LICENCE AGREEMENT

This Licence Agreement (the “Agreement”) is made as of November 7, 2016 (the “Effective Date”) by and between Johns Hopkins University, a Maryland corporation having its principal place of business at 3400 N. Charles St., Baltimore, MD 21218-2695 (“Licensor”), and the Medicines Patent Pool Foundation, a non-profit foundation registered under the laws of Switzerland, and having a principal place of business at 17 Chemin Louis-Dunant, Geneva 1202, Switzerland (“MPP”). Each of Licensor and MPP is referred to in this Agreement as a Party. Licensor and MPP are collectively referred to in this Agreement as the Parties.

RECITALS

WHEREAS, MPP is a non-profit organization with a mission to improve the health of people living in the developing world by increasing access to quality, safe, efficacious and affordable HIV, HCV and tuberculosis medicines by facilitating access to intellectual property on these medicines;

WHEREAS, the MPP desires to obtain a license from Licensor under the Patents to allow it to grant sublicences to various third parties in order to facilitate the Compound’s clinical development and ensure affordable access;

WHEREAS, Licensor is willing to grant such a license to the MPP for the above-mentioned purposes;

NOW THEREFORE in consideration of the covenants and obligations expressed in this Agreement, and intending to be legally bound, the Parties agree as follows:

1. Definitions

1.1 Affiliate shall mean in relation to a Party, any corporation, firm, partnership or other entity which is directly or indirectly controlled by, in control of, or under common control of such Party. For the purposes of this definition “control” shall mean the ability of any corporation, firm, partnership or other entity, whether through ownership of shares or otherwise, to procure that the affairs of a Party hereto are conducted in accordance with the wishes of such corporation, firm, partnership or other entity.

1.2 Agreement Quarter shall mean any period of three months ending on the last day of March or June or September or December.

1.3 Compound shall mean sutezolid, formerly known as PNU-100480.

1.4 Field of Use shall mean the prevention and/or treatment of tuberculosis.

1.5 Licensed Product(s) shall mean pharmaceutical combinations and compositions containing the Compound in combination with other active ingredients that, but for a license under this Agreement, would infringe a valid claim of a Patent granted and in force.
1.6 **Patents** shall mean those patents and patent applications as set forth in Exhibit A.

1.7 **Sublicense** shall mean any sublicense granted by MPP in accordance with Section 3, or any sub-sub license granted by a Sublicensee of this Agreement.

1.8 **Sublicensee** shall mean any entity that has entered into a sublicense or sub-sublicense in accordance with Section 3.

1.9 **Territory** shall mean those countries in which there are Patents issued or pending at the time of execution of this Agreement.

2. **Scope of the Grant**

2.1 Upon the terms and subject to the conditions set out in this Agreement, Licensor hereby grants to the MPP, and the MPP hereby accepts, an exclusive (even as to Licensor), sublicensable, royalty-free, fully-paid license to develop, make, have made, use, file for regulatory approval, sell, offer to sell, import and export Licensed Products in the Field in the Territory.

2.2 For avoidance of doubt, nothing in this Agreement shall be construed to prevent MPP or its Sublicensees from engaging in any activities inside or outside the Territory where such activities would not infringe a valid claim of a Patent granted and in force.

2.3 MPP acknowledges that Patents may be jointly owned by Licensor and a third party and that said third party may be responsible for prosecuting and maintaining Patents. In the event that Licensor learns that said third party has elected not to prosecute or maintain one or more of the Patent, Licensor shall provide MPP with written notice of that fact and the Parties will discuss in good faith as to whether Licensor should assume responsibility to prosecute and maintain such Patents and transfer such responsibilities to MPP or any of its Sublicensees.

3. **Sublicensees**

3.1 **Identification.** It is understood that MPP will not itself further develop and commercialize the Licensed Products but will do so through its Sublicensees. MPP may grant Sublicenses under the terms and conditions of this Agreement to any entity which in the reasonable opinion of the MPP has demonstrated willingness and capacity to develop and/or commercialize the Licensed Product(s) in a manner consistent with the goals of Accessibility as described in Section 3.3 herein. In particular, each Sublicense, which for the avoidance of doubt also includes any sub-sub license, will contain all of the benefits to the Licensor stated herein, including the disclaimers contained within Section 5.3, 5.4, and 5.5 herein, and carry indemnification and insurance requirements as described in Section 6 herein. MPP shall provide Licensor with a copy of all Sublicenses granted under this Agreement within 30 days of execution of each Sublicense.

