

SAMPLE JOINT DEVELOPMENT AGREEMENT

Agreement Between Norman Einstein Technical Institute and Acme Conglomerate for the Joint Development of Therapeutic products useful to treat migraines

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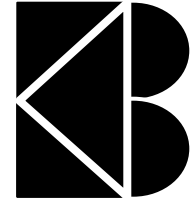
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**AGREEMENT BETWEEN NORMAN EINSTEIN TECHNICAL
INSTITUTE AND ACME CONGLOMERATE FOR THE JOINT
DEVELOPMENT OF MEDICAL DEVICES INCORPORATING
PEANUT BUTTER COMPOSITES**

This Agreement (“Agreement”) is by and between NORMAN EINSTEIN TECHNICAL INSTITUTE a Minnesota university, having a place of business at ____ (hereinafter “NORMAN”) and ACME CONGLOMERATE, Inc., a Delaware corporation, having a place of business at ____ (hereinafter “ACME”).

RECITALS

NORMAN has developed and/or acquired technology relating to peanut butter composites that serve as carrier matrices for therapeutically active compounds. ACME has developed, licensed and/or acquired technology relating to the use of a therapeutically active compound known as “Megamogaphen” to treat migraines, wherein peanut butter is used as a carrier for the Megamogaphen . NORMAN and ACME have participated in discussions and contemplate on-going collaborative efforts to assess, develop, manufacture, and/or market drugs and devices integrating NORMAN peanut butter composite technology and ACME Megamogaphen technology. As such, the Parties wish to memorialize their intentions regarding rights and obligations with respect to the collaborative efforts and with respect to inventions developed pursuant to such collaborative efforts.

The Parties to this Agreement agree as follows:

**ARTICLE 1
DEFINITIONS**

- 1.1. “Affiliate” means, with respect to a Party, any corporation, firm, partnership, individual or other form of business organization which controls or is controlled by such Party, but only so long as such control exists. An entity or individual shall be regarded as in control of another corporation or other entity if it owns or directly or indirectly controls at least fifty percent (50%) of the voting stock of the other corporation, or in the absence of ownership of at least fifty percent (50%) of the voting stock of a corporation, if it possesses, directly or indirectly, the power to direct or cause the direction of the management of the corporation.
- 1.2. “Background Rights” means all intellectual property rights owned or controlled by a Party except for Joint Intellectual Property.
- 1.3. “Confidential Information” means any business or technical information that is disclosed hereunder by one Party or any of its Affiliates (the disclosing Party) to the other Party or any of its Affiliates (the receiving Party). Confidential Information shall include any and all technical and business information, whether written, oral or graphic, that representatives of either Party may disclose or reveal to the other Party, including but not limited to financial plans and records, marketing plans, business strategies and relationships with third parties, client lists, present and proposed products, trade secrets, information regarding customers and suppliers, founders,

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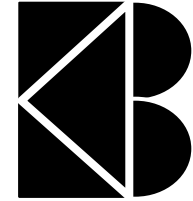
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employees and affiliates, that the receiving Party has a reasonable basis to believe is confidential to the disclosing Party and is treated by the disclosing Party as confidential, and that relates to Drugs, Peanut Butter Composites, Drug-in-Peanut Butter Composites, and/or Drug Delivery Devices. Confidential Information shall also include the terms of this Agreement. Samples provided by one Party to the other are understood to be Confidential Information of the providing Party. Such Confidential Information shall not include information that:

- a) was known to the receiving Party prior to receipt from the disclosing Party, as documented in written records or publications that lawfully are in the possession of the receiving Party or known to the receiving Party prior to such receipt;
- (b) was lawfully available to the trade or to the public prior to receipt from the disclosing Party;
- (c) becomes lawfully available to the trade or to the public after receipt from the disclosing Party through no act or omission on the part of the receiving Party, its Affiliates or their directors, officers or employees;
- (d) corresponds in substance to any information received in good faith by the receiving Party from any third party and which is not subject to confidentiality limitations; or

- (e) is independently developed by an employee or agent of the receiving Party, without reference to information received from the disclosing Party subsequent to receipt of such information from the disclosing Party.

