



NOTICE OF MEETING

AND

MANAGEMENT INFORMATION CIRCULAR

FOR THE

ANNUAL AND SPECIAL MEETING OF SHAREHOLDERS

to be held in virtual-only format via live audio conference at <https://web.lumiagm.com/283022704>  
at 11:00 a.m. (Toronto time) on June 23, 2020

May 15, 2020

**These materials are important and require your immediate attention. They require Shareholders to make important decisions. If you are in doubt as to how to deal with these materials or the matters they describe, please contact your financial, legal, tax or other professional advisors.**



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## ACERUS PHARMACEUTICALS CORPORATION

### NOTICE OF ANNUAL AND SPECIAL MEETING OF SHAREHOLDERS

to be held on, June 23, 2020

NOTICE IS HEREBY GIVEN that the annual and special meeting (the “**Meeting**”) of the holders of common shares (“**Shareholders**”) of Acerus Pharmaceuticals Corporation (“**Acerus**”) will be held in virtual-only format via live audio conference at 11:00 a.m. (Toronto time) on June 23, 2020 for the following purposes:

- (a) to receive and consider before the Shareholders the consolidated financial statements of Acerus, for the year ended December 31, 2019, including the auditors’ report thereon;
- (b) to elect directors for Acerus (the “**Directors**”) who will serve until the end of the next annual Shareholder meeting or until their successors are appointed;
- (c) to appoint the auditors of Acerus for the ensuing year;
- (d) to consider and, if deemed advisable, to pass with or without modification, a special resolution approving a consolidation of the issued and outstanding common shares of Acerus on the basis of one (1) post-consolidation common share for up to fifty (50) pre-consolidation common shares if, and at such time following the date of the Meeting, as the board of directors of Acerus so determines, as more particularly described in the Information Circular;
- (e) to consider and, if deemed advisable, to pass with or without modification, an ordinary resolution approving the adoption of an Omnibus Incentive Plan as more particularly described in the Information Circular; and
- (f) to transact such further and other business as may properly be brought before the Meeting or any adjournments or postponements thereof.

The specific details of the matters to be put before the Meeting are set forth in the Information Circular.

This year, to proactively deal with the unprecedented public health impact of COVID-19 and to mitigate risks to the health and safety of our communities, shareholders, employees and other stakeholders, we will hold the Meeting in a virtual-only format, which will be conducted via live audio conference. Shareholders will have an equal opportunity to participate at the Meeting online regardless of their geographic location. Shareholders will not be able to physically attend the Meeting.

Registered shareholders and duly appointed proxyholders will be able to attend and vote at the Meeting online at <https://web.lumiagm.com/283022704> and may submit written questions. Non-registered (beneficial) shareholders who have not duly appointed themselves as proxyholder will be able to attend the Meeting as guests, but guests will not be able to vote or submit written questions at the Meeting.

For further information regarding the record date for determination of Shareholders entitled to receive notice of and to vote at the Meeting as well as general proxy matters, see “General Proxy Matters” at page 47 in the Information Circular.

Shareholders are encouraged to complete, sign and return the enclosed form of proxy. To be valid,

proxies must be received by Acerus' registrar and transfer agent, TSX Trust Company, at its Toronto office no later than 11:00 a.m. (Toronto time) on Friday, June 19, 2020, or if the Meeting is adjourned or postponed, not less than 48 hours, excluding Saturdays, Sundays and statutory holidays, preceding the time of such adjourned or postponed Meeting. Notwithstanding the foregoing, the Chairman of the Meeting has the discretion to accept proxies received after such deadline and the time limit for the deposit of proxies may also be waived or extended by the Chairman of the Meeting at his or her discretion, without notice.

Dated at Toronto, Ontario, this 15<sup>th</sup> day of May 2020.

**BY ORDER OF THE BOARD OF DIRECTORS OF  
ACERUS PHARMACEUTICALS  
CORPORATION**

by: *"Edward Gudaitis" (signed)*

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Name: Edward Gudaitis

Title: President and Chief Executive Officer

## MANAGEMENT INFORMATION CIRCULAR

### Introduction

This management information circular (the “Circular”) is furnished to the holders of common shares (the “Shareholders”) in connection with the solicitation of proxies by and on behalf of the management of Acerus Pharmaceuticals Corporation (“Acerus”) for use at the annual and special meeting of Shareholders to be held in a virtual-only format on June 23, 2020 (the “Meeting”) and any adjournment or postponement thereof, for the purposes set forth in the attached Notice of Annual and Special Meeting of Shareholders (the “Notice”).

This year, to proactively deal with the unprecedented public health impact of COVID-19 and to mitigate risks to the health and safety of our communities, shareholders, employees and other stakeholders, we will hold the Meeting in a virtual-only format, which will be conducted via live audio conference. Shareholders will not be able to physically attend the Meeting.

Registered Shareholders (“Registered Shareholders”) and duly appointed proxyholders will be able to attend and vote at the Meeting online at <https://web.lumiagm.com/283022704> and may submit written questions. Non-registered (beneficial) shareholders (“Beneficial Shareholders”) who have not duly appointed themselves as proxyholder will be able to attend the Meeting as guests, but guests will not be able to vote or submit questions at the Meeting. A summary of the information Shareholders will need to attend and vote at the Meeting online is provided in this Circular. For further information regarding the record date for determination of Shareholders entitled to receive notice of and to vote at the Meeting as well as general proxy matters, see “General Proxy Matters” at page 47 in the Information Circular.

This Circular, the Notice, the accompanying form of proxy and, where applicable, Acerus’ consolidated financial statements for the year ended December 31, 2019 (the “Financial Statements”) and management discussion and analysis (“MD&A”) are being mailed to shareholders of record of Acerus as of the close of business on May 15, 2020 (the “Record Date”). Acerus is not relying on the notice-and-access provisions of applicable securities laws for delivery of proxy-related materials to Shareholders. Acerus will bear all costs associated with the preparation and mailing of this Circular, the Notice, the accompanying form(s) of proxy and Acerus’ Financial Statements and MD&A, as well as the cost of the solicitation of proxies. The solicitation will be primarily by mail; however, officers and regular employees of Acerus may also directly solicit proxies (but not for additional compensation) personally, by telephone, by telefax or by other means of electronic transmission. Banks, brokerage houses and other custodians and nominees or fiduciaries will be requested to forward proxy solicitation material to their principals and to obtain authorizations for the execution of proxies and will be reimbursed for their reasonable expenses in doing so.

All information contained in this Circular is given as of May 15, 2020 unless otherwise specifically stated.

### Currency

All dollar amounts set forth in this Circular are in United States (“U.S.”) dollars, except where otherwise indicated.

## ACERUS

Acerus is a Canadian-based specialty pharmaceutical company focused on the commercialization and development of innovative prescription products that improve patient experience, with a primary focus in the field of men's health. The Corporation promotes its products directly in the United States and Canada and through a global network of licensed distributors in other territories.

Acerus currently has two marketed products: ESTRACE®, a product for the symptomatic relief of menopausal symptoms, is commercialized in Canada; NATESTO®, the first and only testosterone nasal gel for testosterone replacement therapy in adult males diagnosed with hypogonadism, is approved in Canada, the U.S., South Korea and Taiwan. NATESTO® has also been licensed for distribution in 64 additional countries worldwide. Marketing approvals in jurisdictions outside of North America are expected to take place over the course of the coming years. Acerus' pipeline includes five innovative products: avanafil, a PDE5 inhibitor for the treatment of erectile dysfunction, that has been approved by the U.S. Food and Drug Administration (FDA) and the EU European Medicines Agency (EMA) and is commercialized in the U.S. under the trade name STENDRA™ and in the EU under the trade name SPEDRA®. On April 20, 2020, Acerus announced that it received a Notice of Deficiency (NOD) from Health Canada for its avanafil New Drug Submission to obtain marketing approval in Canada. Acerus will be working with Metuchen Pharmaceuticals LLC, the licensor of the product, to assess the pathway required to address the NOD; LIDBREE™, a short acting lidocaine formulation delivered through a proprietary device into the vaginal mucosal tissue; ELEGANT™ Vaginal Moisturizer, which provides comfort to women suffering from vaginal dryness, and ELEGANT™ pH, which is a pH balanced vaginal product; and TEFINA™, a clinical stage product aimed at addressing a significant unmet need for women with female sexual dysfunction. Finally, Acerus is working on expanding its product portfolio by leveraging its proprietary delivery systems, patents and formulation expertise. As such, Acerus has a number of products in various stages of development. One of these projects relates to cannabinoids (whether synthetic or naturally derived cannabinoids) to be delivered intranasally to patients, which may have multiple possible therapeutic applications (the "**Cannabinoids Initiative**"). Acerus has filed patent applications on the Cannabinoids Initiative and achieved first positive results from dosing of subjects in a Phase I clinical trial test with a proprietary intranasal formulation of nasal tetrahydrocannabinol THC-rich cannabis oil in healthy volunteers. Acerus is actively looking at potential partnering transactions for these initiatives.

Acerus was incorporated under the *Business Corporations Act* (Ontario) (the "**OBCA**") on July 15, 2009 as J5 Acquisition Corp. ("**J5**"). From incorporation until July 11, 2011, when J5 amended its articles of incorporation to change its name to "Trimel Pharmaceuticals Corporation", the corporation operated as a "capital pool company" pursuant to Policy 2.4 of the TSX Venture Exchange Corporate Finance Manual. On July 14, 2011, J5 (Barbados), Inc., a wholly-owned subsidiary of J5 incorporated under Barbados law, amalgamated with Trimel BioPharma Holdings Inc. ("**Trimel Holdings**") under the name "Trimel BioPharma Holdings Inc." Upon completion of the amalgamation, the corporation completed its qualifying transaction by way of a reverse takeover transaction through an exchange of shares, resulting in the former shareholders of Trimel Holdings obtaining control of the corporation and acquiring 100% of the common shares (the "**Shares**") of the corporation. On September 8, 2015, the name of the corporation was formally changed from "Trimel Pharmaceuticals Corporation" to "Acerus Pharmaceuticals Corporation".

Acerus is the parent corporation to two wholly-owned subsidiaries. Acerus owns a 100% interest in Acerus Labs Inc., which was incorporated under the laws of the Province of Ontario on June 19, 2017, and Acerus Biopharma Inc., which was continued under the laws of the Province of Ontario on November 8, 2017 (formerly Acerus Pharmaceuticals SRL, incorporated under the laws of Barbados). In addition, Acerus previously owned a 100% interest in Acerus Pharmaceuticals (Barbados) Inc. ("**Acerus Barbados**"), which was incorporated under the laws of Barbados on September 9, 2008 as the former corporate parent. Acerus Barbados was officially dissolved on February 26, 2018.

The registered and head office of Acerus is located at 2486 Dunwin Drive, Mississauga, Ontario, L5L 1J9.

The Shares of Acerus are posted and listed for trading on the Toronto Stock Exchange (the "TSX") under the symbol "ASP" and on the OTCQB Venture Market under the symbol "ASPCF"

### **BUSINESS OF THE MEETING**

The Meeting will be constituted as an annual and special meeting and will be held in a virtual-only format via live audio conference.

As part of the annual and special business set out in the Notice, the Financial Statements will be placed before the Shareholders by Acerus and Shareholders will be asked to consider and vote on: (a) the election of the directors of Acerus (the "**Directors**") who will serve until the end of the next annual Shareholder meeting, or until their successors are appointed; (b) the appointment of the auditors of Acerus (the "**Auditors**") for the ensuing year; (c) a special resolution approving a consolidation of the issued and outstanding Shares of Acerus on the basis of one (1) post-consolidation Share for up to fifty (50) pre-consolidation Shares if, and at such time following the date of the Meeting, as the board of directors of Acerus (the "**Board**") so determines; and (d) an ordinary resolution approving the adoption of an Omnibus Incentive Plan.

Finally, Shareholders may be asked to consider and vote on such further and other business as may be properly brought before the Meeting or any adjournment or postponement thereof.

### **Interests of Certain Persons or Companies in the Matters to be Acted Upon**

As at the date of this Circular, the Directors and officers of Acerus and their associates, as a group, beneficially owned, directly or indirectly, or exercised control or direction over, an aggregate of approximately 884,020,559 Shares representing approximately 88% of the outstanding Shares.<sup>1</sup>

Except as otherwise described herein or in the annual information form of Acerus dated March 3, 2020 (available on SEDAR at [www.sedar.com](http://www.sedar.com)), none of the principal holders of Shares or any Director or officer of Acerus, as the case may be, or any associate or affiliate of any of the foregoing persons since January 1, 2019, has any material interest in any proposed matter, other than the election of Directors and the proposed adoption of the Omnibus Incentive Plan.

### **PRESENTATION OF FINANCIAL STATEMENTS**

Management, on behalf of the Board, will submit the Financial Statements to the Shareholders at the Meeting, but no vote by the Shareholders with respect thereto is required or proposed to be taken.

The Financial Statements placed before Shareholders are included in Acerus' 2019 annual financial statements and MD&A which, where applicable, are being mailed Registered Shareholders as well as Beneficial Shareholders with the Notice and this Circular and are available under Acerus' profile on SEDAR at [www.sedar.com](http://www.sedar.com) and on Acerus' website. Copies of such statements will also be made available at the Meeting.

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<sup>1</sup> Assuming each Director nominee is elected, the Directors and officers of Acerus and their associates, as a group, will beneficially own, directly or indirectly, or exercise control or direction over, an aggregate of approximately 888,316,730 Shares representing approximately 88% of the outstanding Shares as of June 23, 2020.

## ELECTION OF DIRECTORS

Under the articles of Acerus, the Board is to consist of a minimum of three and a maximum of 11 directors. In accordance with Acerus' by-laws, a majority of the Directors must be independent of Acerus and of any "control person" of Acerus (as such term is defined in applicable securities laws). The number of Directors to be elected at the Meeting is six.

Mr. J. Mark Lievonen, a director of Acerus since December 2017, will not be standing for re-election to the Board at the Meeting. Management and the Board thanks Mr. Lievonen for his contribution and commitment to Acerus.

Management proposes to nominate, and the persons named in the accompanying form of proxy will vote **FOR** the election of the six persons whose names are set forth below, five of whom are now and have been Directors for the periods indicated. Mr. Leckie is a new nominee to the Board.

Management does not contemplate that any of the nominees will be unable to serve as a Director. If, as a result of circumstances not now contemplated, any nominee is unavailable to serve as a Director, the proxy will be voted for the election of such other person or persons as management may select or, alternatively, in accordance with and subject to the constating documents of Acerus and the OBCA, the Board may determine to reduce the size of the Board. Each Director elected will hold office until the next annual meeting of Shareholders of Acerus, or until his or her respective successor is elected or appointed in accordance with applicable law and Acerus' by-laws.

The Board has adopted a majority voting policy which requires that any nominee for Director who has a greater number of votes withheld from voting than the number of votes received for his or her election shall tender his or her resignation to the chairman of the Board, subject to acceptance by the Board. The majority voting policy only applies to uncontested elections, meaning elections where the number of nominees for election is equal to the number of Directors to be elected as set out in the management information circular for the particular meeting. The Corporate Governance and Nominating Committee is required to consider the resignation, having regard to the best interests of Acerus and all factors considered relevant, and to make a recommendation to the Board with respect to the action to be taken with respect to the resignation. The Corporate Governance and Nominating Committee will be expected to recommend that the Board accept the resignation absent exceptional circumstances. The Board is required to make its decision and announce it in a press release within 90 days of the annual meeting including, if applicable, the reasons for rejecting an offer of resignation. A copy of any such press release will be provided to the TSX. The Board is expected to accept the resignation of the applicable director absent exceptional circumstances. If a sufficient number of the Corporate Governance and Nominating Committee members receive a greater number of votes withheld than votes in favour of his or her election, such that the Corporate Governance and Nominating Committee no longer has quorum, then the independent Directors must appoint a committee amongst themselves to consider the resignation offers and recommend to the Board whether to accept them.

## Director Nominees of Acerus Pharmaceuticals Corporation

The following table sets forth information with respect to each of the six nominees for Director, including the number of Shares of Acerus beneficially owned, directly or indirectly, or over which control or direction is exercised by each such nominee as at May 15, 2020:

Name, Province of Residence	Director Since	Principal Occupation During the Previous Five Years	Current Standing Board Committee Memberships	Shares Beneficially Owned, Controlled or Directed
Ian O. Ihnatowycz, Chairman of the Board  Ontario, Canada  (Not Independent)	September 9, 2013	President and Chief Executive Officer, First Generation Capital Inc. (April 2011 to present)	None	867,134,176 <sup>(1)</sup>
Borys Chabursky, Lead Independent Director  Ontario, Canada  (Independent)	December 20, 2015	Founder and Chairman, Shift Health (February 2011 - Present)  Chairman, SHI Capital (February 2011 - Present)  President, SHI Ventures (February 2011 - Present)	1. Audit Committee  2. Compensation Committee  3. Corporate Governance and Nominating Committee	57,500 <sup>(2)</sup>
Geoff Cotton Director  San Carlos, California, USA  (Independent)	May 4, 2020	Entrepreneur in Residence, Mission Bay Capital (January 2020 to present)  Vice President, US Sales and Marketing (HIV Business Unit), Gilead Sciences Inc. (February 2013- April 2016)	1. Audit Committee  2. Compensation Committee  3. Corporate Governance and Nominating Committee (Chair)	0
Stephen Gregory Director  Québec, Canada  (Independent)	July 14, 2011	Director, Adya Inc. (October 2019- Present)  President, IsaiX Technologies Inc. (March 1989 to present)	1. Audit Committee  2. Compensation Committee (Chair)  3. Corporate Governance and Nominating Committee	5,985,130 <sup>(3)</sup>
Scott Leckie  Ontario, Canada  (Independent)	N/A	Chairman and CEO, Takota Asset Management Inc. (2012- Present)	N/A	4,357,171

Name, Province of Residence	Director Since	Principal Occupation During the Previous Five Years	Current Standing Board Committee Memberships	Shares Beneficially Owned, Controlled or Directed
Edward Gudaitis, President and Chief Executive Officer Ontario, Canada (Not Independent)	May 1, 2018	President and Chief Executive Officer of Acerus Pharmaceuticals Corporation (May 1, 2018 to present)  Vice President and Country Manager, Canada, Allergan Inc. (October 2016 - April 2018)  General Manager, Gilead Sciences Canada Inc. (June 2005 to October 2016)	None	10,471,706 <sup>(4)</sup>

- (1) Mr. Ihnatowycz also holds options to purchase 2,915,172 Shares.
- (2) Mr. Chabursky also holds options to purchase 2,915,172 Shares.
- (3) Mr. Gregory also holds options to purchase 2,915,172 Shares.
- (4) Mr. Gudaitis holds options to purchase 19,521,377 Shares.