3.2 **Development timelines.** MPP will require any Sublicensee that intends to further develop the compound into Licensed Product(s) to agree upon reasonable diligence requirements and development milestones. MPP will require any Sublicensee that intends to commercialize the Licensed Product(s) to agree upon reasonable registration and commercialization timelines.
3.3 **Accessibility.** MPP will require that for any Sublicensee(s) that commercializes Licensed Product(s), the Sublicensee(s) do so in a manner that facilitates its widespread availability, which commercially reasonable efforts shall include adequate manufacturing capacity, adequate supply of product meeting specifications, registration of Licensed Product(s) with applicable local and global health authorities, participation in local tenders and making available to local policy makers information regarding the Licensed Product(s). MPP will require that such Sublicensee(s) use commercially reasonable efforts to ensure that the Licensed Product(s) be made available at Affordable Pricing as quickly as possible in sufficient quantities to meet the needs of TB patients throughout the world. “Affordable Pricing” as used herein with respect to all countries in the world listed as having high income economies by the World Bank other than Bulgaria, Estonia, Latvia, Lithuania and Russia (“Tier 1 countries”) shall mean a competitive price that facilitates adoption by the various procurement agencies in those countries and coverage for reimbursement by third party payors in those countries, where applicable. “Affordable Pricing” as used herein with respect to all countries in the world except Tier 1 Countries shall mean the lowest sustainable, competitive price for the Licensed Product(s) which covers the cost of raw materials, manufacturing, distribution and operational overheads, and includes a reasonable margin to help ensure the economic sustainability of the production and distribution of the Licensed Product(s). Notwithstanding the foregoing, nothing in this provision will prevent MPP from requiring its Sublicensees to implement accessibility policies that will result in prices for a Licensed Product lower than what would be required by this Section 3.3 or a Licensed Product being more widely available than what would be required by this Section 3.3.

3.4 **Quality.** MPP will require that for any Sublicensee(s) that commercialize the Licensed Product(s), it will do so in a manner consistent with MPP’s Quality Policy, as may be amended from time to time, but which requires, as of the Effective Date: (i) World Health Organization (“WHO”) pre-qualification standards; or (ii) the standards of any Stringent Regulatory Authority (“Stringent Regulatory Authority”), defined as regulatory authorities which are members, observers or associates of the International Conference on Harmonization of Technical Requirements for Registration of Pharmaceuticals for Human Use, as may be updated from time to time. Where such approvals are not yet available, the Sublicensee(s) may obtain temporary approval through a WHO Expert Review Panel.

3.5 **Most favored licensee.** The terms on which MPP grants a Sublicense to any Sublicensee shall be no more favorable to such Sublicensee than that granted to any previous Sublicensee, taking into account all relevant factors, such as the date on which a sublicense is granted and the purpose for which the sublicense is granted.

3.6 **Stewardship.** Licensor and MPP agree on the importance of facilitating proper development, stewardship and use of new TB drugs and regimens. MPP intends to develop and commercialize Licensed Products in a manner consistent with these goals.
4. MPP Obligations

4.1 Monitoring of Compliance. MPP agrees to monitor compliance by each Sublicensee, including but not limited to by:

(a) reviewing with all reasonable skill and care any reports provided to MPP by the Sublicensee under the Sublicense;

(b) assessing in relation to each applicable Sublicensee whether its progress in the development of Licensed Product(s) is in line with the milestones agreed pursuant to Section 3.2 of this Agreement;

4.2 Reports. During the period MPP or its Sublicensees are developing the Licensed Products, MPP will provide Licensor with an annual report describing (a) the status of development of each Licensed Product in development (b) the regulatory filing plan with the WHO Pre-qualification Programme and/or a Stringent Regulatory Authority anticipated for each Licensed Product in the upcoming calendar year, and (c) a list of countries for which regulatory approvals or authorizations have been obtained during the reporting period for any Licensed Product. Such annual report shall be provided to Licensor within ninety (90) days of the end of each calendar year. Following regulatory approval for any Licensed Product by the WHO Pre-qualification Programme and/or a Stringent Regulatory Authority, MPP will send to Licensor within 60 days following the end of each Agreement Quarter a written report setting forth a list of countries for which regulatory approvals or authorizations have been obtained during the reporting period for any Licensed Product. Licensor agrees that information contained in these annual and quarterly reports shall be treated as Confidential Information.

