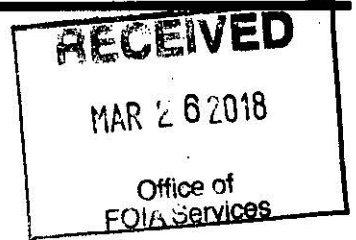


18-03478-E

foiapa

**From:** Mark Edwards <medwards@biosciadvisors.com>  
**Sent:** Friday, March 23, 2018 8:09 PM  
**To:** foiapa  
**Subject:** FOIA Request



I would like to request access to Exhibits 10.29, 10.31 and 10.32 to the 12/31/99 10-K filed by Dental Medical Diagnostic Systems, Inc. on 3/30/2000. Confidential treatment was sought as to certain portions when initially filed with the Commission.

In the event that confidential treatment has not expired or has been extended, I further request that you send me the expiration date(s) from the relevant CT order(s) so I will know when I should resubmit my request.

I authorize up to \$61 in search and retrieval fees. Please send the exhibit(s) by PDF if possible.

Sincerely,

Mark

Mark G Edwards  
Managing Director  
Bioscience Advisors  
2855 Mitchell Dr., Suite 103  
Walnut Creek, CA 94598  
[medwards@biosciadvisors.com](mailto:medwards@biosciadvisors.com)  
925 954-1397



UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
STATION PLACE  
100 F STREET, NE  
WASHINGTON, DC 20549-2465

Office of FOIA Services

April 19, 2018

Mr. Mark G. Edwards  
Bioscience Advisors  
2855 Mitchell Dr., Suite 103  
Walnut Creek, CA 94598

RE: Freedom of Information Act (FOIA), 5 U.S.C. § 552  
Request No. 18-03478-E

Dear Mr. Edwards:

This letter is in response to your request, dated March 23, 2018 and received in this office on March 26, 2018, for Exhibits 10.29, 10.31 and 10.32 to the December 31, 1999 10-K filed by Dental Medical Diagnostic Systems, Inc. on March 30, 2000.

The search for responsive records has resulted in the retrieval of the enclosed records that may be responsive to your request.

As shown on the enclosed invoice, the processing fee is \$30.50 in accordance with our fee schedule. You may use our new [Online Payment](#) option to pay by debit or credit card. If paying by mail, checks or money orders should be made payable to the SEC and a copy of the invoice should be mailed to our payment address: Enterprise Services Center, HQ Bldg., Room 181, AMZ-341, 6500 South MacArthur Boulevard, Oklahoma City, OK 73169. Please refer to the following link for detailed instructions on how to remit payments. <http://www.sec.gov/about/offices/ofm.htm>

If you have any questions, please contact me at [jacksonw@sec.gov](mailto:jacksonw@sec.gov) or (202) 551-8312. You may also contact me at [foiapa@sec.gov](mailto:foiapa@sec.gov) or (202) 551-7900. You also have the right to seek assistance from Jeffery Ovall as a FOIA Public Liaison or contact the Office of Government Information Services (OGIS) for dispute resolution services. OGIS can be reached at 1-877-684-6448 or [Archives.gov](http://Archives.gov) or via e-mail at [ogis@nara.gov](mailto:ogis@nara.gov).

Sincerely,

A handwritten signature in cursive script that reads "Warren E. Jackson".

Warren E. Jackson  
FOIA Research Specialist

Enclosures

# EXCLUSIVE LICENSE AGREEMENT

10.29  
CONFIDENTIAL

THIS EXCLUSIVE LICENSE AGREEMENT ("Agreement") is by and between DENTAL MEDICAL DIAGNOSTIC SYSTEMS, INC. ("DMD") a corporation having a principal place of business in Westlake Village, California and Chrysalis, Inc. ("CI"), a Utah corporation, having a principal place of business in Salt Lake City, Utah, and is effective as of the date first written below.