The following are brief biographies of each of the nominees for Director:

#### Ian O. Ihnatowycz

Mr. Ihnatowycz has served as a Director since September 2013. Mr. Ihnatowycz is the President and CEO of First Generation Capital Inc., a private investment holding company. Formerly, Mr. Ihnatowycz was Founder, President and CEO of Acuity Investment Management Inc. and Acuity Funds Ltd. Under his leadership, Acuity was the first Canadian advisor to the UN on the integration of environmental, social and governance factors within investment management and grew to combined assets of over \$7.5B. Mr. Ihnatowycz has been an active community leader and fundraiser, is Chairman of Acerus Pharmaceuticals and Myca Health, and serves on the boards of numerous organizations including Kardium Inc., WellBox Inc., Real Imaging Ltd., Fulcrum Management Solutions Ltd., Ikomed Technologies and the Royal Conservatory of Music; and is a member of the Ivey Advisory Board, the Ian O. Ihnatowycz Institute for Leadership Advisory Board of the Ivey Business School and the Investment Advisory Committee of Imperial Capital Acquisition Fund V and VI. Mr. Ihnatowycz was named a Chevalier of the Order of Merit, 3rd Class, by Ukrainian President Petro Poroshenko in 2017, has received an Honorary Doctor of Laws from Western University (2012), an Honorary Doctor of Philosophy from the Ukrainian Free University in Munich (2009) and is a Fellow of the Royal Conservatory of Music (2007).

#### Borys Chabursky

Mr. Chabursky has served as a Director since December 2015. Mr. Chabursky specializes in strategic planning, fundraising, financial management and business development for biotechnology, medical device, imaging and oncology companies and science and technology incubators in both the public and private sector. As the founder and Chairman of Shift Health, he has overseen the successful completion

of over 500 life sciences assignments for more than 300 clients in North America, Europe and the Middle East; the development of compelling business cases and implementation plans that have helped leverage over \$1B in financing from private and public sector resources; and the creation and facilitation of more than 50 public-private partnerships in biomedical research, infrastructure development and global health. Mr. Chabursky has worked closely with industry thought leaders, large pharmaceutical companies, government agencies, hospital boards and healthcare networks. He has also provided interim management for seven start-up companies and angel financing for ten new start-up ventures. With his experience spearheading large-scale, multi-stakeholder, global initiatives, Mr. Chabursky often serves as an advisor to influencers and developers of government policy.

#### Geoff Cotton

Dr. Cotton is a healthcare executive, venture capital adviser, and angel investor with 20 years experience in the pharmaceutical industry. He spent over 17 years with Gilead Sciences Inc. in Medical Affairs and Commercial roles of increasing responsibility culminating in leadership of the Global Commercial Strategy group, and leadership of the U.S. HIV business unit, with responsibility for over \$8B in revenue and \$100M of expenses annually. Dr. Cotton has extensive experience in U.S. pharmaceutical product launch and promotion, Key Opinion Leader development, sales leadership and execution, product lifecycle development, U.S. and EU pricing and reimbursement, portfolio strategy, M&A assessment, clinical development, and medical affairs. His therapeutic experience includes anti-virals and anti-infectives, immunology, oncology, cardiovascular, respiratory, and renal disease. Dr. Cotton has worked in the U.S., EU, Global and country level roles. Under Dr. Cotton's business unit leadership, Gilead launched Genvoya®, Odefsey®, and Descovy® for the treatment of chronic HIV infection, with Genvoya® achieving the fastest launch of any HIV product at that time. Dr. Cotton also launched Truvada® for post exposure prophylaxis, a novel HIV preventative achieving over \$1B in revenue in the U.S.

Dr. Cotton graduated in Medicine with a BSc and MB BS from the University of London and practiced internal medicine in the UK prior to joining the pharmaceutical industry. He has an MBA from Golden State University.

#### Stephen Gregory

Mr. Gregory has served as a Director since July 2011. Mr. Gregory is President, Chairman and the controlling shareholder of IsaiX Technologies, a privately held company headquartered in Montreal, with offices in the United States and England. IsaiX Technologies works extensively across a wide variety of industry segments and has ongoing business relationships with more than 100 companies in the pharmaceutical, finance, banking and insurance sectors. IsaiX Technologies provides and implements for its clients human development programs, medical writing and physician scheduling platform services. Mr. Gregory is also a director of Adya Inc. Mr. Gregory also spearheads charitable endeavours for the children of Canadian soldiers serving overseas. Mr. Gregory has also completed the Institute of Corporate Directors Education Program offered jointly by the Institute of Corporate Directors and the Rotman School of Business of the University of Toronto.

#### Edward Gudaitis

Mr. Gudaitis serves as President and Chief Executive Officer of Acerus Pharmaceuticals Corporation. Mr. Gudaitis has spent over 20 years in the pharmaceutical industry. He has extensive experience in specialty markets such as Oncology, Hepatitis, HIV, CNS and Transplantation. His functional experience spans Country leadership, Business Unit Leadership, Marketing and Sales Management, Market Access, Pricing, Health Economics and Clinical Research. Mr. Gudaitis is best known for his role as General Manager for Gilead Sciences Canada Inc. where he was responsible for leading Gilead's Canadian

affiliate from start-up in 2005 to one of the largest pharmaceutical companies in Canada in 2015 with sales of over \$1 billion. He also led the launch of two significant products in the US market for Gilead as Senior Director, Marketing for Gilead's US HIV Business. Prior to Acerus, Mr. Gudaitis served as Vice President and General Manager of Allergan Canada where he led a significant portfolio optimization process and leadership transformation. Earlier in his career he spent more than 10 years at Hoffmann-La Roche in roles of increasing responsibility. Mr. Gudaitis received his MBA from the Richard Ivey School of Business and his BSc from Brock University. He has served as Chairman of both the Ethics and Prairies Regional Committees while a board member for Innovative Medicines Canada. As well, he has served as board member for BioteCanada.

### Scott Leckie

Mr. Leckie is Chairman, CEO, and controlling shareholder of Takota Asset Management. Takota Asset Management is a private investment company having returned all external capital in early 2020. Mr. Leckie was previously a founding partner, director, and senior officer of Aquilon Capital, an investment firm started in 1990 and sold to National Bank Financial in 2008. While at Aquilon Capital Mr. Leckie's portfolio management efforts produced a successful capital allocation track record of approximately 20%/annum over the 18 years of the firm's existence. Mr. Leckie has founded seven different private companies for which he held senior management and Board of Director responsibilities. In addition, Mr. Leckie's activities as a Portfolio Manager and investor have resulted in his taking Board seats on certain public companies in the past. Currently Mr. Leckie serves on the Board of the public company New Millennium Iron Corp, and the private company Sterling Maple Corp. Mr. Leckie is a Chartered Financial Analyst, having earned that designation in 1992.

**The persons named in the accompanying form of proxy will, in the absence of specifications or instructions to withhold from voting on the form of proxy, vote FOR each of the proposed Director nominees named in the form of proxy.**

### **Interests of Informed Persons in Material Transactions**

Other than as described in Acerus' securities filings (including its Annual Information Form dated March 3, 2020), since January 1, 2019, Acerus did not have any transactions, or any proposed transactions, with any "informed person" (as defined in applicable securities law), or any proposed Director of Acerus, or any associate or affiliate of any informed person or proposed Director, who had a material interest, direct or indirect, which has materially affected or would materially affect Acerus.

As disclosed in press releases dated February 12, 2020 and February 21, 2020 and a material change report dated February 27, 2020, Acerus completed certain refinancing transactions on February 21, 2020 which included a private placement of 449,148,891 Shares to First Generation Capital Inc. and a conversion of US\$11.5 million (plus accrued interest) of debt owing to First Generation Capital Inc. into 300,081,885 Shares. First Generation Capital Inc. is Acerus' largest shareholder and an entity owned and controlled by Mr. Ian Ihnatowycz, Chairman of the Board.

### **Corporate Cease Trade Orders or Bankruptcies**

To the knowledge of Acerus, none of the persons proposed for election as Directors nor any personal holding company owned or controlled by any of them are, as at the date hereof, or have been, within the 10 years before the date of this Circular, a director, chief executive officer or chief financial officer of any company that, (i) was subject to a cease trade order, an order similar to a cease trade order or an order that denied the relevant company access to any exemption under securities legislation that was in effect for a period of more than 30 consecutive days (an "Order") that was issued while the person was acting in the capacity as director, chief executive officer or chief financial officer; or (ii) was subject to an

Order that was issued after the person ceased to be a director, chief executive officer or chief financial officer and which resulted from an event that occurred while that person was acting in the capacity as director, chief executive officer or chief financial officer.

To the knowledge of Acerus, other than as described below, none of the persons proposed for election as Directors nor any personal holding company owned or controlled by any of them: (a) are, as at the date of this Circular, or have been within 10 years before the date of this Circular, a director or executive officer of any company that, while that person was acting in that capacity, or within a year of that person ceasing to act in that capacity, became bankrupt, made a proposal under any legislation relating to bankruptcy or insolvency or was subject to or instituted any proceedings, arrangement or compromise with creditors or had a receiver, receiver manager or trustee appointed to hold its assets; or (b) have, within the 10 years before the date of this Circular, become bankrupt, made a proposal under any legislation relating to bankruptcy or insolvency, or become subject to or instituted any proceedings, arrangement or compromise with creditors, or had a receiver, receiver manager or trustee appointed to hold the assets of that person.

Mr. Scott Leckie was a director of Groupe Bikini Village Inc. until July 2014, when he resigned, and Groupe Bikini Village Inc. filed a notice of intention to make a proposal under the Bankruptcy and Insolvency Act on February 17, 2015.

### **Penalties and Sanctions**

To the knowledge of Acerus, other than as described below, none of the persons proposed for election as Directors nor any personal holding company owned or controlled by any of them: (a) has been subject to any penalties or sanctions imposed by a court relating to securities legislation or by a securities regulatory authority or has entered into a settlement agreement with a securities regulatory authority; or (b) has been subject to any other penalties or sanctions imposed by a court or regulatory body that would likely be considered important to a reasonable investor in making an investment decision.

On June 30, 2005, Mr. Scott Leckie agreed to pay a fine of \$100,000 under a settlement agreement with Market Regulation Services Inc. with regard to certain trading activities.

### **RE-APPOINTMENT OF AUDITORS**

At the Meeting, the Shareholders will be asked to re-appoint PricewaterhouseCoopers LLP as the Auditor of Acerus, based on the recommendation of the Audit Committee and the Board.

**The persons named in the accompanying form of proxy will, in the absence of specifications or instructions to withhold from voting on the form of proxy, vote FOR the re-appointment of PricewaterhouseCoopers LLP as the Auditor of Acerus to hold office until the next annual meeting of Shareholders.**

Representatives of PricewaterhouseCoopers LLP are expected to attend the Meeting and will have an opportunity to make a statement if they so desire and are expected to be available to respond to appropriate questions.

In terms of external auditor service fees, the following billings (paid or accrued) were made to Acerus' auditors in respect of the last two fiscal years ending December 31, 2019:

<u>Fiscal Year</u>	<u>Audit Fees</u>	<u>Audit-Related Fees</u>	<u>Tax Fees</u> <sup>(1)</sup>	<u>All Other Fees</u>	<u>Total</u>
2019	\$128,117	\$43,710	\$29,633	\$nil	\$201,460
2018	\$149,721	\$6,560	\$47,221	\$64,306 <sup>(2)</sup>	\$267,808

- (1) The amounts shown are comprised of the fees charged by Acerus' external auditors in connection with certain tax compliance and consulting services.
- (2) The amounts shown are comprised of the fees charged by Acerus' external auditors in connection with a financing transaction.

## APPROVAL OF SHARE CONSOLIDATION

### Basis of Consolidation

The Board is of the opinion that it is in the best interests of Acerus to consolidate the Shares, and such a consolidation may enhance their marketability as an investment and could facilitate additional financings to fund operations in the future. Accordingly, at the Meeting, Shareholders will be asked to consider and approve, with or without modification, a special resolution authorizing an amendment to the articles of Acerus pursuant to subsection 168(1)(h) of the OBCA, to consolidate the issued and outstanding Shares on the basis of one (1) new Share for up to 50 pre-consolidation Shares (the "**Share Consolidation**").

Although approval for the Share Consolidation is being sought at the Meeting and, if approved, the Board anticipates implementing the Share Consolidation promptly thereafter, such Share Consolidation would ultimately become effective at a date in the future to be determined by the Board when the Board considers it to be in the best interests of Acerus to implement such a Share Consolidation. The special resolution will also authorize the Board to elect not to proceed with, and abandon, the Share Consolidation at any time if it determines, in its sole discretion to do so. The Share Consolidation is subject to Shareholder approval and to acceptance by the TSX.

**The Board unanimously recommends that Shareholders vote FOR the Share Consolidation. The persons named in the accompanying form of proxy will, in the absence of specifications or instructions on the form of proxy, vote FOR the Share Consolidation.**

### Risks Associated with the Share Consolidation

There can be no assurance that the market price of the consolidated Shares will increase as a result of the Share Consolidation. The marketability and trading liquidity of the consolidated Shares may not improve. The consolidation may result in some Shareholders owning "odd lots" of less than 100 or 1,000 Shares which may be more difficult for such Shareholders to sell or which may require greater transaction costs per Share to sell.

### Principal Effects of the Share Consolidation

The Share Consolidation will not have a dilutive effect on Acerus' Shareholders since each Shareholder will hold the same percentage of Shares outstanding immediately following the Share Consolidation as such Shareholder held immediately prior to the Share Consolidation (subject to the elimination of fractional entitlements). The Share Consolidation will not affect the relative voting and other rights that accompany the Shares (subject to the elimination of fractional entitlements).

If the Board decides to proceed with the Share Consolidation at the time they deem appropriate, the principal effects of the Share Consolidation include the following:

- (a) the fair market value of each Share may increase and will, in part, form the basis upon which further Shares or other securities of Acerus will be issued;
- (b) based on the number of issued and outstanding Shares as at May 15, 2020, the current number of issued and outstanding Shares, being 1,010,456,066, would be reduced as follows in the below hypothetical scenarios;

Ratio	Number of Post-Consolidation Shares <sup>2</sup>
10 for 1	101,045,606
20 for 1	50,522,803
30 for 1	33,681,868
40 for 1	25,261,401
50 for 1	20,209,121

- (c) the exercise prices and the number of Shares issuable upon the exercise or deemed exercise of any stock options, warrants or other convertible or exchangeable securities of Acerus will be automatically adjusted based on the consolidation ratio; and
- (d) as Acerus currently has an unlimited number of Shares authorized for issuance, the Share Consolidation will not have any effect on the number of Shares available for future issuance.

### **Effect on Fractional Shares**

No fractional Shares will be issued, and no cash consideration will be paid, if, as a result of the Share Consolidation, a registered Shareholder would otherwise become entitled to a fractional Share. After the Share Consolidation, then current Shareholders will have no further interest in Acerus with respect to their fractional Shares. This is not, however, the purpose for which Acerus is effecting the Share Consolidation.

### **Effect on Share Certificates**

If the Share Consolidation is approved by the Shareholders and implemented by the Board, Registered Shareholders will be required to exchange their Share certificates representing pre-consolidation Shares for new Share certificates representing post-consolidation Shares. As soon as possible following the effective date of the Share Consolidation, Registered Shareholders will be sent a letter of transmittal by the Acerus' transfer agent, TSX Trust Company. The letter of transmittal will contain instructions on how to surrender Share certificate(s) representing pre-consolidation Shares to the transfer agent. The transfer agent will forward to each Registered Shareholder who has sent the required documents a new Share certificate representing the number of post-consolidation Shares to which the Shareholder is entitled. Until surrendered, each Share certificate representing pre-consolidation Shares of Acerus will be deemed for all purposes to represent the number of whole post-consolidation Shares to which the holder is entitled as a result of the Share Consolidation. Shareholders should not destroy any Share certificate(s) and should not submit any Share certificate(s) until requested to do so. The method of delivery of

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<sup>2</sup> This calculation has not been adjusted to reflect any lost fractional Shares

certificates representing Shares and the letter of transmittal and all other required documents will be at the option and risk of the person surrendering them. It is recommended that such documents be delivered by hand to TSX Trust Company, at the address noted in the letter of transmittal, and a receipt obtained therefore, or, if mailed, that registered mail, with return receipt requested, be used and that proper insurance be obtained.

No new Share certificates will be issued to a Shareholder until such Shareholder has surrendered the corresponding “old” Share certificates, together with a properly completed and executed letter of transmittal, to the transfer agent. Consequently, following the Share Consolidation, shareholders will need to surrender their old Share certificates before they will be able to sell or transfer their Shares. If an old Share certificate has any restrictive legends, the new Share certificate will be issued with the same restrictive legends, if any, that are on the back of old Share certificates.

If the Share Consolidation is implemented by the Board, intermediaries will be instructed to effect the Share Consolidation for beneficial Shareholders holding Shares indirectly. However, such intermediaries may have different procedures than Registered Shareholders for processing the Share Consolidation. If you hold your Shares with such an intermediary and if you have any questions in this regard, Acerus encourages you to contact your intermediary.

### **Procedure for Implementing Share Consolidation**

If the special resolution is approved by the Shareholders and the Board decides to implement the Share Consolidation, Acerus will file Articles of Amendment pursuant to the OBCA to amend the Articles of Acerus. The Share Consolidation will become effective on the date shown in the Certificate of Amendment issued pursuant to the OBCA. In order to complete the Share Consolidation, regulatory approval from the TSX will be required and temporary suspension of trading of the Shares may take place. If the Share Consolidation is approved, no further action on the part of the Shareholders will be required in order for the Board to implement the Share Consolidation.

### **Dissent Rights**

Under the OBCA, Shareholders do not have dissent rights with respect to the proposed Share Consolidation.

### **Special Resolution**

The OBCA requires that any change in the number of shares of any class of shares of a corporation into a different number of shares of the same class must be approved by a special resolution of the shareholders of that corporation, being a resolution passed by not less than two-thirds of the votes cast by the shareholders who voted in respect of that resolution. The text of the special resolution to be voted on at the Meeting by the Shareholders is set forth below.