For all purposes of this Agreement, Confidential Information that is specific shall not be deemed to be within any of the specified exceptions merely because it is embraced by more general information in such exception. In addition, any combination of features shall not be deemed to be within any of the specified exceptions merely because individual features are in such exception, but only if the combination itself and its principle of operation are in such exception.

- 1.4. "Drug Delivery Device" means an implantable medical device that includes a Drug-in-Peanut Butter Composite, whether as a coating, component, or otherwise, and intended to be used to treat a migraine or other headache condition.
- 1.5. "Peanut Butter Composite" means a mushy, spreadable composition comprising peanut butter and at least one or more other polymeric matrix ingredients that in combination are intended to serve as a matrix for one or more Drugs.
- 1.6. "Drug(s)" means Megamogaphen, a derivative thereof, a pro-drug from thereof, or a combination of Megamogaphen and one or more other therapeutically active compounds.

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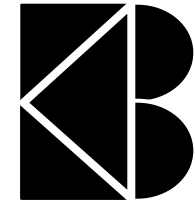
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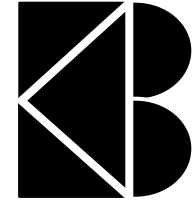
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- 1.7. “Drug-in-Peanut Butter Composite” means a composition comprising a Drug dispersed or otherwise stored in a matrix comprising a Peanut Butter Composite.
- 1.8. “Effective Date” means ____.
- 1.9. “Generated Intellectual Property” means all intellectual property rights associated with an invention or discovery related to any Drug, Peanut Butter Composite, Drug-in-Peanut Butter Composite, and/or Drug Delivery Device conceived by a Party, either solely or jointly, during the term of this Agreement and directly resulting from work conducted in accordance with or pursuant to the Joint Development Program. Intellectual property rights include, by way of example, patents, patent applications, know-how, trade secrets, and other confidential information, and copyrights.
- 1.10. “Joint Development Program” means the program conducted by NORMAN and ACME hereunder to assess and/or develop Drug-in-Peanut Butter Composite(s) and Drug Delivery Device(s) in the Migraine Field and/or the Norman Field.
- 1.11. “Joint Intellectual Property” means all Generated Intellectual Property that is jointly conceived during the term of this Agreement by one or more employees, agents, partners or non-Party independent contractors of NORMAN and one or more employees, agents, partners or non-Party independent contractors of ACME. Joint Intellectual Property, however, shall not include any intellectual property for subject matter developed independently by any Party (whether before or after the Effective Date of this Agreement) and merely tested by the other pursuant to the Joint Development Program.
- 1.12. “Migraine Field” means the development and commercialization of drugs and medical devices and/or medical compositions comprising Megamogaphen for the treatment of migraines and other headache conditions.
- 1.13. “NORMAN Peanut Butter Composite” means a Peanut Butter Composite whose making, using, selling, offering for sale, or importing is covered by one or more claims of any one or more patents or patent applications owned or controlled by NORMAN.
- 1.14. “NORMAN Field” means all fields outside the Migraine Field.
- 1.15. “Party” means NORMAN or ACME, as the case may be. When used in the plural form, the term means both NORMAN and ACME.
- 1.16. “Sole ACME Intellectual Property” means all intellectual property, including Generated Intellectual Property that is solely conceived during the term of this Agreement by employees, agents, partners or non-Party independent contractors of ACME. Sole ACME Intellectual Property shall constitute one type of Background Rights of ACME.
- 1.17. “Sole NORMAN Intellectual Property” means all intellectual property, including Generated Intellectual Property that is solely conceived during the term of this Agreement by employees, agents, partners or non-Party



independent contractors of NORMAN. Sole NORMAN Intellectual Property shall constitute one type of Background Rights of NORMAN.

ARTICLE 2 JOINT DEVELOPMENT PROGRAM

- 2.1. From time to time hereunder, the Parties may collaborate under the Joint Development Program on one or more projects. For each such project, the Parties will prepare a written project description describing the particular project, the duties of each Party under the project, the anticipated deliverables and schedule for completion of such duties and deliverables, and the amount payable to NORMAN in connection with the project. Unless expressly agreed otherwise in writing, all research and development materials (including Drugs) provided by one Party to the other will be provided without charge. Each project description must be signed by both Parties to be effective and shall thereafter be attached to this Agreement as a part of Exhibit A.
- 2.2. Each Party shall bear all of its own fees, expenses, and/or costs of any kind hereunder unless expressly noted herein to the contrary or otherwise agreed to in writing by both Parties from time to time.
- 2.3. Each Party shall designate at least one project manager for each project as well as at least one program manager to help oversee the entire Joint Development Program.