WHEREAS CI has created new and improved tooth whitening products which can be utilized without a gingival dam for home-use, or use in a dental office, which may utilize a dental tray ("New Home-use Whitening Products");

WHEREAS DMD is desirous of acquiring the exclusive world wide rights to market, sell, distribute the New Home-use Whitening Products; and

WHEREAS CI has represented to DMD that said New Home-use Whitening Products are secret and proprietary to CI and that patent protection is being sought for the inventions embodied in said New Home-use Whitening Products;

THEREFORE the parties agree as follows:

## 1. GRANT OF LICENSE AND RIGHT OF FIRST REFUSAL

1.1 CI hereby grants to DMD the exclusive world wide license to market, sell and distribute the New Home-use Whitening Products under pending applications for Letters Patent or Letters Patent maturing therefrom, including continuations, continuations-in-part, divisionals thereof, as well as any and all proprietary trade secret information, whether in the United States of America or in countries foreign to the United States of America.

1.2 Any improvements to New Home-use Whitening Products sought or suggested by DMD shall be funded by DMD and shall automatically be made part of this Agreement subject to the same royalty schedule set forth herein. Any improvement to the New Home-use Whitening Products made independently by CI may be licensed to DMD under a separate agreement subject to a royalty schedule set forth therein. CI shall not, without the express consent and approval of DMD, develop new or related technology and market it competitive with the technology licensed herein without giving DMD the right of first refusal to exclusively market, sell and distribute the

new or related technology. CI may, however, in its discretion, conduct ongoing research and development. For any such competitive technology, DMD, in its absolute discretion, may exercise such right of first refusal and determine not to market, sell or distribute such new technology during the period that DMD enjoys the exclusive rights granted herein.

1.3 In the event that CI develops an improvement and DMD determines not to exploit the improvement, CI shall be entitled to file for, receive, and maintain Letters Patent covering such improvement and make, have made, import, market, sell and distribute such improvements.

1.4 DMD shall be responsible to ensure that appropriate patent and trademark notices, numbers and/or registrations be prominently placed on appropriate product, product packaging, product literature and any other materials associated with the products manufactured under this Agreement.

## II. CONSIDERATION AND PAYMENT

2.1 As and for consideration for the license granted herein, DMD will:

- a. provide to CI ~~400,000~~ shares of <sup>an</sup> registered, free trading DMD stock;
- b. pay to CI an annual minimum royalty of ~~\$150,000~~ for the first three years;  
and
- c. pay to CI an earned royalty of ~~7%~~ of the customary sales price on the transfer of all New Home-use Whitening Products kits for over-the-counter purchase, in-office use or distribution by dentists. If, however, five years from the date of the agreement have elapsed and no Letters Patent have issued covering the New Home-use Whitening Products and no application for Letters Patent is then pending, the royalty rate will drop to ~~5%~~ and

d. purchase all of DMD's requirements for the New Home-use Whitening Products for resale or distribution from CI or its designated manufacture.

and:

- i. DMD shall pay ~~\$6.00~~<sup>\$6.00</sup> including packaging, for each New Home-use Whitening Products kit (including Home-use Whitening for a 5-day, over-the-counter home-use whitening of upper and lower arches, i.e., ten (10) Home-use Whitening) per whitening kit), F.O.B., Salt Lake City, Utah; and
- ii. DMD shall pay ~~\$6.00~~<sup>\$6.00</sup> including packaging, for each New Home-use Whitening Products kit (including Home-use Whitening for a 5-day, in-office use or dentist-dispensed home-use whitening of upper and lower arches, i.e., ten (10) Home-use Whitening) per whitening kit), F.O.B., Salt Lake City, Utah.

2.2 DMD shall deliver stock certificates for the shares of stock of section 2.1.2 upon execution of this Agreement.

2.3 Earned royalties shall be credited against minimum royalties and, to the extent that earned royalties in any quarter fail to exceed the minimum, the minimum shall be paid. Earned royalties in excess of the quarterly minimum shall be credited against future minimums.

