;
- 1.5 any claim made or threatened that exploitation of any of the patents applied for in relation to either or both of the Patents or the Licensed Know-how infringes the rights of any third party;
- 1.6 any person applies for, or is granted, a patent by reason of which that person may be, or has been, granted, rights which conflict with any of the rights granted to the Licensee under this agreement;
- 1.7 any application is made for a compulsory licence under any patent granted in relation to either or both of the Patents; or
- 1.8 any other form of attack, charge or claim to which the Patents or Licensed Know-how may be subject.

the Licensee shall:

- (i) in its absolute discretion, decide what action, if any, to take;
- (ii) have exclusive control over, and conduct of, all claims and proceedings; and

the Licensor shall not make any admissions other than to the Licensee and shall provide the Licensee (at the Licensee's cost) with all assistance that it may reasonably require in the conduct of any claims or proceedings; and

2 The Licensee shall bear the cost of any proceedings and shall be entitled to retain all sums recovered in any action for its own account subject to clause 3 of Schedule Four.

3 To the extent that any sums recovered in any action represent an assessment of or compensation for lost sales then the Licensee shall pay to the Licensor such royalties which would have been payable under clause 1 of Schedule Three if the lost sales had been made by the Licensee.

If any third party infringement of any of the Patents interferes materially in the Licensee's business in relation to the Laparojet System, subject to receiving advice from experienced patent counsel that infringement proceedings stand a reasonable chance of success, the Licensee may require the Licensor to lend its name to such proceedings if the Licensee chooses to commence them and provide reasonable assistance, subject to the Licensee giving the Licensor an indemnity in respect of all costs, damages and expenses that it may incur, including an award of costs against it resulting from the Licensor's involvement in such proceedings.

SCHEDULE FIVE

LOSS OF EXCLUSIVITY AND LICENCE BACK

PART I

NOTIFICATION PROCESS

- 1 In the event that the Licensor or any of its assignees wish to rely on the provisions of clause 8 of this agreement:
 - 1.1 by reason of a Bad Debt Trigger Event the Licensor or any of its assignees shall serve on the Licensee a Compliance Notice advising that if the outstanding debt is not within thirty days of the date of delivery of the Compliance Notice to the Licensee paid in full the Licensor or any of its assignees shall be entitled to serve a Notice of Intention to Licence Back at any time;
 - 1.2 by reason of a Material Breach Trigger Event the Licensor or any of its assignees shall serve on the Licensee a Compliance Notice advising that if within thirty days of the date of delivery of the Compliance Notice to the Licensee the Licensee or its assignees or sub-licensees fail to remedy the remediable material breach(es) specified in the Compliance Notice the Licensor or any of its assignees shall be entitled to serve a Notice of Intention to Licence Back at any time;
 - 1.3 by reason of an Insolvency Trigger Event the Licensor or any of its assignees shall serve on the Licensee a Compliance Notice advising that if:
 - 1.3.1 within one hundred and twenty days of the date of delivery of the Compliance Notice to the Licensee the Licensee or its assignees:
 - 1.3.1.1 do not appoint a liquidator, administrator, receiver; and
 - 1.3.1.2 fail to remedy the non-payment of royalties due under this agreement or enter into a written agreement to regulate the non-payment of royalties due under this agreement on terms that are acceptable to the Licensor or any of its assignees; or
 - 1.3.2 within one hundred and twenty days of the date of delivery of the Compliance Notice to the Licensee the Licensee or its assignees appoint a liquidator, administrator or receiver and within one hundred and eighty two days of the date of delivery of the Compliance Notice to the Licensee the Licensee or its assignees fail to remedy the non-

payment of royalties due under this agreement or enter into a written agreement to regulate the non-payment of royalties due under this agreement on terms that are acceptable to the Licensor or any of its assignees

the Licensor or any of its assignees shall be entitled to serve a Notice of Intention to Licence Back at any time.