**“BE IT RESOLVED** as a special resolution of the holders of common shares of Acerus Pharmaceuticals Corporation (**“Acerus”**) that:

1. the articles of Acerus be amended to change the number of issued and outstanding common shares of Acerus (the **“Shares”**) by consolidating the issued and outstanding Shares on the basis of one (1) post-consolidation Share for up to fifty (50) pre-consolidation Shares or for such other lesser whole or fractional number of existing Shares that the directors, in their sole discretion, determine to be appropriate (the **“Share Consolidation”**), and in the event that the Share Consolidation would otherwise result in a holder of Shares holding a fraction of a Share,

such holder shall not receive any whole new Shares or any cash consideration for each such fraction, such amendment to become effective at a date in the future to be determined by the board of directors of Acerus (the “**Board**”);

2. any director or officer of Acerus be and is hereby authorized, for and on behalf of Acerus, to execute and deliver or cause to be delivered Articles of Amendment to the Director under the *Business Corporations Act* (Ontario) at such time as the Board determines to implement the Share Consolidation;
3. notwithstanding that this special resolution has been duly passed by the holders of Shares, the directors of Acerus are hereby authorized, in their sole discretion, to revoke this special resolution in whole or in part at any time prior to it being given effect without further notice to, or approval of, the holders of Shares;
4. any one director or officer of Acerus be and the same is hereby authorized, for and on behalf of Acerus, to execute or cause to be executed, and to deliver or cause to be delivered, all such documents and filings, and to do or cause to be done all such acts and things, as in the opinion of such director or officer may be necessary or desirable in order to carry out the terms of this resolution, such determination to be conclusively evidenced by the execution and delivery of such documents or the doing of any such act or thing.”

**THE BOARD BELIEVES THAT THE SHARE CONSOLIDATION IS IN THE BEST INTERESTS OF ACERUS. THEREFORE, THE BOARD UNANIMOUSLY RECOMMENDS THAT SHAREHOLDERS VOTE FOR THE SPECIAL RESOLUTION APPROVING THE SHARE CONSOLIDATION.**

#### **ADOPTION OF OMNIBUS INCENTIVE PLAN**

Acerus currently maintains the Amended and Restated Stock Option Plan (as defined below) which was re-approved by Shareholders in 2018. The Amended and Restated Stock Option Plan provides for awards of options to acquire Shares to be granted to directors, officers, eligible employees and consultants of Acerus or its affiliates. The Board believes that the Amended and Restated Stock Option Plan has been effective in attracting qualified employees, directors and consultants to Acerus and in providing long-term incentives and rewards to those individuals responsible for Acerus’ growth and success. The Board further believes that the awards granted under the Amended and Restated Stock Option Plan have provided an incentive that aligns the economic interests of plan participants with those of our Shareholders.

Stock options have long been an integral and essential component of competitive compensation packages for companies in our industry. However, the evolution of the employment marketplace has contributed to the continuing development of innovative compensation practices involving several alternative forms of equity-based incentives. In view of these developments, the Board believes that the adoption and approval of a new long-term incentive plan permitting the grant of stock options and restricted share units (“**RSUs**”) and performance share units (“**PSUs**” and together with RSUs, “**Share Units**”) settled in Shares (or, at the election of Acerus, their cash equivalent) will provide Acerus with a flexible and dynamic long-term incentive compensation structure that: (i) allows for the implementation of potential performance vesting conditions; and (ii) removes the link between stock option awards and short-term performance. In addition, under the proposed plan, Acerus would be able to grant deferred share units (“**DSUs**”) to directors. Given the factors noted above, the Board believes that the adoption of the Omnibus Incentive Plan is in the best interests of Acerus. Accordingly, the Board adopted, subject to the approval of Acerus’ Shareholders, the Acerus Pharmaceuticals Corporation Omnibus Incentive Plan

attached hereto as Schedule D (the “**Omnibus Incentive Plan**”). As part of the requirements for listing with the TSX, the Omnibus Incentive Plan must be approved by the Shareholders.

Upon approval of the Omnibus Incentive Plan by the Shareholders, the Amended and Restated Stock Option Plan will be frozen and no further grants or awards will be made under such plan. However, the Amended and Restated Stock Option Plan will continue in effect after approval of the Omnibus Incentive Plan for so long as and solely to the extent necessary to administer previously-granted awards that remain outstanding under such plan. If the Omnibus Incentive Plan is not approved by the Shareholders, the Amended and Restated Stock Option Plan will remain in effect according to its terms and Acerus may continue to make stock option awards under such plan.

The material features of the Omnibus Incentive Plan are summarized below.

### **Administration**

The Omnibus Incentive Plan is administered by the Board. The Board will determine which directors, officers, eligible employees or consultants of Acerus or its affiliates are eligible to receive awards under the Omnibus Incentive Plan. In addition, the Board will interpret the Omnibus Incentive Plan and may adopt, amend or rescind any administrative rules, regulations, procedures and guidelines relating to the Omnibus Incentive Plan or any awards granted under the Omnibus Incentive Plan, as it deems appropriate.

Except as otherwise required by law, the Board may, from time to time, delegate powers conferred on the Board under the Omnibus Incentive Plan to the Compensation Committee (or such other committee as the Board determines necessary, from time to time). In such event, the Compensation Committee will exercise the powers delegated to it by the Board in the manner and on such terms authorized by the Board, and all decisions made, or actions taken, by the Compensation Committee arising in connection with the administration of the Omnibus Incentive Plan within its authority are final, conclusive and binding.

### **Eligibility**

All employees and directors of Acerus or its designated affiliates are eligible to participate in the Omnibus Incentive Plan. In addition, subject to applicable laws, the Board may determine, at its discretion, which consultants are eligible to participate in the Omnibus Incentive Plan. However, RSUs and PSUs may not be granted to directors of Acerus or its designated affiliates.

### **Shares Subject to the Omnibus Incentive Plan and Limitation on Awards**

The maximum number of Shares available for issuance pursuant to the Omnibus Incentive Plan and any other security-based compensation arrangement of Acerus subsequent to the date of approval of the Omnibus Incentive Plan by Shareholders shall not exceed a number which is fixed at 10% of the issued and outstanding Shares from time to time.

The Omnibus Incentive Plan is also subject to the following limitations: (i) no more than 10% of the outstanding Shares may be issued under the plan or pursuant to any other security-based compensation arrangements of Acerus during any one year period; (ii) no more than 5% of the outstanding Shares may be issued under the plan or pursuant to any other security-based compensation arrangements of Acerus to any one person; (iii) the number of Shares issuable to insiders at any time pursuant to all of Acerus’ security-based compensation arrangements shall not exceed 10% of the outstanding Shares on a non-diluted basis and the number of Shares to be issued to insiders, within any one-year period, pursuant to all of Acerus’ security-based compensation arrangements shall not exceed 10% of the outstanding Shares on a non-diluted basis; and (iv) the aggregate number of Shares reserved for issue to any one service provider of

Acerus shall not exceed 2% of the total number of Shares then outstanding, excluding Shares issued to such service provider upon the exercise of stock options over the preceding 12-month period. For purposes of the plan, “insider”, “security-based compensation arrangement” and “service provider” have the meanings set out in the TSX Company Manual.

With respect to awards made under the Omnibus Incentive Plan, if for any reason Shares subject to issuance on the exercise of stock options granted under the plan are not issued, for reasons including a termination, expiration or cancellation, such Shares will become available for additional grants under the plan. If any RSUs, PSUs or DSUs granted under the plan expire, terminate or are cancelled for any reason without being settled in the form of Shares issued from treasury, such Shares will become available for additional grants under the plan.

The plan is considered an “evergreen” plan, since the Awards which have been exercised shall be available for subsequent grants under the Plan and the number of Awards available to grant increases as the number of issued and outstanding Shares increases.

### **Types of Awards**

Awards under the Omnibus Incentive Plan include stock options, RSUs, PSUs and DSUs. These awards are discussed in more detail below.

#### ***Stock Options***

The Board may grant stock options to any participant under the Omnibus Incentive Plan at any time. The exercise price for stock options will be determined by the Board, but may not be less than the market value of a Share (being, on any particular day, the volume weighted average trading price of a Share on the TSX for the five (5) preceding days on which Shares were traded, or, in the event that the Shares are not listed and posted for trading on the TSX, on any other stock exchange as selected by the Board for these purposes, and, in the event such Shares are not listed and posted for trading on any stock exchange, the fair market value of such Shares as determined by the Board in its discretion) (the “**Market Value**”) on the date the stock option is granted, except in circumstances where the stock option is granted in exchange for another stock option, subject to TSX approval. It is anticipated that stock options will vest and become exercisable as to one third of the stock option on each of the anniversary of the date of grant for the three years following the date of grant, unless otherwise determined by the Board and specified in such participant’s option agreement. Stock options must be exercised within a period fixed by the Board that may not exceed five years from the date of grant, except in a case where the expiry period falls during a blackout period, in which case the expiry period will be automatically extended until ten business days after the end of the blackout period. The Omnibus Incentive Plan also provides for earlier termination of stock options on the occurrence of certain events, including but not limited to, termination of a participant’s employment.

#### ***Share Units***

The Board may grant Share Units to any participant (other than directors) under the Omnibus Incentive Plan at any time. The terms and conditions of grants of Share Units, including the quantity, type of award, award date, vesting conditions, applicable vesting periods and other terms and conditions with respect to the award, as determined by the Board, will be set out in such participant’s RSU agreement or PSU agreement, as applicable. One (1) RSU is equivalent to (1) Share. PSUs that are subject to performance vesting conditions may become vested PSUs based on a multiplier, which may be greater or less than 100%, subject to such percentage being no greater than 300%.

Accounts will be maintained for each participant and each notional grant of Share Units, as granted to such participant from time to time, will be credited to such participant's account. Share Units that fail to vest with respect to a participant, or that are paid out to the participant are cancelled and will be removed from such participant's account.

Upon the vesting and settlement of a Share Unit, Acerus is entitled to elect, in Acerus' sole discretion, to settle vested Share Units for their cash equivalent, Shares or a combination thereof. For purposes of determining the cash equivalent of Share Units on settlement, such calculation will be made on the settlement date based on the Market Value on the settlement date multiplied by the number of vested Share Units in the participant's notional account. For the purposes of determining the number of Shares from treasury to be issued and delivered to a participant upon settlement of Share Units, such calculation will be made on the settlement date based on the whole number of Shares equal to the whole number of vested Share Units then recorded in the participant's notional account. If a Share Unit would otherwise expire during a blackout period, the term of such Share Unit shall automatically be extended until ten business days after the end of the blackout period, however, in all cases, Share Units shall expire and be settled by no later than December 31<sup>st</sup> of the third calendar year commencing after the date of award.

In the case of PSUs, if the performance-related conditions in respect of the vesting of Share Units determined by the Board at the time of granting the award (the "**Performance Vesting Conditions**") with respect to a fiscal year are not met during such fiscal year (the "**Shortfall Year**"), the PSUs which were scheduled to vest at the end of such Shortfall Year may vest in future years, so long as in such subsequent year the Performance Vesting Conditions for such subsequent year are equal to or greater than the cumulative aggregate Performance Vesting Conditions for the Shortfall Year and subsequent year. Performance Vesting Conditions may include but are not limited to, financial or operational performance of Acerus, total shareholder return, individual performance criteria or otherwise, which may be measured over a specified period and may have a multiplier effect based on the level of achievement.

### ***DSUs***

The Board may grant DSUs to any DSU Participant (being a director of Acerus) under the Omnibus Incentive Plan at any time. In addition, subject to Board approval, a DSU Participant may elect, once each fiscal year, to be paid up to 100% of his or her annual board retainer (including any committee fees, attendance fees and retainers to committee chairs) in the form of DSUs with the balance, if any, being paid in cash in accordance with Acerus' regular practices. A DSU Participant is entitled to terminate his or her participation in the plan.

One (1) DSU is equivalent to one (1) Share. Fractional DSUs are permitted under the plan. The number of DSUs granted at any particular time pursuant to the plan will be calculated by: (a) in the case of an elected amount by a DSU Participant, dividing (i) the dollar amount of the elected amount by (ii) the Market Value of a Share on the applicable award date; or (b) in the case of a grant of DSUs, dividing (i) the dollar amount of such grant by (ii) the Market Value of a Share on the date of grant. Acerus shall maintain a notional account for each DSU Participant.

All DSUs recorded in a participant's notional account will vest on the DSU Termination Date, being the day that the DSU Participant ceases to be a director and, if applicable, an employee of Acerus for any reason.

Upon the settlement of DSUs, the number of Shares covered by the DSUs will be issued from treasury by Acerus as fully paid non-assessable Shares based on the whole number of Shares equal to the whole number of DSUs then recorded in the DSU Participant's notional account (fractions of Shares will be settled in cash). If a DSU Participant gives notice to Acerus of its election to receive cash pertaining to a DSU, Acerus, with the approval of the Board, may agree to pay an amount in cash equal to the aggregate

Market Value of the Shares as at the DSU Termination Date to be issued in place of issuing to the DSU Participant Shares under the DSU.

### **Awards Granted under the Plan**

As of the date hereof, no specific awards have been granted or are contemplated under the Omnibus Incentive Plan. In addition, the exact types and amounts of any future awards to be made to any eligible participants pursuant to the Omnibus Incentive Plan are not presently determinable. As a result of the discretionary nature of the Omnibus Incentive Plan, it is not possible to state who the participants in the Omnibus Incentive Plan will be in the future or the number of Options, RSUs, PSUs or DSUs to be received by a person or group.

### **Termination of Employment**

Unless otherwise permitted by the Board, upon the resignation of a participant as an employee, director or consultant from Acerus or a designated affiliate, all rights, title and interest in awards that are unvested on the date notice of resignation is delivered to Acerus will be forfeited. Stock options that have vested as of the date notice of resignation is delivered to Acerus may be exercised until the earlier of (i) the end of the exercise period and (ii) 10 days after the date notice of resignation is delivered to Acerus, after which time all stock options expire.

Unless otherwise permitted by the Board, upon termination of a participant's employment or service with Acerus or a designated affiliate for cause, all rights, title and interest in all the participant's awards granted under the Omnibus Incentive Plan, whether vested or unvested at the date of termination, will be forfeited.

Unless otherwise permitted by the Board, upon termination of a participant's employment or service with Acerus or a designated affiliate without cause or such participant resigns because he or she has been constructively dismissed: (i) all of the participant's stock options which have vested may be exercised until the earlier of the expiry date of such stock options or 90 days after the date of termination, after which all stock options expire; (ii) a participant's RSUs that have not vested will vest, subject to the Board's approval, on the basis of a pro rata portion of the participant's RSUs that are scheduled to vest on the next scheduled vesting date set forth in such participant's RSU agreement, based on the number of days that have elapsed between the date on which the award was granted and the date of termination, and such RSUs will be settled on the next scheduled vesting date set forth in the participant's RSU agreement; and (iii) a participant's PSUs that have not vested will vest in the normal course for a period of 90 days extending from the end of the fiscal year in which the date of termination occurred (the "90 Day Period"). Subject to the Board's approval, any PSUs which do not vest in the normal course during the 90 Day Period will vest pro rata upon the date of termination to take into account only the period that has elapsed between the date the award was granted and the date of termination, provided that the Performance Vesting Conditions are satisfied in respect of the period in which termination of employment occurs.

Unless otherwise permitted by the Board, upon a participant's cessation of employment or service with Acerus or a designated affiliate as a result of death, disability or retirement of the participant, all of the participant's stock options that would vest in the one year period following the date of termination will vest immediately prior to the date of termination and the participant (or his or her legal representative, as applicable) may exercise such stock options and any stock options that had vested as of the date of termination for the one year period following the date of termination, after which time all stock options expire. RSUs and PSUs will be treated in the same manner as when a participant is terminated without cause.

## **Adjustments**

In the event of (i) any change in Acerus' capital structure, (ii) any payment of a stock dividend (other than a stock dividend that is in lieu of an ordinary cash dividend), (iii) any other change made in the capitalization of Acerus or (iii) a corporate transaction, such as an amalgamation, arrangement, combination, spin-off or other reorganization involving Acerus, that, in the opinion of the Board would warrant the amendment or replacement of any existing awards (collectively, the "**Adjustment Events**"), the Omnibus Incentive Plan provides for appropriate adjustments in the number or type of Shares that may be acquired upon the exercise of stock options, the exercise price of outstanding stock options or the number of RSUs, PSUs or DSUs in the participant's account (collectively, the "**Adjustments**"), as necessary in order to preserve proportionately the rights and obligations of the participants under the Omnibus Incentive Plan.

In the event that the Board determines that the Adjustments would not preserve proportionately the rights and obligations of the participants, or the Board otherwise determines is appropriate, the Board may permit the vesting and exercise, as applicable, of any outstanding stock options that are not otherwise vested and the cancellation of any outstanding stock options which are not exercised within any specified period. Such vesting or cancellation, as the case may be, will be effective no later than the business day prior to the date such Adjustment Event is consummated.

## **Change of Control**

In the event of a change of control of Acerus, the Board may accelerate the expiry of stock options granted under the Omnibus Incentive Plan to the business day immediately following the date on which such change of control is consummated, so long as the Board accelerates the vesting of the stock options prior to the date on which the change of control is consummated and Acerus provides notice of accelerated vesting and expiry to all participants not less than ten business days prior to the date on which such change of control is consummated.

With respect to Share Units, in the event of a change of control of Acerus, the Board has the authority to take all necessary steps to ensure the preservation of the economic interests of the participants in, and to prevent the dilution or enlargement of, any RSUs or PSUs.

In addition, in the event of a change of control of Acerus, for each stock option with an exercise price greater than the consideration offered in connection with any such transaction, the Board may in its discretion elect to cancel such stock option without any payment to the participant holding such option.

## **Amendment and Termination**

The Board may at any time amend, suspend or terminate the Omnibus Incentive Plan, subject to applicable law that requires the approval of shareholders or any governmental or regulatory body, provided that no such action may be taken that adversely affects or alters any rights of a participant under any award previously granted in a material manner without the consent of such affected participant or unless such action is permitted by the plan or the award agreement relating to such award.