2.5 Earned and minimum royalties are due and payable within thirty (30) days after the close of each quarter.

2.6 Payment of royalties shall be in United States Dollars.

### III. EXPORTING

3.1 DMD shall be responsible for compliance with all export and import regulations and laws, both foreign and domestic, and payment of any related taxes of any government or governing body related to DMD's export or import, marketing, sales and distribution of product under this Agreement. DMD shall comply with the export regulations of the US Department of Commerce, including but not limited to any restrictions on the exchange of know-how and other information provided under this Agreement. DMD hereby gives its assurance to CI that DMD will not knowingly, unless prior authorization is properly obtained from the U.S. Office of Export Control, and if necessary from CI, re-export directly or indirectly any technical data received from CI under this Agreement, and will not export directly the product of such technical data to any restricted countries as said countries may be listed from time to time by the U.S. Government and agencies thereof.

### IV. TERM AND TERMINATION

4.1 The initial term of this agreement shall be twenty years, commencing on the tenth day following the receipt of prototypes for testing, receipt of which is acknowledged. If prior to the tenth day after receipt of the received prototypes DMD elects to forgo entering into this agreement, DMD must give CI such notice in writing before the expiration of the tenth day. DMD, upon ninety (90) days notice, shall have the option to renew this agreement for an additional term.

4.2 After December 31, 2000, should DMD fail to pay any installment of any the minimum royalty when due, CI shall have the option to immediately convert the exclusive license granted herein into a non-exclusive license to license to market, sell and distribute the New Home-use Whitening Products for an earned royalty only and shall be excused of any further obligation of a minimum royalty.

## V CONSULTING OBLIGATIONS OF DR. ANDERSON AND FRANK MCNEIL

5.1 The principal investigators and inventors of the New Home-use Whitening Products shall be Dr. Alan J. Anderson and Frank J. McNeill. DMD shall give reasonable notice. DMD shall compensate Inventor(s) at his customary and usual rate and shall pay all reasonable costs and expenses in connection therewith.

## VI. RECORD KEEPING AND AUDITS

6.1 DMD shall maintain books and records adequate to verify royalties earned or owed hereunder. Within thirty days after the close of each quarter, DMD shall submit a report certified by an officer setting forth the number of transfer of New Home-use Whitening Products kits for the quarter and the royalty due. Such report shall be accompanied by a payment (if any) of earned royalties due and owing or a payment of the minimum quarterly royalty.

6.2 CI shall have the right to audit DMD's books and records to verify the accuracy of the reports through a qualified representative at the expense of CI. Such audit may be conducted no more often than twice yearly on reasonable notice. In the event that the audit determines a discrepancy in favor of CI in an amount greater than 10% of the amount reported, the discrepancy shall be paid within 30 days and the cost of the audit shall be borne by DMD.

## VII. DISPUTES

7.1 All disputes shall be referred to a forum of alternative dispute resolution including, but not limited to arbitration under the Code of Civil Procedure of the State of California. The laws of the State of Utah or California shall be applied and jurisdiction of such shall be either California or Utah.

7.2 In the event of an accusation of breach, the party accused of breach shall be informed in writing of the circumstances considered to be a breach and such accused party shall have forty-five days within which to cure or propose an acceptable plan to cure. No action to enforce this agreement shall be taken until after such period has elapsed.

7.3 In the event of breach of the terms of this Agreement or a failure to cure or propose an acceptable plan after an accusation of breach, CI may terminate this license with sixty (60) days written notice.