- 2 Following the service of a Compliance Notice pursuant to clause 1.1 of Part I of this Schedule Five the Licensee or any of its assignees or sub-licensees may within 14 days of the service of the Compliance Notice on the Licensee serve a written notice on the Licensor identifying that the reason for non-payment of the relevant sums referred to in the Compliance Notice is because one or more of the events listed in clause 1.3.3 of Part II of this Schedule Five have occurred in which circumstances the Licensor or its assignee shall be deemed to have served a Compliance Notice by reason of an Insolvency Trigger Event and the provisions of clause 1.3 of Part I of this Schedule Five shall apply with effect from the date of service of the original Bad Debt Trigger Event Compliance Notice.
- 3 Following the service of a Notice of Intention to Licence Back on the Licensee the provisions of clause 8 of this agreement shall automatically apply on such date as is 30 days following the date of delivery of the Notice of Intention to Licence Back to the Licensee and the Licensor and its assignees shall thereafter be entitled to use the Licensed IP and any Improvements in accordance with the provisions of clause 8 of this agreement unless agreed otherwise in writing by the Licensor and all of its assignees.
- 4 At any time prior to the expiry of the 30 day period referred to in clause 3 of Part I of this Schedule Five the person who served the Notice of Intention to Licence Back on the Licensee shall be entitled to withdraw that Notice of Intention to Licence Back by written notice served on the Licensee.
- 5 At any time in the six months immediately following the service of a Compliance Notice by the Licensor or any of its assignees the Licensee or any of its assignees, sub-contractors or sub-licensees may challenge the issue of the Compliance Notice and/or a Notice of Intention to Licence Back by serving a Dispute Notice pursuant to the provisions of Schedule Six and seek the revocation of the Compliance Notice and/or the Notice of Intention to Licence Back and/or the licence back. If a Dispute Notice:
 - 5.1 is not served within the relevant six month period pursuant to this clause 4 of Schedule Five; or
 - 5.2 is served within the relevant sixth month period pursuant to this clause 4 of Part I of this Schedule Five and the Dispute has not been settled by

agreement or in the courts prior to first anniversary of the service of the Compliance Notice by the Licensor or any of its assignees

(except in cases of fraud or any other type of case in respect of which this limitation may not lawfully be imposed) the Licensee and all of its assignees, sub-contractors and sub-licensees shall be deemed to have irrevocably accepted and agreed the terms of the relevant Compliance Notice and/or Notice of Intention to Licence Back and the consequential licence back.

- 6 Following the expiry of the 30 day period referred to in clause 3 of Part I of this Schedule Five the Licensee shall make available to the Licensor and/or its assignees immediately on receipt of a written request to provide such information details of all Improvements in the event that the Licensor or any of its assignees has exercised their right to a license back of any of the Licensed IP and/or any Improvements pursuant to clause 8 of the agreement.

PART II

TRIGGER EVENTS

- 1 Each of the following shall be treated as "Trigger Events" for the purposes of this agreement:
 - 1.1 Any amount due to the Licensor under this agreement is not paid on or before the last available date for payment under this agreement;
 - 1.2 the Licensee or its assignees or its sub-licensees commit a material breach of any material term of this agreement (other than failure to pay any amounts due under this agreement);
 - 1.3 the Licensee or any of its assignees or sub-licensees:
 - 1.3.1 suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
 - 1.3.2 commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
 - 1.3.3 is the subject of any of the following events:
 - 1.3.3.1 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding-up of the Licensee or any of its assignees or sub-licensees;
 - 1.3.3.2 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given, or if an administrator is

appointed over the Licensee or any of its assignees or sub-licensees;

- 1.3.3.3 a floating charge holder over the assets of the Licensee or any of its assignees or sub-licensees has become entitled to appoint or has appointed an administrative receiver;
- 1.3.3.4 a person becomes entitled to appoint a receiver over the assets of the Licensee or any of its assignees or sub-licensees or a receiver is appointed over the assets of the Licensee or any of its assignees or sub-licensees;
- 1.3.3.5 a creditor or encumbrance of the Licensee or any of its assignees or sub-licensees attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- 1.3.3.6 any event occurs, or proceeding is taken, with respect to the Licensee or any of its assignees or sub-licensees in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 1.3.1, 1.3.2 and/or 1.3.3.1 to 1.3.3.5 (inclusive) of this Schedule Five;

SCHEDULE SIX

DISPUTE RESOLUTION PROCEDURE

1. If a dispute arises out of or in connection with this agreement or the performance, validity or enforceability of it ("a **Dispute**") then, except as expressly provided in this agreement, the parties shall follow the dispute resolution procedure set out in this clause:
 - 1.1 either party shall give to the other written notice of the Dispute, setting out its nature and full particulars ("a **Dispute Notice**"), together with relevant supporting documentation. On service of the Dispute Notice the Licensor and the Licensee and/or their assignees shall attempt in good faith to resolve the Dispute;
 - 1.2 if the Licensor and the Licensee and/or their assignees are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, any party may take such further steps as it considers appropriate to resolve the Dispute, including but not limited to the initiation of court proceedings