ARTICLE 3 OWNERSHIP AND RIGHTS RELATING TO INTELLECTUAL PROPERTY

- 3.1. For the avoidance of doubt, the parties agree that the results of the efforts by either party under this Agreement shall not be considered “work for hire”, and that neither Party acquires any rights to, or licenses to use, any such results except as expressly set forth in this Agreement.
- 3.2. NORMAN shall own all NORMAN Background Rights, including Sole NORMAN Intellectual Property.
- 3.3. ACME shall own all ACME Background Rights, including Sole ACME Intellectual Property.
- 3.4. Subject to other express provisions of this Agreement, NORMAN and ACME shall jointly own all Joint Intellectual Property.
- 3.5. Neither Party acquires any rights, either express or implied, under any Background Rights of the other unless expressly stated in this Agreement or another written agreement signed by authorized representatives of each of the Parties.
- 3.6. Except as provided in Paragraphs 3.7 through 3.10 below, each Party shall have the right to operate under Joint Intellectual Property and grant nonexclusive licenses to third parties as they may desire without accounting to the other Party.

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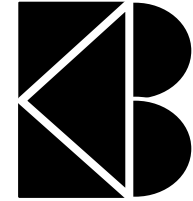
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3.7. Norman agrees to grant and does hereby grant to ACME the exclusive, worldwide, royalty-free right under Joint Intellectual Property and Sole NORMAN Intellectual Property to make, have made, make for others, use, sell, offer for sale, import, or otherwise commercially transfer products constituting Drug Delivery Devices and/or Drug-in-Peanut Butter Composites in the Migraine Field.

3.8. ACME agrees to grant and does hereby grant to NORMAN the exclusive, worldwide, royalty-free right under Joint Intellectual Property and Sole ACME Intellectual Property in the Migraine Field to make, have made, make for others, sell, offer for sale, import, or otherwise commercially transfer products constituting Peanut Butter Composites. ACME agrees to grant and does hereby grant to NORMAN the exclusive, worldwide, royalty-free right under Joint Intellectual Property in the Norman Field to make, have made, make for others, use, sell, offer for sale, import, or otherwise commercially transfer products constituting Peanut Butter Composites.

ARTICLE 4 PATENT FILING AND PROSECUTION

4.1. NORMAN shall have the sole discretion to file, prosecute, issue, and maintain patent applications and patents, throughout the world, claiming NORMAN Background Rights or Sole NORMAN Intellectual Property. ACME shall have the sole discretion to file, prosecute, issue, and maintain patent applications and patents, throughout the world, claiming ACME Background Rights or Sole ACME Intellectual Property.

4.2. NORMAN and ACME may jointly file any applications for patents on inventions that are Joint Intellectual Property. The applications shall be prepared and prosecuted by a mutually acceptable patent attorney with the expenses of preparation, prosecution and maintenance to be shared equally between the Parties. If one Party elects not to pursue a patent application on an invention which is Joint Intellectual Property, that Party shall assign its rights to the patent or patent application, as the case may be, to the other Party who wishes to pursue such patent or patent application at its sole expense, provided, however, the assigning Party shall retain its rights under Article 3 with respect to the assigned patent or patent application. NORMAN and ACME shall cooperate in prosecuting any applications for patent(s) on inventions that are Joint Intellectual Property. Such cooperation will continue even if a Party elects not to pursue an application for patent in Joint Intellectual Property and assigns its rights to the invention to the other Party who pursues such application at its sole expense.