4.3 Notification of Material Breach. If MPP becomes aware of any act or omission of a Sublicensee which constitutes a breach of the relevant Sublicense MPP shall immediately notify Licensor and (i) if the breach is capable of correction and does not give rise to an immediate right of termination under the Sublicense, direct the relevant Sublicensee in writing to cure the breach; and (ii) if the breach remains uncured at the end of the specified period, or if there are otherwise grounds for termination under the Sublicense, terminate the relevant sublicense in accordance with its terms.

5. Representations, Warranties and Covenants
5.1 MPP and Licensor each represent and warrant that, subject to the Negation of Warranties and Disclaimers contained herein:

(a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and has full corporate power and authority to enter into this Agreement and to carry out the provisions hereof;

(b) this Agreement has been duly executed and delivered on behalf of such party, and constitutes a legal, valid, binding obligation, enforceable against it in accordance with the terms hereof; and

(c) the execution, delivery and performance of this Agreement by such party does not conflict with any agreement, instrument or understanding, oral or written, to which it is a party or by which it is bound, nor violate any law or regulation of any court, governmental body or administrative or other agency having jurisdiction over such party.

5.2 Each of Licensor and MPP covenants and agrees that it shall perform all activities under this Agreement in accordance with all applicable laws and regulations.

5.3 Negation of Warranties. Licensor provides MPP the rights granted in this Agreement as is and with all faults. Except as specifically set forth in Sections 5.1 and 5.2 herein, Licensor makes no representations and extends no warranties of any kind, either express or implied. Among other things, Licensor disclaims any express or implied warranty of merchantability, safety, effectiveness, reliability, or fitness for a particular purpose.

5.4 No Representation of Patents. MPP also acknowledges that Licensor does not represent or warrant:

(i) the validity or scope of any Patents, or
(ii) the commercial viability of Patents or Licensed Products, or
(iii) that the exploitation of Patents will be successful, or
(iv) that there are no third party claims or prior filed patents that would affect ownership of the Patents or freedom to operate.

5.5. No other Promises or Warranties. Other than the obligations specifically stated in this Agreement, Licensor makes no promises, express or implied, regarding the Patents or any Licensed Product. MPP agrees that no representation or statement by any Licensor employee shall be deemed to be a statement or representation by Licensor, and that MPP was not induced to enter this Agreement based upon any statement or representation of Licensor, or any employee of Licensor. Licensor is not responsible for any publications, experiments or results reported by any Licensor employee, now or in the future, and it is the sole responsibility of MPP to evaluate the Patents and the accuracy of any data or results.

6. Indemnity and Insurance
6.1. **Indemnification.** MPP agrees that it shall be responsible for injuries or losses to third parties arising from or related to its own acts or omissions, or caused by or arising from Licensed Products, or allegedly arising as a consequence of the exercise by MPP of any rights granted in this Agreement. To that end, MPP shall protect, indemnify, and hold harmless Licensor Indemnitee, which shall be defined as Licensor, The Johns Hopkins Health System, and their respective present and former trustees, officers, inventors of the Patents, agents, faculty, employees and students, from any claims arising therefrom, including defending any action brought against Licensor Indemnitee with counsel reasonably acceptable to Licensor Indemnitee, and indemnifying Licensor Indemnitee, as against any judgments, fees, expenses, or other costs arising from or incidental to any product liability or other lawsuit, claim, demand or other action, whether or not any Licensor Indemnitee is named as a party defendant in any such lawsuit and whether or not any Licensor Indemnitee is alleged to be negligent or otherwise responsible for any injuries to persons or property.

Exercise of the rights granted in this Agreement by an Affiliate of MPP or Sublicensee of MPP or by a third party on behalf of or for the account of MPP, shall be considered MPP's exercise of the rights granted in this Agreement for purposes of this Paragraph.

6.2 **Exclusions**

   (i) No indemnification will be provided for claims arising from the practice by a Licensor Indemnitee of the Patents or exercise of rights retained by Licensor under this Agreement.

   (ii) No indemnification will be provided for a claim against a Licensor Indemnitee for injuries allegedly caused solely and directly by negligent use or administration by a Licensor Indemnitee of a Licensed Product, but any products liability or similar claim based upon a Licensed Product made by or provided by any Sublicensee will be covered by this indemnification requirement.