The Board may, in its discretion and without approval of shareholders, make changes to the Omnibus Incentive Plan or any award that do not require the approval of shareholders, which may include but are not limited to: (i) any amendment of a "housekeeping" nature, including without limitation to clarify the meaning of an existing provision of the plan or any agreement, correct or supplement any provision of the plan that is inconsistent with any other provision of the plan or any agreement, correct any grammatical or typographical errors or amend the definitions in the plan regarding administration of the plan; (ii) a change the vesting provisions of the plan, any award agreement and any award granted under

the plan; (iii) a change the provisions governing the effect of termination of a participant's employment, contract or office; (iv) a change to accelerate the date on which any award may be exercised under the plan; or (v) an amendment of the plan or an award as necessary to comply with law or the requirements of any stock exchange upon which the securities of Acerus are then listed.

Notwithstanding the foregoing or any other provision of the plan, shareholder approval is required for the following plan amendments: (i) any increase in the maximum number of Shares that may be issuable from treasury pursuant to awards granted under the plan; (ii) any reduction in the exercise price of a stock option benefitting an insider of Acerus; (iii) any extension of the expiry date of an award benefitting an insider of Acerus, except in the case of an extension due to a blackout period; (iv) any increase in the maximum number of awards that may be issuable to insiders of Acerus and associates of such insiders at any time; and (v) any amendment to the amendment provisions of the plan.

### **Assignment**

Except as required by law, the rights of a participant under the Omnibus Incentive Plan are not capable of being anticipated, assigned, transferred, alienated, sold, encumbered, pledged, mortgaged or charged and are not capable of being subject to attachment or legal process for the payment of any debts or obligations of such participant.

### **Ordinary Resolution**

To be effective, the resolution approving the Omnibus Incentive Plan must be approved by not less than a simple majority of the votes cast by holders of Shares present in person or represented by proxy and entitled to vote at the Meeting. If the Shareholders do not approve the adoption of the Omnibus Incentive Plan, the Omnibus Incentive Plan will not be implemented, but Acerus reserves the right to adopt such other compensation plans and programs as it deems appropriate and in the best interests of Acerus.

The persons named in the accompanying form of proxy will, in the absence of specifications or instructions on the form of proxy, vote FOR the adoption of the Omnibus Incentive Plan.

The text of the ordinary resolution to be voted on at the Meeting by the Shareholders is set forth below.

**"WHEREAS** the board of directors of Acerus Pharmaceuticals Corporation ("**Acerus**") adopted on May 11, 2020 the Acerus Omnibus Incentive Plan which does not have a fixed maximum number of common shares of Acerus issuable thereunder;

**AND WHEREAS** there will be reserved for issuance under the Acerus Omnibus Incentive Plan common shares of Acerus representing up to 10% of the aggregate number of common shares of Acerus as are issued and outstanding from time to time;

**AND WHEREAS** the rules of the Toronto Stock Exchange provide that all unallocated options, rights or other entitlements under a security based compensation arrangement which does not have a fixed number of maximum securities issuable, be approved by shareholders every three years;

**BE IT RESOLVED** as an ordinary resolution of the holders of common shares of Acerus that:

1. subject to approval of the Toronto Stock Exchange and all other applicable regulatory authorities, the Acerus Omnibus Incentive Plan and the reservation for issuance thereunder of up to 10% of the aggregate number of common shares of Acerus as are issued and outstanding

from time to time, be and is hereby approved and adopted, in the form attached to the management information circular of Acerus dated May 15, 2020;

2. Acerus have the ability to continue granting awards under the Acerus Omnibus Incentive Plan until June 23, 2023, which is the date that is three years from the date of the shareholder meeting at which shareholder approval is being sought;
3. any one director or officer of Acerus be and the same is hereby authorized, for and on behalf of Acerus, to execute or cause to be executed, and to deliver or cause to be delivered, all such documents and filings, and to do or cause to be done all such acts and things, as in the opinion of such director or officer may be necessary or desirable in order to carry out the terms of this resolution, such determination to be conclusively evidenced by the execution and delivery of such documents or the doing of any such act or thing."

**THE BOARD BELIEVES THAT THE ADOPTION OF THE OMNIBUS INCENTIVE PLAN IS IN THE BEST INTERESTS OF ACERUS. THEREFORE, THE BOARD UNANIMOUSLY RECOMMENDS THAT SHAREHOLDERS VOTE FOR THE ORDINARY RESOLUTION APPROVING THE OMNIBUS INCENTIVE PLAN.**

## STATEMENT OF EXECUTIVE COMPENSATION

### Compensation Discussion and Analysis

The Compensation Committee of the Board ("**Compensation Committee**") has reviewed the following Compensation Discussion and Analysis ("**CD&A**") and this Statement of Executive Compensation. Based on its review, the Compensation Committee recommended to the Board, and the Board approved, that the following CD&A and Statement of Executive Compensation be included in this Circular.

The Compensation Committee is presently comprised of four members, Messrs. Lievonen, Chabursky, Cotton and Gregory (Chair), all of whom are independent for purposes of National Instrument 58-101 – *Corporate Governance*. As Mr. Lievonen is not standing for re-election at the Meeting, the committee will be reconstituted following the Meeting to include Messrs. Chabursky, Cotton, Gregory (chair) and Leckie, if Mr. Leckie is elected as a Director at the Meeting. For a discussion of the members' relevant education or experience as related to the Compensation Committee, please refer to the biographies of each member of the Compensation Committee as provided in "Election of Directors" above.

The Compensation Committee oversees Acerus' compensation plans and framework, discharges the Board's responsibilities relating to compensation, evaluates the President and Chief Executive Officer's performance in light of Acerus' corporate goals and objectives, and reviews and (either as a committee or together with other independent Directors) makes recommendations concerning the President and Chief Executive Officer's compensation as well as the compensation of other executive officers (in consultation with the President and Chief Executive Officer).

### Compensation Philosophy

Acerus values the importance of attracting, developing, and maintaining skilled, high performing employees who are passionate about Acerus' success. The compensation philosophy and strategy are geared towards creating a results-oriented, high-performance culture throughout the organization. The

executive compensation program adopted by Acerus has been designed to support Acerus' primary objective of generating long-term shareholder value.

In 2018 and 2019, Acerus paid the following fees to the Wilkinson Consulting Group ("WCG") in connection with its review of Acerus' executive compensation:

<u>Fiscal Year</u>	<u>Executive Compensation-Related Fees</u>	<u>All Other Fees</u>	<u>Total</u>
2019	\$nil	\$nil	\$nil
2018	\$6,880	\$nil	\$6,880

In 2018, WCG determined that executive compensation was at or below Acerus' peer group. The Compensation Committee has taken into account the suggestions and recommendations of WCG in designing the Acerus' executive compensation program.

In 2020, Acerus engaged Global Governance Advisors Inc. ("GGA") to review director compensation levels and practices among Acerus' peer group and provide recommendations for the 2020 fiscal year. GGA's mandate included the development of a peer group and high level director compensation philosophy that is reflective of market practice for similar-sized companies; reviewing director compensation levels and structure; evaluating the historic equity grants made to directors; and making recommendations for the Board and committee positions (chair and member roles). GGA determined that director compensation fell below Acerus' peer group and recommended adjusting director compensation to realign with the peer group. Accordingly, for the 2020 fiscal year, director compensation was raised to an amount between the 50<sup>th</sup> and 75<sup>th</sup> percentile of the peer group.

The main objectives of Acerus' executive compensation program are to:

- align executive interests with the interests of shareholders;
- promote a "pay-for-performance" philosophy and ensure that individuals are compensated in accordance with their personal performance and responsibilities as well as their contribution to the overall objectives of Acerus;
- attract, retain, and reward qualified executives; and
- offer compensation that is competitive in the industry while remaining within the limits of available resources given the stage of Acerus' development.

Acerus' compensation program is presently designed primarily to be competitive with similar organizations operating in the Canadian market with consideration, to a lesser degree, to United States pharmaceutical organizations. For the management executives, a substantial portion of their compensation is at risk, meaning that variable compensation in the form of short- and long-term incentives has the potential to comprise the majority of total compensation. Total compensation levels are set to reflect both the marketplace to ensure competitiveness and the ability of the individual in the role to affect Acerus' results over the short- and long-term.

In connection with the compensation paid to Named Executive Officers (as defined herein) in 2019, reference was made to corporate objectives for purposes of determining the amount, if any, of short-term and long-term incentive payouts. Such objectives included both qualitative and quantitative criteria relating to both corporate and individual performance. The overall corporate objectives of Acerus are approved by the Board on a yearly basis, and the President and Chief Executive Officer submits

corresponding individual objectives to the Compensation Committee for approval. The individual objectives of other Named Executive Officers will be approved by the President and Chief Executive Officer and may include both qualitative and quantitative objectives, depending on the nature of the Named Executive Officer's role and other circumstances. These individual objectives for the Chief Executive Officer are intended to align with the annual corporate objectives that have an expectation of achievement with an appropriate degree of risk in this regard and, for the other executives, reflect the respective functional responsibilities and area of influence and control.

In order to protect against the possibility of any inappropriate risk-taking behaviours, the Compensation Committee has adopted what it believes to be a harmonized mix of cash and equity compensation for executives balancing both short- and long-term incentives.

The executive compensation package currently consists of three key elements:

- **Base Salary** intended to provide regular compensation that reflects the individual's skills, responsibilities, criticality of the position to Acerus, experience level, internal comparability, and past performance. For the existing Named Executive Officers, base salaries were determined at the date of hire using a number of factors including the direct comparison of substantially equivalent positions in an applicable industry comparator group and relevant experience. Executives may also receive certain payments such as for automobile and, in certain circumstances, housing allowances, as well as payment of certain professional dues.
- **Short-Term Incentives ("STI")** in the form of a discretionary annual cash bonus, are designed to provide executive management with a competitive incentive that reflects overall Corporation performance as well as the performance versus individual objectives. Cash bonuses are generally determined in the first quarter of each year, following approval by the Board.
- **Long-Term Incentives ("LTI")** in the form of discretionary stock options or Share Units, are determined by considering overall corporate performance as well as the performance of the individual employee with reference to their individual objectives. The role of the LTIs is to align an executive's performance with the long-term performance of Acerus, provide an additional incentive for an executive to enhance shareholder value and serve as an important retention tool of key talent. Assuming the Omnibus Incentive Plan is approved, the Board will generally adhere to the following principles in connection with grants of stock options and/or Share Units as LTIs:
  - the stock options and/or Share Units will generally be granted annually and at the discretion of the Board;
  - previous grants, existing equity ownership levels and where applicable, foreign currency exchange considerations are taken into account when considering further grants of stock options and/or Share Units as part of the LTI program;
  - stock options granted as part of the LTI program generally carry a five year life and vest over a three year period, one-third each year on the anniversary date of the grant;
  - it is anticipated that RSUs granted as part of the LTI program will generally cliff-vest three years from the date of grant;
  - it is anticipated that LTI awards in the foreseeable future will be a combination of stock options and Share Units based on a percentage of the Named Executive Officer's Salary (as discussed below) the exact combination of which will be subject to the Board.
  - it is anticipated that the value of options granted as LTI will continue to be calculated using the Black Scholes value of said options. The option price will be determined by the Board and shall in no circumstance be lower than the volume weighted average trading price of the Shares on the TSX for the five trading days immediately preceding the date of the grant;
  - the number of Share Units granted pursuant to an LTI award will be calculated by taking

the dollar value of LTI compensation allocated to Share Units and dividing that number by the volume weighted average trading price of a Share on the Toronto Stock Exchange for the five (5) preceding days on which the Shares were traded.

As provided under “Adoption of Omnibus Incentive Plan” above, upon approval of the Omnibus Incentive Plan by Shareholders, the Amended and Restated Stock Option Plan will be replaced by the Omnibus Incentive Plan and no further grants or awards will be made under such plan. However, the Amended and Restated Stock Option Plan will continue in effect after approval of the Omnibus Incentive Plan for so long as and solely to the extent necessary to administer previously granted awards that remain outstanding under such plan. If the Omnibus Incentive Plan is not approved by Shareholders, the Amended and Restated Stock Option Plan will remain in effect according to its terms and Acerus may continue to make stock option awards under such plan.

On an aggregate basis, the following STI and LTI targets are applicable to the Named Executive Officers:

<b><u>Position</u></b>	<b><u>Target STI (% of Base Salary)</u></b>	<b><u>Target LTI (% of Base Salary)</u></b>
President and Chief Executive Officer	50%	100%
Chief Financial Officer	35%	50%
Senior Vice President, International Commercial	35%	50%
Vice President, General Counsel and Corporate Secretary	25%	50%

However, it is noted that such target payouts remain at the discretion of the Board, and may be reduced or increased by a performance-based multiplier, with reference to the individual objectives of the Named Executive Officer. Additionally, the payment of any bonus amount to a Named Executive Officer may be deferred until a later date or made subject to the satisfaction of certain specific conditions to payment, if deemed to be advisable.

The Named Executive Officers (as defined below under “*Summary Compensation Table*”) and Directors are, under the terms of Acerus’ Insider Trading Policy, prohibited from purchasing financial instruments designed to hedge or offset a decrease in the market value of the Shares, including Shares granted as compensation or held directly or indirectly by a Director or Named Executive Officer.

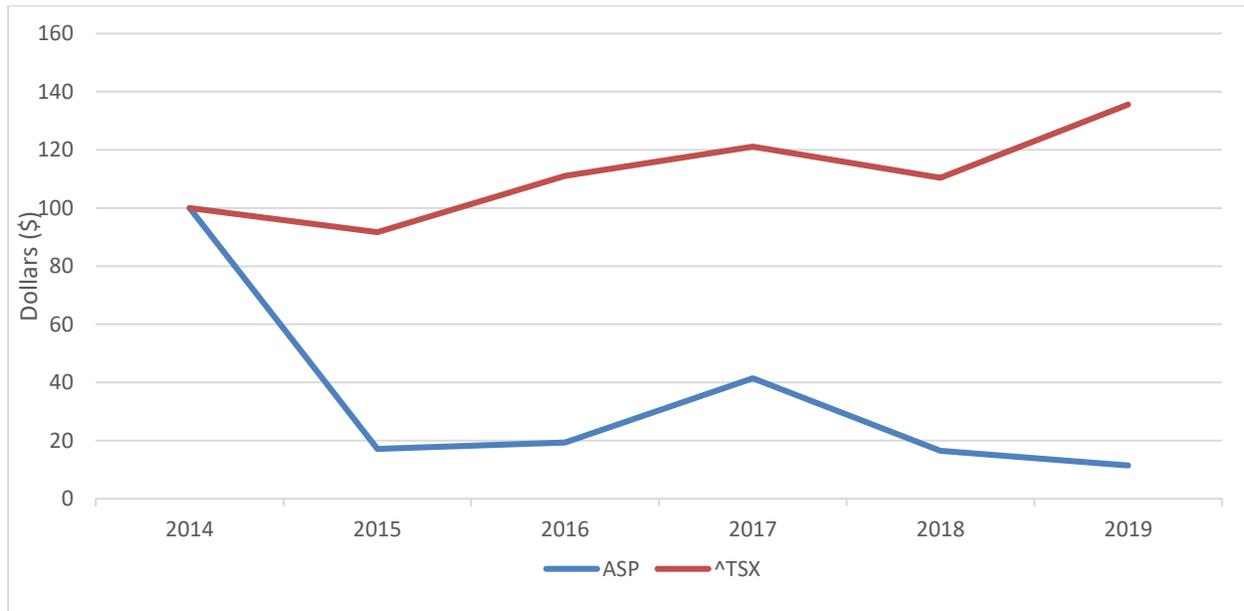
### Compensation Risk

The Compensation Committee has not formally considered the implications of risks associated with Acerus’ compensation policies and practices as, in its view, the current structure of Acerus’ executive compensation arrangements are designed to correlate to the long-term performance of Acerus, which includes but is not limited to performance of its share price.

### **Performance Graph**

The following graph shows the yearly change in the cumulative Shareholder total return on the Shares compared to the cumulative total return of the S&P/TSX Composite Index from December 31, 2014 to December 31, 2019, in each case assuming a \$100 investment on the commencement of, and reinvestment of distributions or dividends, as applicable, during the applicable period.

**Performance Graph**  
(December 31, 2014 to December 31, 2019)



**Summary Compensation Table**

The following table sets forth a summary of all compensation earned during the three most recently completed fiscal years ended December 31, 2019, 2018 and 2017 for the President and Chief Executive Officer, the Chief Financial Officer and the top three additional executive officers of Acerus whose total compensation exceeded, or would have exceeded, Cdn\$150,000 for 2018 (collectively the “**Named Executive Officers**”). All payments to each Named Executive Officer were paid in Canadian dollars. Amounts shown for each of 2019, 2018 and 2017 have, if paid in a currency other than U.S. dollars, been converted using the average Bank of Canada noon rate of exchange in effect during the applicable year.

Name and Principal Position	Year	Salary (U.S.\$)	Share-based awards (U.S.\$)	Option-based awards <sup>(1)</sup> (U.S.\$)	Non-Equity Incentive plan compensation (U.S.\$)		Pension Value (U.S.\$)	All other compensation (U.S.\$)	Total compensation (U.S.\$)
					Annual Incentive Plan	Long-Term Incentive Plan			
Edward Gudaitis, President and Chief Executive Officer <sup>(2)</sup>	2019	180,871	Nil	Nil	Nil	Nil	Nil	9,044	189,915 <sup>(3)</sup>
	2018	185,222	Nil	107,122	Nil	Nil	Nil	9,261	301,605
Robert Motz,	2019	175,847	Nil	19,616	Nil	Nil	Nil	9,402	204,865 <sup>(6)</sup>

Name and Principal Position	Year	Salary (U.S.\$)	Share-based awards (U.S.\$)	Option-based awards <sup>(1)</sup> (U.S.\$)	Non-Equity Incentive plan compensation (U.S.\$)		Pension Value (U.S.\$)	All other compensation (U.S.\$)	Total compensation (U.S.\$)
					Annual Incentive Plan	Long-Term Incentive Plan			
Chief Financial Officer <sup>(4)</sup>	2018	37,316	Nil	60,249	Nil	Nil	Nil	2,431	100,496
Gavin Damstra, Senior Vice President, International Commercial <sup>(6) (7)</sup>	2019	94,204	Nil	25,290	Nil	Nil	Nil	9,709	129,833
Tricia Symmes, Former Chief Operating Officer <sup>(8)</sup>	2019	83,672	Nil	Nil	Nil	Nil	Nil	371,916	455,588
	2018	231,527	Nil	51,204	Nil	Nil	Nil	14,278	297,009
	2017	211,769	Nil	42,174	88,943	Nil	Nil	14,631	357,517
Nathan Bryson, Former Chief Scientific Officer <sup>(9)</sup>	2019	207,248	Nil	Nil	Nil	Nil	Nil	13,942	221,190
	2018	212,233	Nil	48,411	Nil	Nil	Nil	14,278	274,922
	2017	198,977	Nil	60,556	50,055	Nil	Nil	14,246	323,834
Philippe Savard, Vice President, General Counsel and Corporate Secretary	2019	162,030	Nil	15,062	Nil	Nil	Nil	13,942	191,034
	2018	165,928	Nil	34,446	Nil	Nil	Nil	14,278	214,652
	2017	141,500	Nil	36,046	39,177	Nil	Nil	14,104	230,827

(\*) Represents partial salary based on the Named Executive Officer's employment start or end date in that year.