4.3. At least thirty (30) days prior to either Party filing any patent application claiming a Drug, Peanut Butter Composite, Drug-in-Peanut Butter Composite, or Drug Delivery Device conceived hereunder and as part of the Joint Development Program, the Party desiring to file such an application shall provide the other Party with a copy of the proposed application. The Party receiving the copy of the proposed application shall then have thirty (30) days to notify the Party desiring to file as to whether it believes that any of its Confidential Information is disclosed or if the invention is its own sole intellectual

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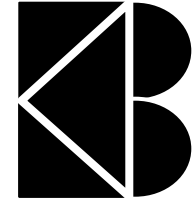
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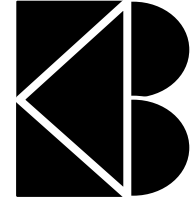
property or Joint Intellectual Property. If the application contains any of the other Party's Confidential Information, then the Party desiring to file the patent application shall either:

- (a) delete such Confidential Information from the application prior to filing, or
- (b) where disclosure of such Confidential Information in the patent application is necessary to comply with the statutory requirements of any country in which the application will be filed, not file such application without the prior written permission of the Party owning such Confidential Information.

4.4. In the event either Party is unable to provide a copy of a proposed patent application at least thirty (30) days prior to filing the application pursuant to paragraph 4.3 due to reasonable business circumstances, the Party desiring to file such application shall file a provisional patent application in order to preserve patent rights in the subject matter of such application and shall provide the other Party with a copy of the provisional application within ten (10) days after filing the provisional application with the United States Patent Office. The Party receiving the copy of the provisional patent application shall then have thirty (30) days to notify the Party that filed the provisional application whether it believes that any of its Confidential Information is disclosed or if the invention is its own sole intellectual property or Joint Intellectual Property. If the application contains any of the other Party's Confidential Information, then the Party who filed the provisional application shall either:

- (a) delete such Confidential Information from the provisional application prior to filing any patent application claiming priority to the provisional application, including a nonprovisional patent application or other patent application under the Patent Cooperation Treaty or any foreign country laws, or
- (b) where disclosure of such Confidential Information in the patent application is necessary to comply with the statutory requirements of any country in which the application will be filed, not file any patent application that claims priority to the provisional application, including a nonprovisional patent application or other patent application under the Patent Cooperation Treaty or any foreign country laws, without the prior written permission of the Party owning such Confidential Information.

4.5. If there is a dispute between the Parties as to whether any invention within the Drug, Peanut Butter Composite, Drug-in-Composite, or Drug Delivery Device technology is a sole or joint invention of the Parties, the dispute shall be resolved using the inventorship laws of the United States. Disputes involving inventorship or whether a Party's Confidential Information is or should be disclosed in a patent application will, if possible, be resolved by the good faith attempts of the Parties under Article 11.



ARTICLE 5
WARRANTIES AND REPRESENTATIONS

- 5.1. Each of NORMAN and ACME, respectively, warrants that it has no agreements with any third party or commitments or obligations that materially conflict with its obligations under this Agreement. During the term of this Agreement, neither Party will enter into any agreement, commitment or obligation that materially conflicts with its obligations under this Agreement.
- 5.2. Each of NORMAN and ACME, respectively, warrants that it has or will obtain from its employees, agents and consultants who perform work in accordance with the Joint Development Program a valid and sufficient written agreement vesting ownership of all their discoveries, improvements and ideas in NORMAN or ACME, respectively.
- 5.3. The Parties will use reasonable efforts to satisfy their respective duties and provide the deliverables for each effective project; provided, however, that neither Party represents or warrants that it will be able successfully to complete its assigned duties or deliverables.

ARTICLE 6
CONFIDENTIALITY

- 6.1. The Parties signed a Mutual Confidential Disclosure Agreement dated ____ (hereinafter "Mutual Confidential Disclosure Agreement"), which has been amended with an effective date of _____. The terms of this Agreement

shall govern any Confidential Information disclosed pursuant to this Agreement. With respect to any other information exchanged between the Parties, the Mutual Confidential Disclosure Agreement, or any such other agreement the Parties may enter into from time to time, governs confidential treatment of such information.