6.3 The obligation of MPP to defend and indemnify as set out in this Agreement shall continue even after assignment of rights and responsibilities to an affiliate or Sublicensee, and shall not be limited by any other limitation of liability elsewhere in this Agreement.

6.4 **Rights and obligations of Licensor.** Licensor shall provide MPP with prompt notice of any claims covered by MPP’s obligation to indemnify, and will provide reasonable cooperation to MPP in MPP’s investigation and defense of such claims. Licensor shall have the right to participate in such defense with counsel of its choice and at Licensor’s own expense. Licensor shall have the right to approve the settlement of any claim hereunder that imposes any liability or obligation on Licensor, or affects the Patents, other than the payment of money damages paid by the MPP or MPP Sublicensees.
6.5 Insurance. MPP will require, prior to initial human testing or first commercial sale of any Licensed Product, that its Sublicensee(s) establish and/or maintain Comprehensive General Liability Insurance, including Product Liability Insurance, with a reputable and financially secure insurance carrier or through a self-insurance program acceptable to JHU to cover any liability of Licensor and MPP to third parties related to any Licensed Product, or otherwise arising from the activities of MPP or its applicable Sublicensee. The insurance policy shall provide minimum liability coverage of $5,000,000 per claim and $10,000,000 in the aggregate, and shall include all Licensor Indemnitees as additional insureds. MPP will cause its Sublicensee(s) to furnish a Certificate of Insurance or other evidence of compliance upon reasonable request. All insurance of Sublicensee(s) will be primary coverage; other insurance of Licensor and Licensor Indemnitees will be excess and noncontributory.

7. Term and Termination

7.1 Term. This Agreement shall enter into force upon the Effective Date and, unless earlier terminated as provided herein, shall continue in force on a country-by-country basis until the expiration or abandonment of the last-to-expire Patent containing a valid claim in the Territory.

7.2 Termination for Material Breach. A Party ("non-breaching party") shall have the right to terminate this Agreement in the event the other Party ("breaching party") is in material breach of any of its material obligations under this Agreement. The non-breaching party shall provide written notice to the breaching party. The breaching party shall have a period of 30 days after such written notice to cure such breach, or to provide a timeline to cure such breach to the satisfaction of the non-breaching party. If such breach is not cured within the 30 day period or in accordance with the timeline, this Agreement shall effectively terminate.

7.3 Effect of Termination. In the event that this Agreement is terminated other than under Section 7.1, all sublicenses will automatically be converted into direct licences between Licensor and the Sublicensees, provided Sublicensees are not in material breach of the respective sublicense agreement.

7.4 Insolvency. Either Party may terminate this Agreement in the event that the other Party becomes insolvent, makes an assignment to the benefit of creditors, or has a petition in bankruptcy filed for or against it.

7.5 Waiver. The waiver by either Party of any breach of any term or condition of this Agreement shall not be deemed a waiver as to any subsequent or similar breach.

7.6 Survival. Sections 6.1, 6.2, 6.3, 7.3, 7.6 and 8 shall survive termination or
expiry of this Agreement.

8. Confidentiality

8.1 Confidential Information. All technology, know-how, business information (including the annual and quarterly reports required by Section 4.2 hereof) or any other confidential information disclosed by one party (the “Disclosing Party”) to the other party (the “Receiving Party”) hereunder (“Confidential Information”) shall be used solely and exclusively by Receiving Party in a manner consistent with the rights granted hereunder and the purposes of this Agreement as stated in the preamble and recitals hereeto; maintained in confidence by the Receiving Party; and shall not be disclosed to any non-party or used for any purpose except to exercise its rights and perform its obligations under this Agreement without the prior written consent of the Disclosing Party, except to the extent that the Receiving Party is compelled to produce pursuant to a lawfully issued subpoena or judicial order or can demonstrate by competent written evidence that such information: (a) is known by the Receiving Party at the time of its receipt and, not through a prior disclosure by the Disclosing Party, as documented by the Receiving Party’s business records; (b) is in the public domain other than as a result of any breach of this Agreement by the Receiving Party; (c) is subsequently disclosed to the Receiving Party on a non-confidential basis by a third party who may lawfully do so; or (d) is independently discovered or developed by the Receiving Party without the use of Confidential Information provided by the Disclosing Party, as documented by the Receiving Party’s business records. Within 30 days after any expiration or termination of this Agreement, Receiving Party shall destroy (and certify to the Disclosing Party such destruction) or return all Confidential Information provided by the Disclosing Party except as otherwise set forth in this Agreement. One copy of the Disclosing Party’s Confidential Information may be retained in the Receiving Party’s files solely for archival purposes as a means of determining any continuing or surviving obligations under this Agreement. The confidential obligations under this Agreement shall survive this Agreement for a period of 5 years.