(1) The option-based awards are based on the fair value of the option on the grant date for the covered fiscal year based on the Black-Scholes option pricing model and are stated in U.S. dollars. Acerus chose the Black-Scholes model because it is a widely recognized and utilized model for option pricing. Certain options granted to Robert Motz, Gavin Damstra and Philippe Savard in 2019 had an expected life of five years, three-year vesting period, in equal thirds; the risk free rate used was 1.47%; the volatility rate used was 86.93% and an exercise price of Cdn\$0.13, resulting in an average fair price per option of Cdn\$0.08. Certain options granted to Tricia Symmes, Nathan Bryson and Philippe Savard in 2018 had an expected life of five years, three-year vesting period, in equal thirds; the risk free rate used was 2.11%; the volatility rate used was 90.01% and an exercise price of Cdn \$0.27, resulting in an average fair price per option of Cdn\$0.20. Certain options granted to Edward Gudaitis in 2018 had an expected life of five years, three-year vesting period, in equal thirds; the risk free rate used was 2.19%; the volatility rate used was 89.77% and an

exercise price of Cdn \$0.21, resulting in an average fair price per option of Cdn\$0.14. Certain options granted to Robert Motz in 2018 had an expected life of five years, three-year vesting period, in equal thirds; the risk free rate used was 2.44%; the volatility rate used was 86.51% and an exercise price of Cdn \$0.17, resulting in an average fair price per option of Cdn\$0.10. Certain options granted to Tricia Symmes, Nathan Bryson and Philippe Savard in 2017 had an expected life of five years, three-year vesting period, in equal thirds; the risk free rate used was 1.07%; the volatility rate used was 98% and an exercise price of Cdn.\$0.12, resulting in an average fair price per option of Cdn.\$0.08. Certain options granted to Tricia Symmes, Nathan Bryson and Philippe Savard in 2017 had an expected life of five years, 4.7 month vesting period; the risk free rate used was 1.76%; the volatility rate used was 94% and an exercise price of Cdn.\$0.12, resulting in an average fair price per option of Cdn.\$0.10. For further information regarding the “in the money” amount of any options presently held by the named executive officers, please see the “Outstanding Share-Based Awards and Option-Based Awards Table” below.

- (2) Mr. Gudaitis was appointed as President and Chief Executive officer on May 1, 2018.
- (3) The amount shown under “Salary” and “All other compensation” for Mr. Gudaitis in 2019 is net of a voluntary salary reduction of \$USD94,957. On March 30, 2020, 18,521,377 options were granted to Mr. Gudaitis with a Black-Sholes value of \$Cdn.0.027 per option, which offset the salary reduction and bonus.
- (4) Mr. Motz was appointed as Chief Financial Officer on October 29, 2018.
- (5) The amount shown under “Salary” and “All other compensation” for Mr. Motz in 2019 is net of a voluntary salary reduction of \$39,691
- (6) Mr. Damstra was appointed as Senior Vice President, International Commercial on May 9, 2019.
- (7) Mr. Damstra’s salary in 2019 was \$USD94,204 per annum. On January 1, 2020, Mr. Damstra’s salary was increased to \$USD199,712 per annum.
- (8) Ms. Symmes ceased to be the Chief Operating Officer on April 29, 2019. “All Other Compensation” includes the total severance granted to Ms. Symmes in 2019.
- (9) Mr. Bryson ceased to be the Chief Scientific Officer on March 6, 2020.
- (10) The amounts shown under “All Other Compensation” include an automobile allowance and a wellness allowance paid by Acerus.

### Executive Employment Agreements

Set out below are the principal terms and conditions of the employment agreements between Acerus and each of the Named Executive Officers that are employed by Acerus as of the date of this Circular.

#### *(a) Edward Gudaitis*

Mr. Gudaitis is party to an executive employment agreement dated March 28, 2018.

Under the terms of such employment agreement, Mr. Gudaitis may terminate his own employment on 90 days’ written notice to Acerus and may be terminated by Acerus immediately for cause, or for reasons other than for cause on 12 months’ notice, plus one additional months’ notice for each year of active employment with Acerus, up to an aggregate maximum of 18 months. However, upon termination of Mr. Gudaitis without cause, Acerus may, in its sole discretion, in lieu of notice, pay to Mr. Gudaitis: (i) an amount equal to 12 months’ salary, plus one additional month of base salary for each year of active employment with Acerus, up to an aggregate maximum of 18 months of salary (the “**Gudaitis Termination Payment Period**”), (ii) an amount equal to the average of any bonus paid to Mr. Gudaitis in the last three years ending prior to the date of termination, which average is to be divided by twelve and then multiplied by the number of months in the Gudaitis Termination Payment Period and (iii) pay in lieu of any vacation not used.

If within 12 months of a change of control of Acerus, Acerus terminates Mr. Gudaitis other than for cause or Mr. Gudaitis terminates his own employment for good reason, Mr. Gudaitis shall be entitled to a lump sum payment equal to: (i) 12 months' salary, plus two additional months of salary for each year of active employment with Acerus, up to an aggregate maximum of 18 months (the "**Gudaitis Change of Control Payment Period**"), (ii) the average of any bonus paid to Mr. Gudaitis in the last three years ending prior to the change of control, which average is to be divided by twelve and then multiplied by the number of months in the Gudaitis Change of Control Payment Period and (iii) pay in lieu of any vacation not used. In addition, in connection with a change of control of Acerus, all granted but unvested options of Mr. Gudaitis shall vest and be exercisable immediately prior to, but conditional upon, the completion of any change of control and Mr. Gudaitis' benefits will be continued for the Gudaitis Change of Control Payment Period.

Mr. Gudaitis' employment agreement also contains non-competition and non-solicitation provisions, each lasting during the term of his employment and for a period of one year following termination.

*(b) Robert Motz*

Mr. Motz is party to an executive employment agreement dated October 29, 2018.

Under the terms of such employment agreement, Mr. Motz may terminate his own employment on 90 days' written notice to Acerus and may be terminated by Acerus immediately for cause, or for reasons other than for cause on 12 months' notice, plus one additional months' notice for each year of active employment with Acerus, up to an aggregate maximum of 18 months. However, upon termination of Mr. Motz without cause, Acerus may, in its sole discretion, in lieu of notice, pay to Mr. Motz: (i) an amount equal to 12 months' salary, plus one additional month of base salary for each year of active employment with Acerus, up to an aggregate maximum of 18 months of salary (the "**Motz Termination Payment Period**"), (ii) an amount equal to the average of any bonus paid to Mr. Motz in the last three years ending prior to the date of termination, which average is to be divided by twelve and then multiplied by the number of months in the Motz Termination Payment Period and (iii) pay in lieu of any vacation not used.

If within 12 months of a change of control of Acerus, Acerus terminates Mr. Motz other than for cause or Mr. Motz terminates his own employment for good reason, Mr. Motz shall be entitled to a lump sum payment equal to: (i) 12 months' salary, plus two additional months of salary for each year of active employment with Acerus, up to an aggregate maximum of 18 months (the "**Motz Change of Control Payment Period**"), (ii) the average of any bonus paid to Mr. Motz in the last three years ending prior to the change of control, which average is to be divided by twelve and then multiplied by the number of months in the Motz Change of Control Payment Period and (iii) pay in lieu of any vacation not used. In addition, in connection with a change of control of Acerus, all granted but unvested options of Mr. Motz shall vest and be exercisable immediately prior to, but conditional upon, the completion of any change of control and Mr. Motz's benefits will be continued for the minimum period of time required by applicable employment standards legislation.

Mr. Motz employment agreement also contains non-competition and non-solicitation provisions, each lasting during the term of his employment and for a period of one year following termination.

*(c) Gavin Damstra*

Mr. Damstra is party to an executive employment agreement dated May 9, 2019.

Under the terms of such employment agreement, Mr. Damstra may terminate his own employment on 90 days' written notice to Acerus and may be terminated by Acerus immediately for cause, or for reasons

other than for cause on 12 months' notice, plus one additional months' notice for each year of active employment with Acerus, up to an aggregate maximum of 18 months ("**Damstra Termination Payment Period**"). However, upon termination of Mr. Damstra without cause, Acerus may, in its sole discretion, in lieu of notice, pay to Mr. Damstra: (i) a series of equal monthly payments for the first 6 months following termination comprising: (aa) base salary; (bb) the average of any bonus paid to Mr. Damstra in the last three years ending prior to the date of termination, which average is to be divided by twelve and then multiplied by the number of months in the Damstra Payment Termination Period; and (cc) pay in lieu of vacation not used (the "**Initial Termination Period**"); followed by (ii) a lump sum for the remainder of such amounts not paid during the Initial Termination Period.

If within 12 months of a change of control of Acerus, Acerus terminates Mr. Damstra other than for cause or Mr. Damstra terminates his own employment for good reason, Mr. Damstra shall be entitled to a lump sum payment equal to: (i) 12 months' salary, plus two additional months of salary for each year of active employment with Acerus, up to an aggregate maximum of 18 months (the "**Damstra Change of Control Payment Period**"), (ii) the average of any bonus paid to Mr. Damstra in the last three years ending prior to the change of control, which average is to be divided by twelve and then multiplied by the number of months in the Damstra Change of Control Payment Period and (iii) pay in lieu of any vacation not used. In addition, in connection with a change of control of Acerus, all granted but unvested options of Mr. Damstra shall vest and be exercisable immediately prior to, but conditional upon, the completion of any change of control and Mr. Damstra's benefits will be continued for the minimum period of time required by applicable employment standards legislation.

Mr. Damstra employment agreement also contains non-competition and non-solicitation provisions, each lasting during the term of his employment and for a period of one year following termination.

*(d) Nathan Bryson*

Dr. Bryson was party to an executive employment agreement dated January 20, 2014, as amended and restated on May 1, 2017. His employment with Acerus ended on March 6, 2020.

Under the terms of such employment agreement, Dr. Bryson was able to terminate his own employment on 90 days' written notice to Acerus or could be terminated by Acerus immediately for cause, or for reasons other than for cause on 12 months' notice. However, upon termination of Mr. Bryson without cause, Acerus had sole discretion, in lieu of notice, pay to Dr. Bryson: (i) an amount equal to 12 months' salary, (ii) an amount equal to the average of any cash bonus paid to Dr. Bryson in the last three years ending prior to the date of termination and (iii) pay in lieu of any vacation not used.

If within 12 months of a change of control of Acerus, Acerus terminated Dr. Bryson other than for cause or Dr. Bryson terminated his own employment for good reason, Dr. Bryson was entitled to a lump sum payment equal to: (i) 12 months' salary, (ii) the average of any bonus paid to Dr. Bryson in the last three years ending prior to the change of control and (iii) pay in lieu of any vacation not used. In addition, in connection with a change of control of Acerus, all granted but unvested options of Dr. Bryson were to vest and be exercisable immediately prior to, but conditional upon, the completion of any change of control and Dr. Bryson's benefits would have been continued for the minimum period of time required by applicable employment standards legislation.

Dr. Bryson's employment agreement also contained non-competition and non-solicitation provisions, each lasting during the term of his employment and for a period of one year following termination.

*(e) Tricia Symmes*

Ms. Symmes was party to an executive employment agreement dated November 1, 2016. Her employment with Acerus ended April 29, 2019.

Under the terms of such employment agreement, Ms. Symmes was able to terminate her own employment on 90 days' written notice to Acerus and was able to be terminated by Acerus immediately for cause, or for reasons other than for cause on 12 months' notice, plus one additional months' notice for each year of active employment with Acerus, up to an aggregate maximum of 24 months. However, upon termination of Ms. Symmes without cause, Acerus was able, in its sole discretion, in lieu of notice, pay to Ms. Symmes: (i) an amount equal to 12 months' salary, plus one additional month of base salary for each year of active employment with Acerus, up to an aggregate maximum of 24 months of salary (the "**Symmes Termination Payment Period**"), (ii) an amount equal to the average of any bonus paid to Ms. Symmes in the last three years ending prior to the date of termination, which average is to be divided by twelve and then multiplied by the number of months in the Symmes Termination Payment Period; and (iii) pay in lieu of any vacation not used.

If within 12 months of a change of control of Acerus, Acerus had terminated Ms. Symmes other than for cause or Ms. Symmes terminated her own employment for good reason, Ms. Symmes was entitled to a lump sum payment equal to: (i) 12 months' salary, plus two additional months of salary for each year of active employment with Acerus, up to an aggregate maximum of 24 months (the "**Symmes Change of Control Payment Period**"), (ii) the average of any bonus paid to Ms. Symmes in the last three years ending prior to the change of control, which average is to be divided by twelve and then multiplied by the number of months in the Symmes Change of Control Payment Period and (iii) pay in lieu of any vacation not used. In addition, in connection with a change of control of Acerus, all granted but unvested options of Ms. Symmes would vest and be exercisable immediately prior to, but conditional upon, the completion of any change of control and Ms. Symmes' benefits would be continued for the minimum period of time required by applicable employment standards legislation.

Ms. Symmes' employment agreement also contained non-competition and non-solicitation provisions, each lasting during the term of her employment and for a period of one year following termination.

*(f) Philippe Savard*

Mr. Savard is party to an amended and restated executive employment agreement dated May 1, 2017.

Under the terms of such employment agreement, Mr. Savard may terminate his own employment on 90 days' written notice to Acerus and may be terminated by Acerus immediately for cause, or for reasons other than for cause on 12 months' notice. However, upon termination of Mr. Savard without cause, Acerus may, in its sole discretion, in lieu of notice, pay to Mr. Savard: (i) an amount equal to 12 months' salary, (ii) an amount equal to the average of any cash bonus paid to Mr. Savard in the last three years ending prior to the date of termination and (iii) pay in lieu of any vacation not used.

If within 12 months of a change of control of Acerus, Acerus terminates Mr. Savard other than for cause or Mr. Savard terminates his own employment for good reason, Mr. Savard shall be entitled to a lump sum payment equal to: (i) 12 months' salary, (ii) the average of any bonus paid to Mr. Savard in the last three years ending prior to the change of control and (iii) pay in lieu of any vacation not used. In addition, in connection with a change of control of Acerus, all granted but unvested options of Mr. Savard shall vest and be exercisable immediately prior to, but conditional upon, the completion of any change of

control and Mr. Savard's benefits will be continued for the minimum period of time required by applicable employment standards legislation.

Mr. Savard's employment agreement also contains non-competition and non-solicitation provisions, each lasting during the term of his employment and for a period of one year following termination.

Estimated Incremental Payment on Change of Control and/or Termination

The following table provides details regarding the estimated incremental payments by Acerus to the Named Executive Officers employed by Acerus, as at December 31, 2019 under the above-described agreements in the event of: (a) a "Change of control"; (b) termination without cause; and (c) termination with cause, assuming, in each case, that the event took place on December 31, 2019.

Name	Severance Period (# of months)	Triggering Event	Base Salary (USD\$, except as noted) <sup>(1)</sup>	Payment Under Option Plan (USD.\$) <sup>(2)</sup>	Other Benefits (USD.\$)	Total (USD.\$, except as noted)
Edward Gudaitis, President and Chief Executive Officer	14 months	Termination Without Cause within 12 months of a Change of Control	\$277,179	Nil	\$85,645	\$362,824
	14 months	Termination Without Cause	\$277,179	Nil	\$85,645	\$362,824
	0	Termination With Cause	Nil	Nil	Nil	Nil
Robert Motz, Chief Financial Officer	13 months	Termination Without Cause within 12 months of a Change of Control	\$215,584	Nil	\$56,135	\$271,719
	13 months	Termination Without Cause	\$215,584	Nil	\$41,057	\$256,641
	0	Termination With Cause	Nil	Nil	Nil	Nil
Gavin Damstra, Senior Vice President, International Commercial	13 months	Termination Without Cause within 12 months of a Change of Control	\$135,510	Nil	\$36,379	\$171,889
	13 months	Termination Without Cause	\$135,510	Nil	\$21,779	\$157,283
	0	Termination With Cause	Nil	Nil	Nil	Nil
Nathan Bryson, Former Chief Scientific Officer	12 months	Termination Without Cause within 12 months of a Change of Control	\$211,734	Nil	\$87,864	\$299,598

Name	Severance Period (# of months)	Triggering Event	Base Salary (USD\$, except as noted) <sup>(1)</sup>	Payment Under Option Plan (USD.\$) <sup>(2)</sup>	Other Benefits (USD.\$)	Total (USD.\$, except as noted)
	12 months	Termination Without Cause	\$211,734	Nil	\$87,864	\$299,598
	0	Termination With Cause	Nil	Nil	Nil	Nil
Philippe Savard, Vice President, General Counsel and Corporate Secretary	12 months	Termination Without Cause within 12 months of a Change of Control	\$165,537	\$Nil	\$23,318	\$188,855
	12 months	Termination Without Cause	\$165,537	\$Nil	\$23,318	\$188,855
	0	Termination With Cause	Nil	Nil	Nil	Nil

(1) Based on employment agreements in effect as of the date of this Circular.

(2) Options held by this individual as at December 31, 2019 had an exercise price greater than the closing price of the Shares on the TSX on December 31, 2019 of Cdn\$0.08. Accordingly, these options would have been “out of the money.”

### Description of Incentive Plans

As of the date of this Circular, the only equity-based incentive plan of Acerus is the amended and restated stock option plan, which was adopted by Shareholders at the annual and special meeting of Shareholders held on June 28, 2018 (the “**Amended and Restated Stock Option Plan**”). For further information on the Amended and Restated Stock Option Plan, see the management information circular of Acerus dated May 15, 2018, which is available on SEDAR at [www.sedar.com](http://www.sedar.com).