#### VIII. NOTICE

8.1 All notices required to be given shall be sent by facsimile or e-mail with a written confirmation by first class certified mail, return receipt requested. Notice shall be deemed given when the transmission of the facsimile or e-mail is confirmed. The notices shall be sent to:

CI:

Dr. Alan Anderson  
Chrysalis, Inc.  
11322 South O'Henry road  
Salt Lake City, Utah 84070  
Phone: (301) 572-5921

with a copy to:

Todd E. Zenger  
P.O. Box 11205  
Salt Lake City, Utah 84147  
e-mail: tzenger@kinciaw.com

DMD:

Stephen F. Ross, CFO  
DENTAL MEDICAL DIAGNOSTIC SYSTEMS, INC.  
200 N. Westlake Blvd., #202  
Westlake Village, CA 91363  
Facsimile: (305) 374-1966  
e-mail: [steve@dmndcorp.com](mailto:steve@dmndcorp.com)

with a copy to:

MARVIN H. KLEINBERG  
KLEINBERG & LEPNER LLP  
2049 Century Park E. #1080  
Los Angeles, CA 90067  
Facsimile: (310) 557-1540  
e-mail: mink@kkl-plaw.com

or at a new or different address provided to either party by the other.

## CC. WARRANTIES AND REPRESENTATIONS

9.1 To the best of CI's knowledge, the making, using or selling of the New Home-use Whitening Products, if used in the manner taught by CI's patent disclosure documents, does not infringe the known intellectual property rights of any third party. If DMD wishes to defend against any allegations of infringement of third party rights, CI agrees to cooperate with DMD in the defense. If a license is required to permit DMD to continue to market, sell and distribute the New Home-use Whitening Products, any royalty that must be paid shall be deducted from the earned royalty otherwise due CI, but in no event shall the royalty earned by CI fall below 4%. To the extent possible, DMD will seek insurance coverage and will tender any defense to an insurer affording coverage.

9.2 To the best of CI's knowledge, the making, using or selling of the New Home-use Whitening Products, if used in the manner taught by CI's patent disclosure documents, is safe and effective and does not cause lasting pain or damage to users. If DMD defends itself or CI against any personal injury claims arising out of use of the New Home-use Whitening Products, CI agrees to cooperate with DMD in the defense. DMD will obtain product liability insurance coverage including coverage of the New Home-use Whitening Products and will tender any defense to an insurer affording coverage.

## X. PATENT INFRINGEMENT BY OTHERS

10.1 DMD shall have the mutual exclusive right and option, at its expense, to institute infringement or other appropriate legal actions against alleged prospective or actual infringers under the patent laws of the relevant jurisdiction, and to retain all monetary recovery received therefrom. Any recovery of lost profits or lost sales less costs and expenses of litigation shall be deemed a transfer of New Home-use Whitening Products kits upon which an earned royalty is due and payable to CI. Such earned royalty is to be paid to CI within sixty (60) days of receipt of any monetary judgment payment.

10.2 In the event DMD declines to institute infringement or other appropriate legal action against alleged prospective or actual infringers within ninety (90) days after receiving a written notice or request to do so from CI, CI shall have the right and option to take whatever action it deems appropriate and retain all recoveries, and DMD agrees to permit joinder of DMD in any legal action at the request of CI for purposes of jurisdiction or obtaining complete relief, all at CI's expense.

## XI. GENERAL PROVISIONS

11.1 This Agreement represents the entire understanding of the parties. No modification, amendment or waiver shall be binding without the written consent of the parties.

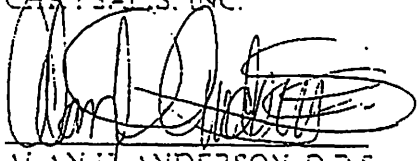
11.2 If any provision of this Agreement shall for any reason be adjudged by any tribunal to be invalid or unenforceable, such judgment shall not affect, impair or invalidate the remainder of this Agreement but shall be confined in its operation to the provision of this Agreement directly involved in the controversy in which such judgment shall have been rendered.

11.3 The obligations under this Agreement shall not be assigned by DMD without the express written consent of CI, except in the case of a transaction under the terms of which substantially all of the assets of DMD are being transferred.