SCHEDULE SEVEN

LICENSEE'S OBLIGATIONS

- 1 The Licensee shall:
 - 1.1 obtain at its own expense all licences, permits and consents necessary for the use of the Patents and Licensed Know-how for the purposes referred to in clause 3.1;
 - 1.2 perform its obligations in connection with the provision of this agreement with all due skill, care and diligence including good industry practice; and
 - 1.3 comply with all regulations and practices in force or use to safeguard the Licensor's rights in the Patents and the Licensed Know-How.
- 2 The Licensee shall not, nor directly or indirectly assist any other person to:
 - 2.1 do or omit to do anything to diminish the rights of the Licensor in the Patents or the Licensed Know-How or impair any registration of the Patents; and
 - 2.2 use any child labour and where third parties are used by the Licensee, the Licensee shall procure from those third parties written confirmation that they shall not use any child labour.
- 3 The Licensee acknowledges and agrees that the exercise of the rights granted to the Licensee under this agreement is subject to all applicable laws, enactments, regulations and other similar instruments in the world, and the Licensee understands and agrees that it shall at all times be solely liable and responsible for such due observance and performance.

SCHEDULE EIGHT

GENERAL OPERATIVE PROVISIONS

1 FURTHER ASSURANCE

Save as expressly provided otherwise in this agreement, at its own expense each party shall, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute such documents and perform such acts as may be required for the purpose of giving full effect to this agreement.

2 WAIVER

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

3 ENTIRE AGREEMENT

3.1 This agreement and the documents referred to in it constitute the whole agreement between the parties and supersede any previous agreement between the parties relating to its subject matter.

3.2 Each of the parties acknowledges that, in entering into this agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether negligently or innocently made) other than as expressly set out in this agreement.

3.3 Nothing in this clause shall limit or exclude any liability for fraud.

4 VARIATION

No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

5 SEVERANCE

5.1 If any court or competent authority finds that any provision of this agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this agreement shall not be affected.

5.2 If any invalid, unenforceable or illegal provision of this agreement would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

6 NO PARTNERSHIP OR AGENCY

Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other party, nor authorise either party to make or enter into any commitments for or on behalf of the other party.

7 FORCE MAJEURE

Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control, and in such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed.

8 NOTICES

8.1 Any notice required to be given under this agreement shall be in writing and shall be delivered personally, or sent by pre-paid first-class post or recorded delivery or by commercial courier, to each party required to receive the notice at its registered address or as otherwise specified by the relevant party by notice in writing to each other party.

8.2 Any notice shall be deemed to have been duly received:

8.2.1 if delivered personally, when left at the address and for the contact referred to in this clause; or

8.2.2 if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting; or

8.2.3 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

8.3 The provisions of this clause 8 of Schedule Eight shall apply to the service of any proceedings or other documents in any legal action.

9 INADEQUACY OF DAMAGES

Without prejudice to any other rights or remedies that the Licensor may have, the Licensee acknowledges and agrees that damages alone would not be an adequate remedy for any breach of the terms of this agreement by the Licensee. Accordingly, the Licensor shall be entitled, without proof of special damages, to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of the terms of this agreement.

10 GOVERNING LAW AND JURISDICTION

- 10.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 10.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

11 DISPUTES

Any dispute shall be dealt with in accordance with the procedures set out in Schedule Six and only in the event that such dispute resolution procedures do not resolve an issue or an injunction is required shall a matter concerning this agreement be the subject of court proceedings.

SCHEDULE NINE
PATENT SUMMARY

Patent family	Application number	Date	Territory
"Flowguide"	GB0917857.5	12/10/2010	UK
		12/10/2010	
		11/02/2010	
		08/11/2010	
	2717124	07/10/2010	Canada
	12/902570	12/10/2010	US
	2010227117	08/10/2010	Australia
	2010-229636	12/10/2010	Japan
	10187123.4	11/10/2010	Europe
"Conduit"	GB091891.0	08/07/2009	UK
	PCT/GB2010/001302	07/07/2010	PCT
		02/09/2010	
		16/07/2010	
		05/07/2010	