As provided under “Adoption of Omnibus Incentive Plan” above, upon approval of the Omnibus Incentive Plan by Shareholders, the Amended and Restated Stock Option Plan will be replaced by the Omnibus Incentive Plan and no further grants or awards will be made under such plan. However, the Amended and Restated Stock Option Plan will continue in effect after approval of the Omnibus Incentive Plan for so long as and solely to the extent necessary to administer previously granted awards that remain outstanding under such plan. If the Omnibus Incentive Plan is not approved by Shareholders, the Amended and Restated Stock Option Plan will remain in effect according to its terms and Acerus may continue to make stock option awards under such plan and it would be required to be renewed by Shareholders at Acerus’ annual meeting in 2021.

The following describes the Amended and Restated Stock Option Plan, for which the Board retains a level of discretionary authority.

### Amended and Restated Stock Option Plan

The Amended and Restated Stock Option Plan, as amended June 28, 2018, is administered by Acerus' Board which may, from time to time, delegate to a committee of the Board or to the President and Chief Executive Officer of Acerus, all or any of the powers conferred to the Board under the Amended and Restated Stock Option Plan.

The purpose of the Amended and Restated Stock Option Plan is to allow full-time and salaried officers and employees of Acerus and certain other persons as may be determined by the Board from time to time to participate, through share ownership, in the growth of the business of Acerus and also to enhance Acerus' ability to attract, retain and motivate key personnel and reward significant performance achievements.

The Amended and Restated Stock Option Plan provides that the Board may from time to time, in its discretion, grant to Directors, officers, employees, consultants and any other person or entity engaged to provide ongoing services to Acerus non-transferable options to purchase Shares, provided that the number of Shares reserved for issuance under the Amended and Restated Stock Option Plan shall not exceed a number that is equal to 10% of the total issued and outstanding Shares from time to time. The exercise price of the options is determined on the date of grant provided that such price is not less than the volume-weighted average price of the Shares on the TSX for five trading days immediately preceding the date of grant. In addition, the number of Shares reserved for issuance to: (a) any one person shall not exceed 5%; (b) to the insiders or reserved for issuance to insiders of Acerus as a group, shall not exceed 10% (in aggregate or over any twelve-month period); and (c) to any one service provider to Acerus shall not exceed 2%, in each case of the issued and outstanding Shares. Subject to all regulatory policies, the Board fixes the vesting terms it deems appropriate when granting options.

Options granted under the Amended and Restated Stock Option Plan may have a term of up to five years. The term of options granted under the Amended and Restated Stock Option Plan will typically be adjusted in circumstances of a participant's resignation, retirement or termination of employment from Acerus or the death or disability of a participant, subject to various time periods for vesting and exercise of outstanding options. Additionally, upon the occurrence of certain Liquidity Events (as defined in the Amended and Restated Stock Option Plan), all unvested options may be substituted by or replaced with options of the continuing entity, or the vesting of all such unvested options may be accelerated, as the Board of Directors determines in its sole discretion.

Except as otherwise set out in an option agreement between the optionee and Acerus relating to the grant of an option or as determined by the Board, an option is non-assignable.

Subject to the following exceptions and any resolution passed by the Board providing otherwise, all options held by an officer or employee of Acerus or any subsidiary of Acerus expire and terminate, and any such employee or officer ceases to be eligible for receipt of options under the Amended and Restated Stock Option Plan, immediately upon termination, death, disability or retirement. If the employment of an officer or employee terminates before the expiry of an option held by that person, such options (if exercisable) may, subject to the terms and conditions between any optionee and Acerus, be exercised as follows:

- (a) if the officer or employee is deceased, by the legal personal representative(s) of the estate of the officer or employee at any time during the one year following the death of the officer or employee (including any options that would vest during such one-year period);

- (b) if the termination of the employment of the officer or employee arises as a result of the disability or retirement of the officer or employee, by the officer or employee at any time during the one-year period following the date of termination (including any options that would vest during such one-year period);
- (c) if the termination of the employment of the officer or employee arises as a result of a termination for cause or resignation of the officer or employee without good reason, by the officer or employee at any time during the 10-day period following the date of termination; or
- (d) in all other cases, by the officer or employee at any time during the 90-day period following the date of termination.

The termination provisions in the Amended and Restated Stock Option Plan described above apply only to options held by officers and employees of Acerus or any subsidiary of Acerus. They do not apply to options held by the Directors or any other eligible participant under the Amended and Restated Stock Option Plan.

The Amended and Restated Stock Option Plan also provides that:

- (a) upon the surrender, termination or expiry of any options granted under the Amended and Restated Stock Option Plan, without such options being exercised, or upon any exercise of any options granted, Shares subject to such options shall become available under the Amended and Restated Stock Option Plan to satisfy future grants of new options under the Amended and Restated Stock Option Plan; and
- (b) a holder of an option may, rather than exercise such option, elect a cashless exercise payable of such option in Shares equaling the amount by which the value of an underlying share at that time exceeds the exercise price of an option or warrant to acquire such share.

The Board may amend the Amended and Restated Stock Option Plan from time to time without the Shareholders' approval except for amendments relating to:

- (a) the maximum number of Shares reserved for issuance under the Amended and Restated Stock Option Plan;
- (b) a reduction in the exercise price for options held by insiders (as defined in the *Securities Act* (Ontario) and here, "**Insiders**");
- (c) an extension to the term of any option held by Insiders except in case of an extension due to a Black-Out Period (as defined in the Amended and Restated Stock Option Plan);
- (d) an increase in any limit on grants of options to Insiders; and
- (e) any amendment that alters the types amendments to the Amended and Restated Stock Option Plan that may or may not be made with or without Board approval.

#### Security Based Award Burn Rate for the Last Three Years

Pursuant to TSX rules, Acerus is required to calculate and disclose the annual "burn rate" of its options and any other security-based awards for the three most recently completed financial years. The annual burn rate is equal to the number of options and any other security-based awards granted in the

applicable year, divided by the weighted average number of Shares outstanding in that year, expressed as a percentage. Acerus' average burn rate over the last three financial years is 2%.

Financial Year End	Burn Rate (%)
December 26, 2017	5%
December 31, 2018	2%
December 31, 2019	1%

### Outstanding Share-Based Awards and Option-Based Awards Table

The following table sets out the value of all unexercised option-based and share-based awards for the Named Executive Officers outstanding as of December 31, 2019.

Name (a)	Option-based Awards				Share-based Awards		
	Number of securities underlying unexercised options (#) (b)	Option exercise price (Cdn.\$) (c)	Option expiration date (d)	Value of unexercised in-the-money options (Cdn.\$) (e) <sup>(1)</sup>	Number of Shares or units of Shares that have not vested (#) (f)	Market or payout value of share-based awards that have not vested (Cdn.\$) (g)	Market or payout value of share-based awards not paid out or distributed (Cdn.\$) (h)
Edward Gudaitis	1,000,000	\$0.21	August 15, 2023	\$0	Nil	Nil	Nil
Robert Motz	750,000	\$0.17	November 19, 2023	\$0	Nil	Nil	Nil
	324,826	\$0.13	August 8, 2024	\$0	Nil	Nil	Nil
Gavin Damstra	429,225	\$0.13	August 8, 2024	\$0	Nil	Nil	Nil
Nathan Bryson	185,000	\$0.75	March 11, 2020	\$0	Nil	Nil	Nil
	950,000	\$0.10	March 4, 2021	\$0	Nil	Nil	Nil
	600,000	\$0.12	March 10, 2022	\$0	Nil	Nil	Nil
	325,000 <sup>(2)</sup>	\$0.12	November 9, 2022	\$0	Nil	Nil	Nil
	316,598	\$0.27	March 23, 2023	\$0	Nil	Nil	Nil
Philippe Savard	300,000	\$0.09	August 11, 2021	\$0	Nil	Nil	Nil
	200,000	\$0.12	March 10, 2022	\$0	Nil	Nil	Nil
	325,000 <sup>(2)</sup>	\$0.12	November 9, 2022	\$0	Nil	Nil	Nil
	225,272	\$0.27	March 23, 2023	\$0	Nil	Nil	Nil
	249,420	\$0.13	August 8, 2024	\$0	Nil	Nil	Nil

(1) Certain of the options had an exercise price greater than the closing price of the Shares on the TSX on December 31, 2019 of Cdn\$0.08. Accordingly, these options were "out of the money."

(2) The vesting of this option grant was dependent on meeting specific corporate objectives. This option number reflects only the final amounts that vested on March 31, 2018. The remaining options in the tranche were cancelled.

## Incentive Plan Awards – Value Vested or Earned During the Year

The following table sets out the option-based, share-based and non-equity based incentive plan amounts vested or earned during the 2019 fiscal year.

Name	Option-based awards – Value vested during the year (\$) <sup>(1)</sup>	Share-based awards – Value vested during the year (\$)	Non-equity incentive plan compensation – Value earned during the year (\$) <sup>(2)</sup>
Edward Gudaitis	Nil	Nil	Nil
Robert Motz	Nil	Nil	Nil
Gavin Damstra	Nil	Nil	Nil
Tricia Symmes	Nil	Nil	Nil
Nathan Bryson	Nil	Nil	Nil
Philippe Savard	Nil	Nil	Nil

(1) The closing price of the Shares on the TSX on December 31, 2019 was Cdn.\$0.08. The amounts listed represent “in the money” amount of any options held by individual that vested in fiscal 2019.

(2) In the event that the applicable Named Executive Officer is no longer employed by Acerus on the date that payment is otherwise required to be made, the amount shall not be paid to the applicable Named Executive Officer.

## Equity Compensation Plan Information

The following table sets out the equity compensation plan information as at December 31, 2019:

Plan Category	Number of securities to be issued upon exercise of outstanding options, warrants and rights (a)	Weighted-average exercise price of outstanding options, warrants and rights (b)	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a)) (c)
Equity compensation plans approved by securityholders (options)	12,866,992	Cdn\$0.17	13,255,537
Equity compensation plans not approved by securityholders	Nil	Nil	Nil
Total	12,866,992	Cdn\$0.17	13,255,537

As at the date of this circular, 40,105,717 options remain available for issuance under the Amended and Restated Stock Option Plan.

## Termination and Change of Control Benefits

Except as described above under “Executive Employment Agreements”, there are no other change of control provisions or incentive plans that apply to the Named Executive Officers. However, in the event of a “Liquidity Event” (as defined in the Amended and Restated Stock Option Plan), the Board may cause certain actions to be taken with respect to outstanding options, including the acceleration of any such options or the payment of the “in the money” amount in respect thereof. Further information with respect

to such potential actions is set out in the Amended and Restated Stock Option Plan, a copy of which is available on SEDAR at [www.sedar.com](http://www.sedar.com).

### Director Compensation

The table below sets out a summary of total compensation applicable to each serving Director in respect of the 2019 fiscal year. Mr. Gudaitis received no compensation for his service on the Board in 2019 due to his being an officer of Acerus during the relevant period.

Name	Fees earned (\$) <sup>(1)</sup>	Share-based awards (\$)	Option-based awards (\$) <sup>(2)</sup>	Non-equity incentive plan compensation (\$) <sup>(3)</sup>	Pension value (\$)	All other compensation (\$)	Total (\$)
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
Norma Beauchamp <sup>(3)</sup>	30,144	Nil	13,980	Nil	Nil	Nil	44,124
Borys Chabursky	30,144	Nil	13,980	Nil	Nil	Nil	44,124
Stephen Gregory	30,144	Nil	13,980	Nil	Nil	Nil	44,124
Ian O. Ilnatowycz	37,680	Nil	13,980	Nil	Nil	Nil	51,660
J. Mark Lievonen	33,912	Nil	13,980	Nil	Nil	Nil	47,892
Total	162,024	Nil	69,900	Nil	Nil	Nil	231,924

(1) The fees were paid to Board members on March 13, 2020

(2) Reflects only options issued to the Board in fiscal 2019.

(3) Ms. Beauchamp resigned from the Board effective May 5, 2020.

The independent Directors of Acerus (other than the Chairman) received a quarterly retainer fee of Cdn.\$8,750 for their services in 2019 with an additional Cdn.\$5,000 for the chairs of the Corporate Governance and Nominating Committee and the Compensation Committee and an additional Cdn.\$10,000 for the chair of the Audit Committee. The Chairman of the Board received a quarterly retainer of Cdn.\$12,500.

The quarterly payments described here represent full and total cash compensation for the independent Directors, other than Corporation-related expenses. No Directors receive any additional specific fees for attending Board or committee meetings.

Directors and officers of Acerus are covered by insurance in respect of liability that may be incurred by them acting in such capacity, unless the liability arises because such Director or officer fails to act honestly and in good faith with a view to the best interests of Acerus. See *"Directors' and Officers' Liability Insurance"*.

In 2020, each non-executive Director will be paid an annual fee of Cdn.\$40,000, with the option to convert the annual fee into additional option grants (anywhere from 0% to 100% of such annual fee). In addition, fees will be paid to the non-executive Directors who are acting as committee chairs in 2020 as follows: (i) chair of the Board, Cdn.\$17,500; (ii) chair of the audit committee Cdn.\$12,500; (iii) chair of the compensation committee, Cdn.\$7,500; (iv) chair of the corporate governance and nominating committee, Cdn.\$7,500; and (v) lead independent director, \$7,500.

### Option Based Awards

The following table sets forth the details of all outstanding option-based awards for the Directors of Acerus as at December 31, 2019

Option-based Awards					Share-based Awards		
Name (a)	Number of securities underlying unexercised options (#) (b)	Option exercise price (Cdn.\$) <sup>(1)</sup> (c)	Option expiration date (d)	Value of unexercised in-the-money options (Cdn.\$) <sup>(1)</sup> (e)	Number of Shares or units of Shares that have not vested (#) (f)	Market or payout value of share-based awards that have not vested <sup>(1)</sup> (\$) (g)	Market or payout value of share-based awards not paid out or distributed (\$) (h)
Ian O. Ihnatowycz	25,000 <sup>(2)</sup>	\$0.75	March 11, 2020	Nil	Nil	Nil	Nil
	100,000	\$0.10	March 4, 2021	Nil	Nil	Nil	Nil
	200,000	\$0.12	March 10, 2022	Nil	Nil	Nil	Nil
	100,000	\$0.27	March 23, 2023	Nil	Nil	Nil	Nil
	200,000	\$0.13	March 6, 2024	Nil	Nil	Nil	Nil
Stephen Gregory	25,000 <sup>(2)</sup>	\$0.75	March 11, 2020	Nil	Nil	Nil	Nil
	100,000	\$0.10	March 4, 2021	Nil	Nil	Nil	Nil
	200,000	\$0.12	March 10, 2022	Nil	Nil	Nil	Nil
	100,000	\$0.27	March 23, 2023	Nil	Nil	Nil	Nil
	200,000	\$0.13	March 6, 2024	Nil	Nil	Nil	Nil
Borys Chabursky	100,000	\$0.10	March 4, 2021	Nil	Nil	Nil	Nil
	200,000	\$0.12	March 10, 2022	Nil	Nil	Nil	Nil
	100,000	\$0.27	March 23, 2023	Nil	Nil	Nil	Nil
	200,000	\$0.13	March 6, 2024	Nil	Nil	Nil	Nil
Norma Beauchamp <sup>(3)</sup>	100,000	\$0.10	March 4, 2021	Nil	Nil	Nil	Nil
	200,000	\$0.12	March 10, 2022	Nil	Nil	Nil	Nil
	100,000	\$0.27	March 23, 2023	Nil	Nil	Nil	Nil
	200,000	\$0.13	March 6, 2024	Nil	Nil	Nil	Nil
J. Mark Lievonon	200,000	\$0.36	December 6, 2022	Nil	Nil	Nil	Nil
	200,000	\$0.13	March 6, 2024	Nil	Nil	Nil	Nil
Edward Gudaitis	1,000,000	\$0.21	August 15, 2023	Nil	Nil	Nil	Nil

(1) The closing price of the Shares on the TSX on December 31, 2019 was Cdn.\$0.08. The amounts listed represent “in the money” amounts.

- (2) These options expired on March 11, 2020 and were subsequently cancelled.
- (3) Ms. Beauchamp resigned from the Board effective May 5, 2020.

### **Pension Plan Benefits**

Acerus does not maintain any defined benefit pension plans or defined contribution pension plans.

### **Indebtedness of Directors, Officers and Employees**

None of the Directors, executive officers or nominees for election as Directors of Acerus or their respective associates is, or at any time since the beginning of the most recently completed fiscal year has been, indebted to Acerus or any of its subsidiaries or is, or has been since the beginning of the most recently completed fiscal year, indebted to another entity where Acerus or any of its subsidiaries provided a guarantee, support agreement, letter of credit or other similar arrangement in connection with such debt. There was no indebtedness as at May 15, 2020 to Acerus or any of its subsidiaries, excluding routine indebtedness, owing by present and former officers, present Directors or nominees for election, or employees of Acerus and any of its subsidiaries.

## **STATEMENT OF CORPORATE GOVERNANCE PRACTICES**

### **Board of Directors**

The Board is currently comprised of six Directors. Mr. Cotton was appointed to the Board on May 4, 2020. Ms. Beauchamp resigned from the Board effective May 5, 2020. Mr. Lievonen is not standing for re-election at the Meeting. Mr. Leckie is a new nominee to the Board.

The Board has concluded that four of the proposed six Directors for election at the Meeting (Messrs. Chabursky, Cotton, Gregory and Leckie) are independent for the purposes of National Instrument 58-101 – *Disclosure of Corporate Governance Practices*.

Mr. Gudaitis is not considered to be “independent” within the meaning of applicable securities laws as a result of his position as President and Chief Executive Officer of Acerus. Mr. Ihnatowycz is not considered to be “independent” within the meaning of applicable securities laws as a result of the shareholdings of First General Capital Inc., an entity which is owned and controlled by Mr. Ihnatowycz and of which he is President and Chief Executive Officer.

Except for Mr. Ihnatowycz, who exercises control or direction over the Shares held by First Generational Capital Inc., none of the Directors have a material relationship with any “control person” of Acerus. Consequently, all of the proposed Directors except for Mr. Ihnatowycz are independent of any such “control persons”.