11.4 This Agreement may be executed in multiple original counterparts, each of which shall be deemed to be an original but all of which shall constitute the same agreement.

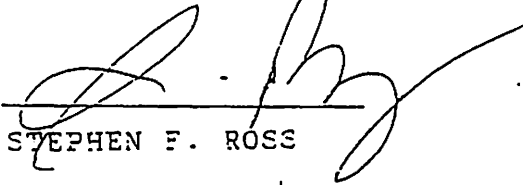
Date: September \_\_, 1999

CARYSALIS, INC.

X   
ALAN H. ANDERSON, D.D.S.

Oct 28, 1999

DENTAL MEDICAL DIAGNOSTIC SYSTEMS, INC.

  
STEPHEN F. ROSS

091399trans

10.31

CONFIDENTIAL

## LETTER OF INTENT FOR EXCLUSIVE LICENSE AGREEMENT

THIS LETTER OF INTENT FOR EXCLUSIVE LICENSE AGREEMENT is by and between DENTAL/MEDICAL DIAGNOSTIC SYSTEMS, INC., ("DMD") a corporation having a principal place of business in Westlake Village, California and CHRYSALIS DENTAL, INC., ("CDI") a corporation having a principal place of business in Salt Lake City, Utah, and is effective as of the date first written below.

WHEREAS CDI has created new and improved tooth whitening products which can be utilized without a gingival dam for use in a dental office and a product for home use, ("New Products");

WHEREAS DMD is desirous of acquiring the exclusive world wide rights to market, sell, distribute, make or have made said New Products; and

WHEREAS CDI has represented to DMD that said New Products are secret and proprietary to CDI and that patent protection is being sought for the inventions embodied in said New Products;

THEREFORE the parties agree as follows:

### I. GRANT OF LICENSE AND RIGHT OF FIRST REFUSAL

1.1 CDI hereby grants to DMD the exclusive world wide license to make or have made, use, or sell said New Products under any and all applications for Letters Patent or Letters Patent maturing therefrom, including continuations, continuations-in-part, divisionals

thereof, as well as any and all proprietary trade secret information, whether in the United States of America or in countries foreign to the United States of America.

1.2 Any improvements of New Products made independently by CDI shall automatically be included in this Agreement and subject to the same royalty schedule set forth herein. Any improvements sought or suggested by DMD shall be funded by DMD. CDI shall not, without the express consent and approval of DMD, develop new or related technology and market it competitive with the technology licensed herein. CDI may, however, in its discretion, conduct ongoing research and development. CDI hereby grants DMD a right of first refusal to license the new or related technology. For any such competitive technology, DMD, in its absolute discretion, may exercise such right of first refusal and determine not to use, sell, make, market, or seek intellectual property protection for such technology during the period that DMD enjoys the exclusive rights granted herein.

1.3 In the event that CDI develops an Improvement and DMD determines not to exploit the Improvement, although CDI shall be entitled to file for, receive, and maintain Letters Patent covering such improvement.

1.5 DMD shall be responsible to ensure that appropriate patent and trademark notices, numbers and/or registrations be prominently placed on appropriate product, product packaging, product literature and any other materials associated with the products manufactured under this agreement.

## II. COMPENSATION AND PAYMENT

2.1 As and for compensation for the license granted herein, DMD will grant to CDI:

- a. 100,000 shares of the common stock of DMD;

- b. an advance against royalties of ~~\$50,000~~;
- c. an annual minimum royalty of ~~\$150,000~~; and
- d. an earned royalty of ~~7%~~ on the net sales of the New Products;

subject to the terms and conditions set forth below. If, however, five years from the date of the agreement have elapsed and no Letters Patent have issued covering the New Products and no application for Letters Patent is then pending, the royalty rate will drop to ~~4%~~.