- 6.2. NORMAN and ACME each agree to maintain the other Party's Confidential Information in confidence and not disclose the other Party's Confidential Information to any of its employees whose work does not require such disclosure or to any third party without the prior written approval of the other Party, except as is expressly contemplated by this Agreement (including Exhibit A) or any subsequent Agreement relating to the Joint Development Program or with respect to disclosures which are inherent in any products developed as a result of the Joint Development Program. NORMAN and ACME each agree not to use any of the other Party's Confidential Information except to perform the tasks assigned to it with respect to the Joint Development Program, except as expressly authorized in a written consent from the owner of such Confidential Information. Any disclosure to a third party shall be made pursuant to a written agreement between the third party and the owner of the Confidential Information, in which the third party acknowledges obligations of confidentiality and use consistent with those in this Agreement and the Mutual Confidential Disclosure Agreement. The foregoing obligations shall remain in force for five (5) years following termination or expiration of this Agreement.

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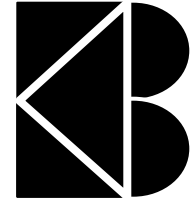
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- 6.3. Any provision of this Agreement to the contrary notwithstanding, NORMAN and ACME are entitled to disclose Confidential Information to the extent reasonably necessary for the purposes of this Agreement, to their respective Affiliates, on condition that such entities agree in a written agreement between the Affiliate and the owner of the Confidential Information to be bound by this Agreement with respect to nondisclosure and non-use of such Confidential Information. NORMAN and ACME warrant the compliance of their employees and Affiliates with the terms of this Agreement.
- 6.4. The Parties acknowledge that the relationship created by this Agreement and the existence and terms of this Agreement are confidential and that written approval will be obtained from the other Party if a Party wishes to make any disclosure relating to the existence of the relationship between the Parties and the existence and terms of this Agreement.
- 6.5. Neither Party will, without the prior written consent of the other Party:
- (a) use in advertising, publicity, or otherwise in connection with products developed in accordance with this Agreement, any trade name, logo, trademark, trade device, service mark, or symbol owned by the other Party; or
 - (b) represent, either directly or indirectly, that any product or service of the other Party is a product

or service of the representing Party, or vice versa.

- 6.6. Upon termination of the Joint Development Program, and except as is required to practice any licenses (or options) granted under this Agreement, both NORMAN and its Affiliates and ACME and its Affiliates agree to return all Confidential Information (including tangible products or materials) received by that Party from the other Party, at the request of the other Party; provided, however, that the receiving Party may retain one (1) secure archival copy of any Confidential Information received in writing from another Party for record purposes to determine its on-going confidentiality obligations under this Agreement.
- 6.7. Each Party shall have the sole discretion to decide whether and to what extent, if any, to share its Confidential Information with the other Party. Neither Party shall have any express or implied obligation to share any of its Confidential Information or Background Rights with the other Party unless expressly provided herein.

ARTICLE 7

TERM AND TERMINATION

- 7.1. The Joint Development Program shall commence on the Effective Date and, unless earlier terminated in accordance with the terms of this Agreement, will continue until __. However, this Agreement may be extended for additional one (1) year period(s) by written consent of both Parties. Notwithstanding the previous sentence, the obligations and rights that accrued under

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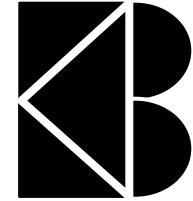
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Articles 3, 4, 6, 8, 9, 10 and 11 shall survive the termination or expiration of this Agreement.

- 7.2. This Agreement may be terminated by either Party in the event of a material breach by the other Party of the terms of this Agreement, provided that the terminating Party first gives the defaulting Party written notice of termination, specifying the grounds therefor, and the defaulting Party has had thirty (30) days after such notice is given to cure the breach. A material breach shall include but not be limited to any breach of Article 3, 5, 6, 9 and 10. If not so cured, this Agreement shall terminate at the expiration of such thirty (30) days.
- 7.3. Either Party may terminate this Agreement without cause upon thirty (30) days written notice to the other Party.