### **Mandate of the Board of Directors**

The Board assumes explicit responsibility for the stewardship of the Acerus business directly and through its committees. The responsibilities of the Board and each committee of the Board are set out in written charters, which are reviewed and approved annually. The charter of the Board is provided at Schedule A of this Circular. In fulfilling its mandate, the Board is, among other matters, responsible for the following:

- reviewing and approving the overall business, objectives, strategies and operational plans;
- appointing the Chief Executive Officer and other senior officers and reviewing succession planning;

- assessing management’s performance against approved business, objectives, plans and industry standards;
- monitoring principal risks of the business of Acerus, including review of management’s systems for risk management and identification of any material deficiencies in such systems;
- reviewing and approving the reports issued to Shareholders, including annual and interim financial statements;
- reviewing and approving all material transactions not in the ordinary course of business;
- ensuring the effective operation of the Board; and
- safeguarding Shareholders’ equity interests through the optimum utilization of the Acerus business’ capital resources.

### Meetings of the Board of Directors

The Board meets at least once each quarter, with additional meetings held when appropriate. Meetings of the Board may be held by teleconference or other electronic means, as needed to discharge its responsibilities.

Independent Directors are provided the opportunity to meet *in camera* without non-independent Directors or management present in conjunction with every in-person meeting of the Board.

Board members are expected to attend all Board meetings and meetings of committees on which they serve. During the year ended December 31, 2019, the Directors serving on the Board as at December 31, 2019 had the following attendance record at Board and committee meetings (attendance figures are shown only for those meetings where the relevant Director served on the Board and/or applicable committee):

Director	Board Meetings Attended	Audit Committee Meetings Attended	Corporate Governance and Nominating Committee Meetings Attended	Compensation Committee Meetings Attended	Executive Committee Meetings Attended	Total
Ian O. Ihnatowycz	9 (90%)	N/A	N/A	N/A	N/A	9 (90%)(1)
Norma Beauchamp(2)	12 (100%)	4 (100%)	4 (100%)	N/A	N/A	20 (100%)
Borys Chabursky	12 (100%)	N/A	4 (100%)	4 (100%)	N/A	20 (100%)
Stephen Gregory	12 (100%)	4 (100%)	4 (100%)	4 (100%)	N/A	24 (100%)
J. Mark Lievonen	12 (100%)	4 (100%)	N/A	4 (100%)	N/A	20 (100%)
Edward Gudaitis	12(100%)	N/A	N/A	N/A	N/A	12 (100%)(2)

(1) For two meetings of the Board of Directors, Mr. Ihnatowycz declared a conflict of interest and accordingly did not attend.

(2) Ms. Beauchamp resigned from the Board effective May 5, 2020.

## **Selection of New Board of Directors Members**

The Corporate Governance and Nominating Committee of the Board has established procedures for the identification and nomination of new Directors. The Board does not have a term limit policy. When required, the Directors, assisted by the Corporate Governance and Nominating Committee, consider what skills and competencies the Board as a whole should possess to be effective to Acerus' business. The results of this assessment are then compared to the inventory of skills and competencies found in the existing Directors. The Corporate Governance and Nominating Committee would select suitable candidates for interviews and subsequently recommend them to the Board for consideration.

Mr. Cotton was appointed, among other things, due to his breadth of U.S. pharmaceutical development and commercialization experience to provide strategic guidance and oversight as Acerus' U.S. operations become a much larger focus of its corporate strategy.

Mr. Leckie is being nominated, among other things, due to his extensive capital markets experience and relationships in the capital markets industry, which is expected to be beneficial to Acerus going forward.

The Board has adopted a Gender and Diversity Policy that applies to all directors and employees of Acerus and aims to ensure that Acerus has a workplace comprised of talented and dedicated individuals with a diverse mix of expertise, experience, skills and backgrounds.

Of the six proposed candidates for election to the Board, none are female. The Board does not specifically consider the level of representation of women on the Board in identifying and nominating candidates for election or re-election to the Board, but instead will consider a range of criteria.

The Board does not specifically consider the level of representation of women in executive officer positions when making executive officer appointments and have not adopted a target regarding women in executive officer positions, but rather generally seek appropriate executive officer candidates who possess the necessary competencies, expertise and skills for the position to be filled. As of the date of this Circular, Acerus has no female executive officers.

## **Independence of Board of Directors**

The by-laws of Acerus provide that a majority of the members of the Board will be independent of Acerus and any "control person" (as such term is defined under applicable securities laws). Any amendment to this provision of the by-laws will require the approval of a majority of Acerus' Shareholders that are not "control persons".

The independence of the Board from management will be supported through the following practices:

- The independent Directors are provided an opportunity to meet *in camera* without management present in conjunction with every in-person meeting of the Board;
- The Board has appointed a lead independent director and developed a position description for the lead independent director; and
- The Audit Committee will maintain a whistle blowing policy.

## **Position Descriptions**

Charters and position descriptions have been developed for the Board and committees, the Board chair, lead independent director, chairs of the Audit Committee, Compensation Committee and Corporate Governance and Nominating Committee, and the President and Chief Executive Officer.

The responsibilities of the Chairman of Acerus include leadership of the Board and its efficient organization and operation. The Chairman is also responsible for ensuring that effective communication exists between the Board and management and that the Board is informed about the business of Acerus.

The responsibilities of the lead independent director of Acerus include providing leadership to ensure the Board functions independently of management of Acerus and other non-independent directors, chairing meetings of independent directors or non-management directors following Board meetings to ensure independent directors have regular opportunities to meet and discuss issues and, together with the Chairman, ensure that all business required to come before the Board is brought before the Board, such that the Board is able to carry out its duties to supervise the management of the business and affairs of Acerus. The current lead independent director of Acerus is Mr. Borys Chabursky.

Each committee chair is responsible for the effective organization and operation of the relevant committee he/she chairs and is required to provide leadership in discharging the mandate set out in the committee charter. The chair also acts as primary liaison between the relevant committee and Acerus' management where necessary. The chair of each committee reports directly to the Board.

## **Orientation and Education**

The Corporate Governance and Nominating Committee develops, recommends and oversees the Board's orientation program for new Directors. This program is designed to assist new directors to understand the role of the Board and its committees, the contribution individual Directors are expected to make to Acerus (including the commitment of time and energy that Acerus expects) and the nature and operation of Acerus' business. In addition, new Directors are oriented to the roles of the Board and individual Directors and the business and affairs of Acerus through discussions with Acerus' management and the incumbent Directors by periodic presentations from senior management on major business, industry and competitive issues. Management provides information to the Board and its committees as necessary to keep the Directors up-to-date with corporate governance requirements and best practices, Acerus and its business and the environment in which it operates, as well as developments in the responsibilities of Directors.

As well, the Corporate Governance and Nominating Committee oversees the Board's continuing education program which was developed to assist Directors in maintaining or enhancing their skills and abilities as Directors and updating their knowledge and understanding of Acerus and the pharmaceutical industry.

## **Code of Conduct**

The Board has adopted a written Code of Conduct (the "Code") that has been adopted by, or is applicable to, all Directors, officers and employees of Acerus and its subsidiaries. The Code constitutes written standards that are designed to promote integrity and to deter wrongdoing. In particular, the Code addresses the following issues:

- conflicts of interest;
- outside business activities and other employment;

- gifts and entertainment;
- corporate opportunities;
- fair dealing;
- protection and proper use of Acerus assets;
- compliance with laws, rules and regulations (including insider trading laws);
- confidentiality;
- fraud;
- harassment and discrimination;
- occupational health and safety;
- dealing with public officials and governmental regulatory agencies;
- political activities and contributions; and
- privacy.

A copy of the Code as revised on May 10, 2019 is attached hereto as Schedule B.

Each person to whom the Code is applicable must sign an acknowledgement to Acerus indicating that he or she is responsible for complying with the Code and that he or she will report any instance of non-compliance with the Code. The Board is required to review and, if necessary, revise and update the Code on an annual basis. Any waiver of the Code for executive officers or Directors of Acerus may only be made by the Board or a committee of the Board and must be promptly disclosed to Shareholders. All new Directors, officers and employees of Acerus and any subsidiaries are advised of the Code and its importance and the Code is brought to the attention of all employees on an annual basis.

Acerus is established under and is therefore governed by the provisions of the OBCA. Pursuant to the OBCA (and as confirmed in the Code), a Director or officer of Acerus must disclose in writing or by requesting that it be entered in the minutes of meetings of the Board, the nature and extent of any interest that he or she has in material contract or material transaction, whether made or proposed, with Acerus, if the Director or officer: (a) is a party to the contract or transaction; (b) is a Director or an officer, or an individual acting in a similar capacity, of a party to the contract or transaction; or (c) has a material interest in a party to the contract or transaction. The interested Director cannot vote on any resolution to approve the contract or transaction, subject to certain limited exceptions.

### **Standing Committees of the Board of Directors**

The Board maintains three standing committees: Audit Committee, Compensation Committee and Corporate Governance and Nominating Committee. Additionally, from time to time, the Board may establish ad hoc committees to consider certain limited matters or transactions.

## Audit Committee

The Audit Committee is mandated to assist the Board in fulfilling applicable public company obligations respecting audit committees and its oversight responsibilities with respect to financial reporting. It is responsible for overseeing, among other matters, the work of Acerus' external auditors, the integrity of Acerus' financial statements, Acerus' compliance with legal and regulatory requirements, the qualifications and independence of Acerus' external auditors, the effectiveness of Acerus' internal controls and the performance of Acerus' external auditors. The Audit Committee must review and recommend to the Board Acerus' annual and interim consolidated financial statements and related MD&A and other material public financial disclosure for approval before they are released to the public or filed with the appropriate regulators. The Audit Committee annually reviews its charter and recommends changes to the Board with respect to the charter, as necessary. A copy of the charter of the Audit Committee as revised on May 10, 2019 is attached hereto as Schedule C.

In accordance with National Instrument 52-110 – *Audit Committees*, the Audit Committee will from time to time implement and oversee procedures for the receipt, retention and treatment of complaints received by Acerus regarding accounting, internal accounting controls or auditing matters and the confidential, anonymous submission by employees of concerns regarding questionable accounting or auditing matters. In this regard, Acerus has established a Whistleblower Policy outlining such confidential reporting process.

For a discussion of Audit Committee oversight, non-reliance on certain exemptions and pre-approval policies and procedures, please refer to Acerus' Annual Information Form dated March 3, 2020 and available on SEDAR at [www.sedar.com](http://www.sedar.com)

### *Composition and Relevant Education/Experience of Members*

The Audit Committee is presently chaired by J. Mark Lievonen and the other committee members are Geoff Cotton, Borys Chabursky and Stephen Gregory. As Mr. Lievonen is not standing for re-election, the Audit Committee will be re-constituted following the Meeting to include Messrs. Cotton, Chabursky, Gregory and Leckie (chair), if Mr. Leckie is elected at the Meeting. All of the Audit Committee members are independent of management of Acerus as required by National instrument 52-110 – *Audit Committees* and each member is financially literate in that each has the ability to read and understand a set of financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of the issues that can reasonably be expected to be raised by Acerus' financial statements.

For a discussion of the members' relevant education or experience as related to the Audit Committee, please refer to the biographies of each member of the Audit Committee as provided in "Election of Directors" above.

## Corporate Governance and Nominating Committee

The Corporate Governance and Nominating Committee is comprised of three members, all of whom are independent Directors for purposes of National Instrument 58-101 – *Corporate Governance*. The Corporate Governance and Nominating Committee is presently chaired by Geoff Cotton and the other committee members are Borys Chabursky and Stephen Gregory. It is expected that the committee will be re-constituted following the Meeting to include Mr. Leckie, if he is elected at the Meeting. The Corporate Governance and Nominating Committee is responsible for both overseeing and making recommendations to the Directors of Acerus regarding its approach to both corporate governance issues as well as the enhancement of Acerus' governance through ongoing assessments.

The Corporate Governance and Nominating Committee also reviews and assesses the effectiveness of the Board as a whole, identifies individuals qualified to become Directors, reviews, in consultation with the Chairman of Acerus, proposed nominees and recommends such individuals to the Board for nomination for election to the Board. The Corporate Governance and Nominating Committee also reviews and assesses, on a periodic basis, the performance and contribution of individual Directors of Acerus and makes recommendations concerning the compensation of Directors.

The committee conducts an annual review of its mandate and charter and recommends changes to the Board with respect to such mandate and charter, as necessary.

### Compensation Committee

The Compensation Committee is comprised of three members, all of whom are independent for the purposes of National Instrument 58-101 - *Corporate Governance*. The Compensation Committee is chaired by Stephen Gregory and the other committee members are J. Mark Lievonen and Borys Chabursky. In light of Mr. Lievonen not standing for re-election at the Meeting, the committee will be re-constituted following the Meeting, with the members being Messrs. Chabursky, Cotton, Gregory (chair) and Leckie, if Mr. Leckie is elected at the Meeting. The Compensation Committee oversees Acerus' compensation plans, discharges the Board's responsibilities relating to compensation, approves and monitors insider trading and share ownership policies, reviews compensation disclosure in public documents and produces such information and reviews and makes recommendations on executive compensation. The committee also assists the Board with establishing Acerus' compensation framework and with succession planning.

As part of its oversight of the implementation of Acerus' compensation plans, the Compensation Committee reviews and makes recommendations to the Board with respect to the adoption or amendment of incentive compensation and equity compensation plans. The Compensation Committee also approves the compensation of certain senior executives and reviews and approves corporate goals and objectives relevant to the compensation of the Chief Executive Officer by evaluating the Chief Executive Officer's performance and determines and approves the Chief Executive Officer's compensation level.

The Compensation Committee conducts an annual review of its mandate and charter and recommends changes to the Board with respect to such mandate and charter, as necessary.

### **Board of Directors, Committee and Director Evaluation**

On an annual basis, the Board adopts a process based on the recommendation of the Corporate Governance and Nominating Committee for assessing the performance and effectiveness of the Board, its committees and the individual Directors. In order to facilitate this, the Corporate Governance and Nominating Committee is responsible for developing and recommending to the Board a process for assessing these criteria that considers the solicitation and receipt of comments from any Directors, the Board's written charter, the applicable position descriptions for each individual Director and for the chairs of the Board and each committee of the Board and the competencies and skills each Director is expected to bring to the Board.

Each individual committee and the Board, in the assessment process overseen by the Corporate Governance and Nominating Committee (as described above), must assess its own performance and that of the individual Directors of which each is comprised as well as each committee's own respective charter.

### **Disclosure Committee**

The Disclosure Committee is established by the Chief Executive Officer and is comprised of certain senior officers of Acerus who are the most familiar with Acerus' operations or who have specific experience

in this area. The current members of the Disclosure Committee as at the date of this Circular are Gavin Damstra, Edward Gudaitis, Robert Motz and Philippe Savard. The Disclosure Committee oversees Acerus' disclosure practices in compliance with applicable law and regulations and with the disclosure policy adopted by the Board and determines when business developments justify public disclosure.

### **Corporate Disclosure Policy**

The Board has adopted a Corporate Disclosure Policy that is designed to promote consistent disclosure practices aimed at informative, timely and broadly disseminated disclosure of material information to the public in accordance with all applicable legal, regulatory and TSX requirements. It is applicable to all Directors, officers and employees of Acerus. The Corporate Disclosure Policy prohibits the selective disclosure of material information regarding Acerus or its business and gives the Disclosure Committee ultimate responsibility for determining when developments justify public disclosure.

### **Whistleblowing Policy**

The Board has adopted a Whistleblowing Policy which allows for the receipt, retention and treatment of complaints regarding all matters other than accounting, internal accounting controls or auditing matters (which are the subject of a separate whistleblowing policy administered by the Audit Committee). The policy prohibits Acerus from discharging, demoting, suspending, threatening, harassing or in any manner discriminating against any employee based upon lawful actions of such employee for good faith reporting of concerns or complaints regarding matters covered by the policy.

### **Insider Trading Policy**

The Board has adopted an Insider Trading Policy that is designed to promote honest, ethical and lawful conduct with respect to trading in the outstanding securities of Acerus and its subsidiaries by directors, officers, employees and their families. The policy applies to any and all transactions in the securities of Acerus, including its Shares, preferred shares, options and any type of security that Acerus may issue in the future.

### **TSX Listing Requirements**

In addition to the standard listing eligibility requirements imposed on every company listed for trading on the TSX, the TSX has imposed further conditions on Acerus' listing on the TSX in connection with the previously disclosed Ontario Securities Commission sanctions imposed on Mr. Eugene Melnyk as described in certain previous disclosure documents of Acerus available on SEDAR at [www.sedar.com](http://www.sedar.com).

Pursuant to these conditions, at all times the majority of the Directors of Acerus must be independent from both Acerus and any "control person" of Acerus (as such term is defined in applicable securities laws). Acerus has embedded this requirement in its by-laws and any amendment to this by-law can only be made if it is approved by a majority of the minority Shareholders, as described in "*Independence of Board of Directors*". Additionally, Acerus must have a majority of independent Directors having TSX, New York Stock Exchange, Nasdaq or equivalent public company experience, at all times.

As described above, Acerus has complied with each of these requirements.

### **DIRECTORS' AND OFFICERS' LIABILITY INSURANCE**

Acerus annually renews and purchases insurance coverage for Directors' and officers' liability. The current term (June 30, 2019 to June 30, 2020) premium of approximately Cdn.\$113,476 covers Directors' and officers' liability for a limit of Cdn.\$25.1million. The policy provides for deductibles ranging from Cdn.\$0

to \$50,000 depending upon the nature of the claim. There is no deductible for any claim made by a Director or officer when indemnification has not been granted. This premium is paid entirely by Acerus.

## GENERAL PROXY MATTERS

### General

Shareholders and duly appointed proxyholders can attend the Meeting online by going to <https://web.lumiagm.com/283022704>.

- Registered Shareholders and duly appointed proxyholders can participate in the Meeting by clicking “**I have a control number**” and entering a Username and Password before the start of the Meeting.
  - *Registered Shareholders* – The 12-digit control number located on the form of proxy or in the email notification you received is the Username and the Password is “**ASP2020**” and is case sensitive.
  - *Duly Appointed Proxyholders* – TSX Trust Company will provide the proxyholder with a Username after the voting deadline has passed. The Password to the Meeting is “**ASP2020**” and is case sensitive.
- Voting at the Meeting will only be available for Registered Shareholders and duly appointed proxyholders. Beneficial Shareholders who have not appointed themselves as proxyholders may attend the Meeting as a guest by clicking “**I am a guest**” and completing the online form.