2.2 DMD shall transmit the 100,000 shares to CDI in the form of an unregistered certificate upon DMD's acceptance of this Agreement. DMD will take all appropriate steps to register the shares with or at the time of DMD's 1998 annual statement.

2.3 DMD shall pay CDI ~~\$5,000~~ a nonrefundable advance at the time of execution of this Agreement and the balance of ~~\$45,000~~ upon acceptance of the Agreement by DMD

2.4 The minimum annual royalty for the first year shall extend over a period of fifteen (15) months but not past December 31, 1999, commencing on the date that DMD first ships New Products to a non-affiliated purchaser and shall be paid thirty days after the close of the first quarter following said first shipment. Thereafter, the minimum royalty shall be payable in quarterly installments, due and payable thirty days after the close of each quarter.

2.5 Minimum royalties shall be credited against earned royalties and, to the extent that earned royalties in any quarter fail to exceed the minimum, any shortfall shall be carried over into succeeding quarter so that earned royalties in any quarter shall be reduced by any carried forward shortfall. Earned royalties in excess of the quarterly minimum shall be credited against future minimums.

2.6 Earned royalties are due and payable within thirty (30) days after the close of each quarter after the advance royalty of ~~\$50,000~~ has been recouped.

2.7 "Net sales" for the purposes of computing earned royalties shall be equal to gross sales less freight, taxes, discounts actually taken, returns and credits.

2.8 Payment of royalties shall be in United States dollars.

### III. EXPORTING

3.1 DMD shall be responsible for compliance with all export and import regulation and payment of any related taxes of any government or governing body related to DMD's manufacture, marketing, sales and distribution of product under this Agreement. In order for CDI to comply with the export regulations of the US Department of Commerce and to facilitate the exchange of know-how and other information pursuant to this Agreement, DMD hereby gives its assurance to CDI that DMD will not knowingly, unless prior authorization is obtained from CDI and the U.S. Office of Export Control, re-export directly or indirectly any technical data received from CDI under this Agreement, and will not export directly the product of such technical data to any countries as said countries may be listed, from time to time, by the U.S. Government and agencies thereof.

### IV. TERM AND TERMINATION

4.1 This agreement is conditioned upon the acceptance by DMD, after a due diligence investigation of no more than seven working days (7) days from the execution of this Agreement, of the adequacy of any pending applications for Letters Patent and specific approval thereof as well as a review of the clinical trial material and experimental data, if requested.

4.2. The initial term of this agreement shall be twenty years. DMD, upon ninety (90) days notice, shall have the option to renew this agreement for an additional term.

4.3 After December 31, 2000, should DMD fail to pay any installment of the minimum royalty when due, DMD shall have the option to convert the exclusive license granted herein into a non-exclusive license to license to make or have made, use, or sell said New Products for an earned royalty, only and shall be excused of any further obligation of a minimum royalty.

V. CONSULTING OBLIGATIONS OF DR. ANDERSON

5.1 The principal investigator and primary inventor of the New Products is Dr. Alan H. Anderson ("AHA"), who is also a principal in CDI.

5.2 AHA shall make himself available for consultation and promotion on reasonable notice. DMD shall compensate AHA at his customary and usual rate and shall pay all reasonable costs and expenses in connection therewith.

VI. RECORD KEEPING AND AUDITS

6.1 DMD shall maintain books and records adequate to verify royalties earned hereunder. Within thirty days after the close of each quarter, (except for the first quarter) DMD shall submit a report certified by an officer setting forth the net sales for the quarter and the royalty due. Such report shall be accompanied by a payment (if any) of earned royalties due and owing and a payment of the minimum quarterly royalty for the following quarter.