ARTICLE 8 DISCLAIMERS

- 8.1 NEITHER NORMAN NOR ACME SHALL UNDER ANY CIRCUMSTANCES BE LIABLE TO EACH OTHER OR THEIR RESPECTIVE AFFILIATES FOR INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PRODUCTION TIME, PROFITS, REVENUE, OR BUSINESS) RESULTING FROM OR IN ANY WAY RELATED TO THIS AGREEMENT, OR THE TERMINATION OF THIS AGREEMENT, OR ARISING OUT OF OR ALLEGED TO HAVE ARISEN OUT OF (I) BREACH OF THIS AGREEMENT, (II) THE FAILURE BY EITHER PARTY TO DEVELOP ANY PRODUCTS

OR PROCESSES IN ACCORDANCE WITH THE JOINT DEVELOPMENT PROGRAM, (III) THE FAILURE BY ANY PARTY TO DEVOTE THE RESOURCES SPECIFIED IN A PROJECT DESCRIPTION, (IV) THE FAILURE BY ANY PARTY TO COMPLY WITH THE EXPRESS CONDITIONS SPECIFIED IN THE JOINT DEVELOPMENT PROGRAM, OR (V) ANY EVENT RELATED TO THE CONDUCT OF THE JOINT DEVELOPMENT PROGRAM. THIS LIMITATION APPLIES REGARDLESS OF WHETHER SUCH DAMAGES ARE SOUGHT BASED ON BREACH OF CONTRACT, NEGLIGENCE, OR ANY OTHER LEGAL THEORY.

- 8.2 EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT OR THE EXHIBITS TO THIS AGREEMENT, NORMAN EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO ANY NORMAN KNOW-HOW OR ANY MEDICAL DEVICE COATED BY NORMAN WITH ANY PEANUT BUTTER COMPOSITE OR ANY DRUG-IN-PEANUT BUTTER COMPOSITE, AND HEREBY EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT WITH RESPECT TO ANY AND ALL OF THE FOREGOING.
- 8.3 EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT OR THE EXHIBITS TO THIS AGREEMENT, ACME EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO ANY ACME KNOW-HOW OR ANY

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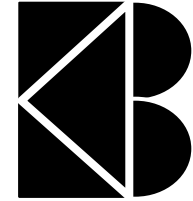
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ACME DRUG DELIVERY DEVICES AND HEREBY EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT WITH RESPECT TO ANY AND ALL OF THE FOREGOING.

8.4 EACH PARTY EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARISING OUT OF ITS PERFORMANCE OR ATTEMPTED DEVELOPMENT PURSUANT TO THIS AGREEMENT.

8.5 Neither Party warrants nor represents that any product, apparatus or process conceived, developed or used in accordance with the Joint Development Program does not infringe any intellectual property rights of any third party. Each Party will, however, notify the other Party promptly if a Party has a reasonable basis for believing that any such product or process would infringe any intellectual property right of a third party.

ARTICLE 9 MISCELLANEOUS

9.1 Prior to any Drug Delivery Device or Drug-in-Peanut Butter Composite being used in any manner in a live human clinical test or experiment, ACME will obtain and maintain liability insurance covering the risks of development of a new Drug Delivery Device or Drug-in-Peanut Butter Composite in accordance with sound business practice and its contingent obligations under

this Agreement, including, but not limited to, at least product liability coverage in the amount of \$__ for each occurrence and \$__ in the aggregate per year, or such other amounts as may be agreed upon by the Parties. ACME shall provide to NORMAN evidence of the existence of such minimum coverage either prior to the commencement of any live human clinical test or experiment or according to any other agreement between ACME and NORMAN. ACME shall name NORMAN as an additional insured for such product and general liability coverages and have the insurance coverage endorsed to indicate the insurance is primary over any other applicable insurance contract. ACME shall arrange for NORMAN to be notified in a timely manner of all claims made against ACME concerning personal injury or property damage in any manner involving a Drug Delivery Device or Drug-in-Peanut Butter Composite. However, it is recognized that neither Party is making a warranty or representation that the amounts of insurance coverage are appropriate for ACME's business practices. If a Drug Delivery Device with a Drug-in-Peanut Butter Composite or Drug-in-Peanut Butter Composite is developed pursuant to this Agreement and thereafter is marketed or otherwise distributed by ACME, the obligations of ACME in this Paragraph 9.1 shall survive the termination or expiration of this Agreement.

9.2 The validity, construction and performance of this Agreement shall be governed by and interpreted in accordance with the laws of the State of __, without regard to its provisions on the conflicts of laws.