8.2 Publicity. Prior to the issuance of any press release or public announcement concerning this Agreement, its terms, or any sublicense made thereunder, the Parties will agree to a Use of Name Protocol, to be attached to this Agreement as Exhibit B. A Party shall be free to use the name of the other Party or the other Party’s affiliates as outlined in the Use of Name Protocol without prior permission from the other Party; any other use of a Party’s name shall require the prior written consent of that Party. It is understood and accepted by Licensor that MPP will publish the full contents of this Agreement on its website as of the Effective Date.

9 Miscellaneous

9.1 Agency. Neither Party is, nor will be deemed to be, an employee, agent or representative of the other Party for any purpose. Each Party is an independent contractor, not an employee or partner of the other Party. Neither Party shall have the
authority to speak for, represent or obligate the other party in any way without prior written authority from the other Party.

9.2 **Entire Understanding.** This Agreement embodies the entire understanding of the Parties with respect to the subject matter hereof and supersedes all previous communications, representations or understandings, and agreements, whether oral or written, between the parties relating to the subject matter hereof.

9.3 **Severability.** The Parties hereby expressly state that it is not their intention to violate any applicable rule, law or regulation. If any of the provisions of this Agreement are held to be void or unenforceable with regard to any particular country by a court of competent jurisdiction, then, to the extent possible, such void or unenforceable provision shall be replaced by a valid and enforceable provision which will achieve as far as possible the economic business intentions of the Parties. The provisions held to be void or unenforceable shall remain, however, in full force and effect with regard to all other countries. All other provisions of this Agreement shall remain in full force and effect.

9.4 **Notices**

(a) Any notice or other communication to be given under this Agreement, unless otherwise specified, shall be in writing and shall be deemed to have been provided when delivered to the addressee at the address listed below (i) on the date of delivery if delivered in person or (ii) one day after receipt if sent by a reputable international courier service:

In the case of Licensor:

Johns Hopkins Technology Ventures  
100 N. Charles St., Suite 500  
Baltimore, MD 21201

Attention: Neil Veloso, Executive Director of Technology Ventures  
Email: nveloso1@jhu.edu

In the case of MPP:
Medicines Patent Pool
Chemin Louis-Dunant 17
Geneva 1202
Switzerland

Attention: General Counsel
Email: office@medicinespatentpool.org

(b) Either party may change its address for communications by a notice in writing to the other party in accordance with this Section.

9.5 **Governing Law.** This Agreement shall be construed, and legal relations between the parties hereto shall be determined, in accordance with the laws of the State of New York applicable to contracts executed and wholly to be performed within the State of New York without giving effect to the principles of conflicts of laws. Any disputes between the parties to the Agreement including the applicability of any Patent, shall be brought in the state or federal courts located in New York, New York. Both parties agree to waive their right to a jury trial and to consent to jurisdiction in such courts.

9.6 **Dispute resolution.** The parties agree that in the event of a dispute they shall first attempt in good faith to resolve such dispute. In the event that such dispute is not resolved on an informal basis, either Party may refer the dispute to the Executive Director of the MPP, and to Executive Director of Johns Hopkins Technology Ventures (together, the Designated Officers). If such dispute is not resolved by the Designated Officers within 30 days, either party may commence court proceedings.

9.7 **Assignment.** Neither Party may assign all or part of this Licence Agreement without the other Party’s prior written consent.

9.8 **Amendment.** No amendment or modification hereof shall be valid or binding upon the parties unless made in writing and signed by both parties.

*[signatures appear on following page]*
IN WITNESS WHEREOF, the parties hereto have executed this Licence Agreement as of the Effective Date.

**LICENSOR:**

Johns Hopkins University

By Neil Veloso  
Name: Neil Veloso  
Title: Executive Director, Technology Ventures

**MPP:**

Medicines Patent Pool Foundation

By Greg Perry  
Name: Greg Perry  
Title: Executive Director
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