6.2 CDI shall have the right to audit DMD's books and records to verify the accuracy of the reports through a qualified representative at the expense of CDI. Such audit may be conducted no more often than once yearly on reasonable notice. In the event that the audit determines a discrepancy in favor of CDI in an amount greater than 10% of the amount reported, the discrepancy shall be paid within 30 days and the cost of the audit shall be borne by DMD

## VII. DISPUTES

7.1 All disputes shall be referred to a forum of alternative dispute resolution including, but not limited to arbitration under the Code of Civil Procedure of the State of California. The laws of the State of California shall be applied and jurisdiction of such shall be limited to the state of California.

7.2 In the event of an accusation of breach, the party accused of breach shall be informed in writing of the circumstances considered to be a breach and such accused party shall have forty-five days within which to cure or propose an acceptable plan to cure. No action to enforce this agreement shall be taken until after such period has elapsed.

7.3 In the event of breach of the terms of this Agreement, other than the obligation to pay minimum royalties after December 31, 2000, or a failure to cure or propose an acceptable plan after an accusation of breach, CDI may terminate this license with sixty (60) days written notice.

## VIII. NOTICE

8.1 All notices required to be given shall be sent by facsimile or e-mail with a written confirmation by first class certified mail, return receipt requested. Notice shall be deemed given when the transmission of the facsimile or e-mail is confirmed. The notices shall be sent to:

CDI:

Dr. Alan H. Anderson  
CHRYSALIS DENTAL, INC.,  
11322 South O'Henry Road  
Sandy, UT 84070  
Facsimile: (801) 523 8967  
e-mail: annde76501@aol.com

with a copy to:

Todd Zenger, Esq.,  
Kirton & McConkie  
60 East South Temple Street, Ste. 1800  
Salt Lake City, Utah 84111  
Facsimile: (801) 321 4893  
e-mail: tzenger@kmclaw.com

DMD:  
Stephen F. Ross, CFO  
DENTAL/MEDICAL DIAGNOSTIC SYSTEMS, INC.  
200 N. Westlake Blvd., #202  
Westlake Village, CA 91363  
Facsimile: (805) 374 1966  
e-mail: stever@dmdcorp.com

with a copy to:

MARVIN H. KLEINBERG  
KLEINBERG & LERNER, LLP  
2049 Century Park E. #1080  
Los Angeles, CA 90067  
Facsimile: (310) 557 1540  
e-mail: mhk@kl-iplaw.com

## IX. WARRANTIES AND REPRESENTATIONS

9.1 To the best of CDI's knowledge, the making, using or selling of the New Products, if used in the manner taught by CDI's patent disclosure documents, does not infringe the known intellectual property rights of any third party. If DMD wishes to defend, CDI agrees to cooperate with DMD in the defense. If a license is required to permit DMD to continue to make, use or sell the New Products, any royalty that must be paid shall be deducted from the earned royalty otherwise due CDI, but in no event shall the royalty earned by CDI fall below ~~4%~~. To the extent possible, DMD will seek insurance coverage and will tender any defense to an insurer affording coverage.

9.2 To the best of CDI's knowledge, the making, using or selling of the New Products, if used in the manner taught by CDI's patent disclosure documents, is safe and effective

and does not cause lasting pain or damage to users. If DMD defends CDI , CDI agrees to cooperate with DMD in the defense. To the extent possible, DMD will obtain product liability insurance coverage including coverage of the New Products and will tender any defense to an insurer affording coverage.

## X. PATENT INFRINGEMENT BY OTHERS

10.1 DMD shall have the initial exclusive right and option, at its expense, to institute infringement or other appropriate legal actions against alleged prospective or actual infringers under the patent laws of the relevant jurisdiction, and to retain all monetary recovery received therefrom. Any recovery of lost profits or lost sales less costs and expenses of litigation shall be deemed a part of Net Sales upon which an earned royalty is due and payable. Such earned royalty is to be paid to CDI within sixty (60) days of receipt of any monetary judgment payment.