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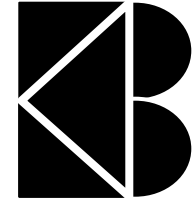
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9.3 All notices required or permitted under this Agreement shall be in writing and shall be deemed to be given (i) when personally delivered, (ii) five days after mailing when mailed by registered or certified mail, postage prepaid, (iii) on the day of sending when sent by facsimile (with recorded transmission completion), or (iv) two days after sending when sent by reputable express courier, delivery charges prepaid, and addressed as follows:

To Norman Institute of Technology.
Attn: License Administration
[address]

To ACME Conglomerate, Inc.
Attn: Development Coordinator
[address]

Any changes of address of a Party shall be promptly communicated in writing to the other Party.

9.4 Either Party may assign its rights and obligations under this Agreement to a third party that has the financial ability to comply with the assigning Party's obligations under this Agreement (including but not limited to the assigning Party's indemnity obligations), but only in connection with a complete transfer to the third party of the business to which this Agreement pertains. The assigning Party will so inform the other Party to this Agreement without delay of any assignment made in accordance with the conditions of this Agreement. This Agreement shall not otherwise be assignable by either Party without the prior written consent of the other Party.

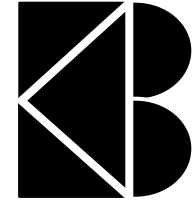
No assignment shall relieve any Party of responsibility for the performance of any accrued obligation which such Party then has hereunder.

9.5 This Agreement including the Exhibits and the Mutual Confidential Disclosure Agreement set forth the entire Agreement between the Parties and supersede all previous agreements and understandings, whether oral or written, between the Parties with respect to the purpose of this Agreement.

9.6 This Agreement may not be modified, amended, or discharged except as expressly stated in this Agreement or by a written agreement signed by an authorized representative of each Party.

9.7 The provisions of this Agreement shall be deemed separable. If any provision in this Agreement shall be found or be held to be invalid or unenforceable, then the meaning of that provision shall be construed, to the extent feasible, to render the provision enforceable, and if no feasible interpretation would save such provision, it shall be severed from the remainder of this Agreement, which shall remain in full force and effect unless the provisions that are invalid or unenforceable substantially impair the value of the entire Agreement to either Party. In such event, the Parties shall use their respective reasonable efforts to negotiate a substitute, valid, and enforceable provision which most nearly effects the Parties' intent in entering into this Agreement.

9.8 No waiver of any term, provision or condition of this Agreement whether by conduct or otherwise in any one



or more instances shall be deemed to be or construed as a further or continuing waiver of such term, provision or condition or of any other term, provision or condition of this Agreement.

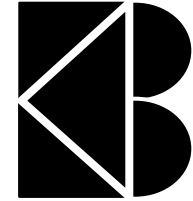
- 9.9 This Agreement shall bind the Parties, their successors, trustee in bankruptcy, and permitted assigns.
- 9.10 No Party shall be considered in default or be liable to the other Party for any delay in performance or non-performance caused by circumstances beyond the reasonable control of such Party, including but not limited to acts of God, explosion, fire, flood, war, whether or not declared, accident, labor strike or labor disturbances, inability to procure supplies from third party vendors, sabotage, order or decrees of any court, or action of government authority.

ARTICLE 10 INDEMNIFICATION

- 10.1 ACME will defend and indemnify NORMAN against all losses, liabilities, lawsuits, claims, expenses (including reasonable attorney's fees), costs, and judgments incurred through personal injury, property damage, or other claims of third parties, arising from the design, manufacture, use, or sale of Drug Delivery Devices by ACME except those which are proximately caused solely by NORMAN intentional, willful or grossly negligent conduct with respect to (i) any Peanut Butter Composite reagents supplied by NORMAN to ACME or (ii) any

coating of any Drug Delivery Device performed by NORMAN.