10.2 In the event DMD declines to institute infringement or other appropriate legal action against alleged prospective or actual infringers within ninety (90) days after receiving a written notice or request to do so from CDI, CDI shall have the right and option to take whatever action it deems appropriate and retain all recoveries, and DMD agrees to permit joinder of DMD in any legal action at the request of CDI for purposes of jurisdiction or obtaining complete relief, all at CDI's expense.

## XI. GENERAL PROVISIONS

11.1 This Agreement represents the entire understanding of the parties. No modification, amendment or waiver shall be binding without the written consent of the parties.


11.2 If any provision of this Agreement shall for any reason be adjudged by any tribunal to be invalid or unenforceable, such judgment shall not affect, impair or invalidate the remainder of this Agreement but shall be confined in its operation to the provision of this Agreement directly involved in the controversy in which such judgment shall have been rendered.

11.3 This shall not be assigned by DMD without the express written consent of CDI except in the case of a transaction under the terms of which, substantially all of the assets of DMD are being transferred.

11.4 This Agreement may be executed in counterparts, each of which shall be deemed to be an original but all of which shall constitute the same agreement.

Date: September 16, 1998

CHRYSALIS DENTAL, INC.



ALAN H. ANDERSON, D.D.S.  
President

DENTAL/MEDICAL DIAGNOSTIC SYSTEMS, INC.



ROBERT H. GUREVITCH  
CEO

10.32

CONFIDENTIAL

# FIRST ADDENDUM TO EXCLUSIVE LICENSE AGREEMENT

THIS FIRST ADDENDUM TO EXCLUSIVE LICENSE AGREEMENT ("Addendum 1") is by and between DENTAL/MEDICAL DIAGNOSTIC SYSTEMS, INC., ("DMD") a corporation having a principal place of business in Westlake Village, California and CHRYSALIS DENTAL, INC., a corporation having a principal place of business in Salt Lake City, Utah ("CDI"), and its affiliate Den-Pak, LLC, a Utah company having a principal place of business in Salt Lake City, Utah (CDI and Den-Pak collectively referred to as "Den-Pak").

WHEREAS DMD and CDI entered into an Exclusive License Agreement dated September 16, 1998 ("Agreement"); and

WHEREAS DMD and CDI are desirous of adding an addendum to the terms of the Agreement relative to a newly developed gel whitening composition;

THEREFORE the parties agree as follows:

## A. GRANT OF LICENSE AND CONSIDERATION

i. Den-Pak hereby grants to DMD the exclusive world wide license to make or have made, use, or sell a new gel whitening composition ("Gel Product") developed by Den-Pak under any and all applications for Letters Patent or Letters Patent maturing therefrom, including continuations, continuations-in-part, divisionals thereof, as well as any and all proprietary trade secret information, whether in the United States of America or in countries foreign to the United States of America, subject to section Biii of this Addendum 1.

## B. COMPENSATION AND PAYMENT

i. As and for consideration for the license granted herein, DMD will provide to Den-Pak:

a. ~~Seventy Thousand U.S. Dollars (\$70,000)~~ for development costs;

b. an earned royalty of ~~7%~~ of the customary sales price on the transfer of all Gel Product kits after the first three kits provided without charge, if any, to any purchaser of a light from DMD. If, however, five years from the date of the agreement have elapsed and no

Letters Patent have issued covering the New Products and no application for Letters Patent is then pending, the royalty rate will drop to ~~4%~~

ii. DMD shall pay Den-Pak the development cost upon execution of this Agreement.

iii. In consideration for the above terms, DMD agrees to purchase all of DMD's requirements for the Gel Product from Den-Pak for resale or distribution separately or in light kits. DMD shall pay Den-Pak ~~\$6.00~~ per whitening kit, F.O.B., Salt Lake City, Utah.


Date: June 12, 1999

*August*

DEN-PAK

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ALAN H. ANDERSON, D.D.S.

DENTAL/MEDICAL DIAGNOSTIC SYSTEMS, INC.

  
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ROBERT H. GUREVITCH, CEO