- 10.2 ACME acknowledges that it has the ultimate responsibility for determining and ensuring its freedom to operate with respect to the use of one or more Drugs with Peanut Butter Composites on Drug Delivery Devices in the Gastrointestinal Field ("ACME's Freedom to Operate"). NORMAN will provide technical support of ACME's efforts to incorporate Drugs into Peanut Butter Composites for ACME's use on Drug Delivery Devices in the Gastrointestinal Field. However, if NORMAN, at any time, becomes aware of credible substantive information (including but not limited to a claim from a third party) that calls into question ACME's Freedom to Operate, NORMAN may notify ACME. The parties promptly shall meet to discuss whether, to what extent, and on what terms, NORMAN will continue to provide technical support of ACME's efforts to incorporate specific Drugs into Peanut Butter Composites for use on Drug Delivery Devices in the Gastrointestinal Field. NORMAN may, in its sole discretion, with notice to ACME immediately cease providing technical support to ACME regarding specific Drugs if ACME and NORMAN are not able to agree upon measures that, in NORMAN sole discretion, will adequately ensure NORMAN that it will not incur liability to a third party or incur expenses defending itself from third party claims in connection with continued technical support to ACME regarding specific Drugs. If NORMAN elects to cease providing technical support to ACME regarding specific Drugs, NORMAN shall have no obligation to refund to ACME any amount paid by ACME to NORMAN under this Agreement with regard to those



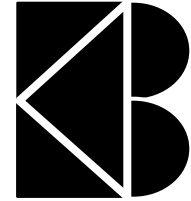
specific Drugs, except for prepaid development fees (if any) that exceed the amount that NORMAN is owed by ACME in connection with NORMAN efforts under this Agreement through the date NORMAN ceases its support with regard to those specific Drugs. Nor shall NORMAN be liable for any other costs or expenses incurred by ACME with respect to those specific Drugs or lost opportunities by ACME. Further, ACME shall pay NORMAN all amounts payable under the project descriptions for work performed by NORMAN through the date it notifies ACME that NORMAN will no longer provide technical support to ACME with respect to specific Drugs. Upon the receipt of all undisputed amounts payable to it under this Agreement, NORMAN shall provide ACME the following: (i) all uncoated Drug Delivery Devices provided by ACME and in NORMAN possession at the time it ceases providing support to ACME, (ii) completed reports on the results of the Joint Development Program that NORMAN has not yet transmitted to ACME, and (iii) within thirty (30) days after NORMAN ceases to provide support to ACME, a report regarding all NORMAN activities under the Joint Development Program since the date of the last report to ACME (including the most current data obtained by NORMAN under the Joint Development Program which has not been previously reported to ACME).

ARTICLE 11

DISPUTE RESOLUTION

The Parties shall first attempt to resolve any dispute arising out of or relating to this Agreement in accordance with the procedures specified below:

- 11.1 The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than persons with direct responsibilities for administration of this contract. Either Party may give the other Party written notice of any dispute not resolved in the normal course of business. Within fifteen (15) days after delivery of the notice, the receiving Party shall submit to the other a written response. The notice and the response shall include (i) a statement of such Party's position and a summary of arguments supporting the position, and (ii) the name and title of the executive who will represent the Party and any other person who will accompany the executive. Within thirty (30) days after delivery of the disputing Party's notice, the executives of both Parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the dispute. All reasonable requests for information made by one Party to the other will be honored.
- 11.2 If the matter has not been resolved within sixty (60) days after the disputing Party's initial notice, or if the Parties fail to meet within thirty (30) days of such notice, either Party may initiate mediation of the controversy or claims as provided below in Section 11.3.
- 11.3 If the dispute has not been resolved by negotiation as provided above, the Parties shall endeavor to settle the



dispute by mediation under the then current Rules of the American Arbitration Association. The neutral third party mediator will be selected by the Parties, unless the Parties agree otherwise. The Parties shall each pay one half of any fees and expenses payable to the third party mediator.

11.4 All negotiations pursuant to this Article are confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and state rules of evidence.

11.5 If the Parties fail to resolve the dispute through mediation within forty-five (45) days of the request for mediation, then either Party may pursue its remedies in Federal District Court for the District of ___.

11.6 Notwithstanding the provisions of this Article 11, the Parties shall not be required to attempt to negotiate or mediate the dispute if it relates to a breach of the provisions of Article 6.

IN WITNESS WHEREOF, the Parties, through their respective duly authorized officers, have executed this Agreement as of the dates set forth below to be effective as of the Effective Date.

NORMAN INSTITUTE OF TECHNOLOGY

By: _____
Printed Name: _____
Title: _____
Date: _____

ACME CONGLOMERATE, INC.

By: _____
Printed Name: _____
Title: _____
Date: _____