Shareholders who wish to appoint a third-party proxyholder to represent them at the online Meeting must submit their proxy or voting instruction form (as applicable) prior to registering their proxyholder. **Registering the proxyholder is an additional step once a Shareholder has submitted their proxy/voting instruction form. Failure to register a duly appointed proxyholder will result in the proxyholder not receiving a Username to participate in the Meeting.** To register a proxyholder, Shareholders MUST complete the form found at the following link by June 19, 2020 at 11:00 a.m. EST: <https://tsxtrust.com/resource/en/75> and provide TSX Trust Company with their proxyholder’s contact information, so that TSX Trust Company may provide the proxyholder with a Username via email. Questions about registration may be sent to: [tmxeinvestorservices@tmx.com](mailto:tmxeinvestorservices@tmx.com).

**It is important that you are connected to the internet at all times during the Meeting in order to vote when balloting commences.**

**In order to participate online, Shareholders must have a valid 12-digit control number and proxyholders must have received an email from TSX Trust Company containing a Username.**

### Participating at the Meeting

The Meeting will be hosted online by way of a live webcast. Shareholders will not be able to attend the Meeting in person. A summary of the information Shareholders will need to attend the online meeting is provided below. The meeting will begin at 11:00 a.m. on June 23, 2020.

- **Registered Shareholders** that have a 12-digit control number, along with duly appointed proxyholders who were assigned a Username by TSX Trust Company (see details under the

heading “Appointment of Proxies”), will be able to vote and submit written questions during the Meeting. To do so, please go to <https://web.lumiagm.com/283022704> prior to the start of the Meeting to login. Click on “**I have a control number**” and enter your 12-digit control number or Username along with the password “ASP2020” and is case sensitive.

- **Beneficial Shareholders** who have not appointed themselves to vote at the Meeting, may login as a guest, by clicking on “**I am a Guest**” and complete the online form.
- **United States Beneficial Shareholders** - To attend and vote at the virtual Meeting, you must first obtain a valid legal proxy from your broker, bank or other agent and then register in advance to attend the Meeting. Follow the instructions from your broker or bank included with these proxy materials, or contact your broker or bank to request a legal proxy form. After first obtaining a valid legal proxy from your broker, bank or other agent, to then register to attend the Meeting, you must submit a copy of your legal proxy to TSX Trust Company. Requests for registration should be directed to [tmxeinvestorservices@tmx.com](mailto:tmxeinvestorservices@tmx.com).

Requests for registration must be labeled as “Legal Proxy” and be received no later than June 19, 2020 at 11:00 a.m. (Toronto time). You will receive a confirmation of your registration by email after TSX Trust Company receives your registration materials. You may attend the Meeting and vote your Shares at <https://web.lumiagm.com/283022704> during the Meeting. Shareholders MUST complete the form found at the following link by June 19, 2020 at 11:00 a.m. EST: <https://tsxtrust.com/resource/en/75> and provide TSX Trust Company with their proxyholder’s contact information, so that TSX Trust Company may provide the proxyholder with a Username via email. Questions about registration may be sent to: [tmxeinvestorservices@tmx.com](mailto:tmxeinvestorservices@tmx.com).

- **Beneficial Shareholders** who do not have a 12-digit control number or Username will only be able to attend the Meeting as a guest which allows them listen to the Meeting however they will not be able to vote or submit questions.
- If you are using a 12-digit control number to login to the online Meeting and you accept the terms and conditions, you will be revoking any and all previously submitted proxies. However, in such a case, you will be provided the opportunity to vote by ballot on the matters put forth at the Meeting. If you **DO NOT** wish to revoke all previously submitted proxies, do not accept the terms and conditions, in which case you can only enter the Meeting as a guest. Registered shareholders who have voted may also log in with their control number to submit questions during the meeting. However, if a registered shareholder does not intend to revoke their submitted instructions they should refrain from participating in the live voting.
- If you are eligible to vote at the Meeting, it is important that you are connected to the internet at all times during the Meeting in order to vote when balloting commences. It is your responsibility to ensure connectivity for the duration of the Meeting.

### **Voting at the Meeting**

A Registered Shareholder or a Beneficial Shareholder who has appointed themselves or a third-party proxyholder to represent them at the Meeting, will appear on a list of Shareholders prepared by TSX Trust Company, the transfer agent and registrar for the Meeting. To have your Shares voted at the Meeting, each Registered Shareholder or proxyholder will be required to enter their control number or Username provided by TSX Trust Company at <https://web.lumiagm.com/283022704> prior to the start of the Meeting. In order to vote, Beneficial Shareholders who appoint themselves as a proxyholder Shareholders MUST complete the form found at the following link by June 19, 2020 at 11:00 a.m. EST:

<https://tsxtrust.com/resource/en/75> and provide TSX Trust Company with their proxyholder's contact information, so that TSX Trust Company may provide the proxyholder with a Username via email. Questions about registration may be sent to: [tmxeinvestorservices@tmx.com](mailto:tmxeinvestorservices@tmx.com).

### **Appointment of Proxies**

The persons named in the enclosed form of proxy are officers of Acerus. A Shareholder has the right to appoint a person or company of its choice who need not be a Shareholder to represent such Shareholder at the Meeting other than the persons designated in the enclosed form of proxy. A Shareholder giving a proxy can strike out the names of the nominees printed in the accompanying form of proxy and insert the name of another nominee in the space provided, or the Shareholder may complete another form of proxy. A proxy nominee need not be a shareholder of Acerus.

Shareholders who wish to appoint a third-party proxyholder to represent them at the online Meeting **must submit their proxy or voting instruction form (if applicable) prior to registering your proxyholder. Registering your proxyholder is an additional step once you have submitted your proxy or voting instruction form. Failure to register your proxyholder will result in your proxyholder not receiving a Username to participate in the Meeting.** To register a proxyholder, Shareholders **MUST** complete the form found at the following link by June 19, 2020 at 11:00 a.m. EST: <https://tsxtrust.com/resource/en/75> and provide TSX Trust Company with their proxyholder's contact information, so that TSX Trust Company may provide the proxyholder with a Username via email. **Without a Username, proxyholders will not be able to vote at the meeting.** Questions about registration may be sent to: [tmxeinvestorservices@tmx.com](mailto:tmxeinvestorservices@tmx.com).

Notwithstanding whether or not you wish to attend the Meeting, Shareholders are strongly encouraged to complete, sign and return the enclosed form of proxy to Acerus' registrar and transfer agent, TSX Trust Company, 100 Adelaide St W, Suite 301, Toronto ON M5H 4H1 or fax to TSX Trust Company at 416-595-9593, and must be deposited with TSX Trust Company by no later than 11:00 a.m. (Toronto time) on June 19, 2020, or if the Meeting is adjourned or postponed, not less than 48 hours, excluding Saturdays, Sundays and statutory holidays, preceding the time of such adjourned or postponed Meeting. Notwithstanding the foregoing, the Chairman of the Meeting has the discretion to accept proxies after such deadline. The time limit for deposit of proxies may be waived or extended by the Chairman of the Meeting at his or her own discretion, without notice.

If a Shareholder who has submitted a proxy attends the Meeting via the webcast and has accepted the terms and conditions when entering the Meeting online, any votes cast by such Shareholder on a ballot will be counted and the submitted proxy will be disregarded.

### **Solicitation of Proxies**

The information contained in this Circular is furnished to Shareholders in connection with the solicitation of proxies to be used at the Meeting. The solicitation of proxies by this Circular is being made by or on behalf of the management of Acerus and the total cost of the solicitation will be borne by Acerus. The solicitation of proxies will be primarily by mail, but may also be in person or by telephone, fax or oral communication without special compensation by officers or employees of Acerus. Banks, brokerage houses and other custodians and nominees or fiduciaries will be requested to forward proxy solicitation material to their principals or beneficial owners and to obtain authorizations for the execution of proxies. Acerus will reimburse these banks, brokerage houses and other custodians and nominees or fiduciaries for the cost incurred in obtaining authorization to execute forms of proxy from their principals or beneficial owners.

## Beneficial Shareholders

In accordance with the requirements of National Instrument 54-101 – *Communication with Beneficial Owners of Securities of a Reporting Issuer*, Acerus will be distributing copies of the Notice, this Circular, the accompanying form of proxy and Acerus' annual financial statements and MD&A (collectively, the “**Meeting Materials**”) to the depository and intermediaries for onward distribution to Beneficial Shareholders. Intermediaries are required to forward Meeting Materials to Beneficial Shareholders unless a Beneficial Shareholder has waived the right to receive them. Typically, intermediaries will use a service company (such as Broadridge Financial Solutions, Inc.) to forward the Meeting Materials to Beneficial Shareholders. Acerus will pay for the distribution of Meeting Materials to objecting beneficial owners.

Generally, Beneficial Shareholders who have not waived the right to receive meeting materials will receive a voting instruction form. The purpose of these forms is to permit Beneficial Shareholders to direct the voting of the Shares they beneficially own. If the Beneficial Shareholder does not wish to attend and vote at the Meeting in person (or have another person attend and vote on the Shareholder's behalf), the voting instruction form must be completed, signed and returned in accordance with the directions on the form. Voting instruction forms sent by Broadridge may, in some cases, permit the completion of the voting instruction form by telephone. If a Beneficial Shareholder wishes to attend and vote at the Meeting in person (or have another person attend and vote on the Shareholder's behalf), the Beneficial Shareholder should follow the instructions set forth above and the instructions set forth in the voting instruction form.

**Beneficial Shareholders should follow the instructions on the forms they receive and contact their intermediaries promptly if they need assistance.**

## Revocation

A Registered Shareholder who has given a proxy may revoke the proxy:

- (1) by completing and signing a form of proxy bearing a later date and depositing it with TSX Trust Company as described above; or
- (2) depositing an instrument in writing executed by the Shareholder or by the Shareholder's attorney authorized in writing or by electronic signature: (i) at the registered office of Acerus addressed to the Vice President, General Counsel and Corporate Secretary at any time up to and including the last business day preceding the day of the Meeting, or any adjournment of the Meeting, at which the proxy is to be used, or (ii) with the Chairman of the Meeting prior to the commencement of the Meeting on the day of the Meeting or any adjournment of the Meeting by email at: **agm@aceruspharma.com**; or
- (3) in any other manner permitted by law.

A Beneficial Shareholder may revoke a voting instruction form or a waiver of the right to receive Meeting Materials and to vote given to an intermediary at any time by written notice to the intermediary, except that an intermediary may not be required to act on a revocation of a voting instruction form or of a waiver of the right to receive Meeting Materials and to vote that is not received by the intermediary at least seven days prior to the Meeting or in accordance with the intermediaries terms and policies.

## **Voting of Proxies**

The Shares represented by any valid proxy in favour of the nominees named in the accompanying form of proxy will be voted for or withheld from voting (or voted against, where applicable) with any specific instructions made by a shareholder on the form of proxy. **In the absence of any such specific instructions, such Shares will be voted by the nominees named in this Circular FOR the election as Directors of the management nominees named in this Circular, FOR the re-appointment of PricewaterhouseCoopers LLP as Auditor, FOR the Share Consolidation and FOR the Omnibus Incentive Plan.**

The accompanying form of proxy confers discretionary authority upon the persons named therein with respect to amendments or variations to matters identified in the Notice and with respect to such other business or matters which may properly come before the Meeting or any adjournment(s) or postponement(s) thereof. As of the date of this Circular, Acerus is not aware of any such amendments or variations or any other matters to be addressed at the Meeting.

## **Non-Objecting Beneficial Shareholders**

These Meeting Materials are being sent to both Registered Shareholders and Beneficial Shareholders. If you are a Beneficial Shareholder, and Acerus or its agent has sent these materials directly to you, your name and address and information about your holdings of securities have been obtained in accordance with applicable securities regulatory requirements from the intermediary holding on your behalf. By choosing to send these materials to you directly, Acerus (and not the intermediary holding on your behalf) has assumed responsibility for: (a) delivering these materials to you; and (b) executing your proper voting instructions. Please return your voting instructions as specified in the request for voting delivered to you.

## **Record Date**

The record date for determining Shareholders entitled to receive notice of and vote at the Meeting is May 15, 2020. Shareholders of record as at the close of business on such date will be entitled to attend and vote at the Meeting, or any adjournment or postponement thereof, in the manner and subject to the procedures described in this Circular.

## **Voting Shares, Voting Rights and Quorum**

As of May 15, 2020, there were 1,010,456,066 Shares issued and outstanding. Shareholders of record on May 15, 2020 are entitled to receive notice of and vote at the Meeting. Each Share entitles the holder to one vote at all meetings of Shareholders.

Pursuant to the by-laws of Acerus, a quorum is present at the Meeting if two or more individuals present in person either holding personally or representing as proxies not less than 25% of the votes attached to all outstanding Shares.

## **Principal Shareholders**

The following table sets forth information with respect to the only shareholders to the knowledge of the Directors or executive officers, and as of the date of this Circular, who beneficially own, control or

direct, directly or indirectly, Shares carrying more than 10% of the voting rights attached to any class of issued and outstanding voting securities as at May 15, 2020:

Name	Number of Shares	Percentage of Outstanding Shares
First Generation Capital Inc. (Mr. Ian Ihnatowycz)	867,134,176	85.82%

#### ADDITIONAL INFORMATION

Additional information relating to Acerus is available on SEDAR at [www.sedar.com](http://www.sedar.com). Financial information relating to Acerus is provided in Acerus' consolidated financial statements and MD&A for the year ended December 31, 2019. A comprehensive description of Acerus and the Acerus business as well as a summary of risk factors applicable to Acerus and the Acerus business are set out in Acerus' latest available AIF and latest available MD&A. Copies of the AIF, Acerus' most recently filed annual consolidated financial statements, together with the accompanying report of the Auditor, and any interim consolidated financial statements of the issuer that have been filed for any period after the end of Acerus' most recently completed fiscal year, annual and interim MD&A and this circular are available to anyone, upon request, from the Chief Financial Officer of Acerus at 2486 Dunwin Drive, Mississauga, Ontario, L5L 1J9, and without charge to Shareholders, and are also available on the Acerus' website and SEDAR at [www.sedar.com](http://www.sedar.com).

#### DIRECTORS' APPROVAL

The contents of this Circular and its sending to Shareholders have been approved by the Directors.

By Order of the Board of Directors of Acerus Pharmaceuticals Corporation

*("Signed") Edward Gudaitis*

Edward Gudaitis  
President and Chief Executive Officer  
Acerus Pharmaceuticals Corporation  
Mississauga, Ontario

May 15, 2020

## Schedule A

### ACERUS PHARMACEUTICALS CORPORATION

("Acerus")

### CHARTER OF THE BOARD OF DIRECTORS

#### **General**

In accordance with applicable laws and the by-laws of Acerus, the Board of Directors is responsible for the stewardship of Acerus, and shall always act with a view to the best interests of Acerus. In furtherance of this mandate, the Board of Directors has adopted this form of written mandate. The Board of Directors shall periodically review and, if necessary, revise this mandate from time to time in order to meet Acerus' needs and satisfy any applicable legal or regulatory requirements and/or other best practices.

#### **Duties and Responsibilities**

In furtherance of its obligations, the Board of Directors shall be responsible for, among other things, the following:

- facilitating the relationship of the Board of Directors (including, as necessary, the independent directors thereof on a separate basis) to management and confirming that Acerus has appropriate structures and procedures in place to permit the Board of Directors to effectively discharge its duties and responsibilities;
- selecting, appointing, evaluating and, if necessary (taking into account any recommendations of the corporate governance and nominating committee with respect to any succession plan), changing the Chief Executive Officer of Acerus;
- together with the President and Chief Executive Officer, defining the duties and the limits of authority of senior management of Acerus, including the development of a position description for the President and Chief Executive Officer;
- to the extent feasible, satisfying itself as to the integrity of the President and Chief Executive Officer and other members of senior management, and that the President and Chief Executive Officer and other members of senior management create a culture of integrity throughout Acerus;
- adopting a strategic planning process and approving on a periodic basis a strategic plan that takes into account the opportunities and risks of the business of Acerus;
- identifying the principal risks of Acerus' business and ensuring the implementation of appropriate systems to manage these risks;
- receiving recommendations of Acerus' Audit Committee respecting, and reviewing and approving, the audited, interim and any other publicly announced financial information of Acerus;
- ensuring policies are in place to satisfy itself as to Acerus' internal control and management information systems and its financial reporting;
- ensuring appropriate policies and processes are in place to ensure Acerus' compliance with applicable laws and regulations;
- assessing the effectiveness of the board and any committees of the Board of Directors;
- taking into account any recommendations of the corporate governance and nominating committee of the Board of Directors, reviewing and considering any governance practices of the Board of Directors (including consideration of whether such practices differ from those recommended by Canadian securities regulators or stock exchanges);
- taking into account any recommendations of the compensation committee of the Board of Directors implementing a process for reviewing the adequacy and form of compensation of directors, and

ensuring that compensation realistically reflects the responsibilities and risk involved in being a director;

- adopting a communications policy for Acerus and implementing and overseeing a mechanism pursuant to which the Board of Directors can receive feedback from securityholders of Acerus; and
- other corporate decisions required to be made by the Board of Directors, or as may be reserved by the Board of Directors, to be made by itself, from time to time and not otherwise delegated to a committee of the Board of Directors or to management.

### **Expectations of Directors**

In accordance with all applicable laws, directors are expected to: (a) act honestly and in good faith with a view to the best interests of Acerus; and (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. Further, it is expected that directors will comply with all duties of honesty, care, diligence, skill and prudence, as well as any other duties imposed on directors at law.

In accordance with these duties, each director is expected to:

- develop and maintain a thorough understanding of Acerus' business, its strategy and business operations and its financial position and performance;
- prepare for each Board of Directors or committee meeting, including reviewing all meeting materials distributed in advance where feasible;
- attend meetings of the Board of Directors and any committee of which they are a member;
- actively and constructively participate in each meeting, including seeking clarification from management and outside advisors, where necessary, to fully understand the issues under consideration and to contribute relevant insights and experience;
- in accordance with applicable law disclose to Acerus, either in writing or by having it entered into the minutes of a meeting of the board, the nature and extent of any interest that they may have in a contract or transaction, whether made or proposed, with Acerus, if the director (i) is a party to the contract or transaction, (ii) is a director or member of senior management or individual acting in a similar capacity of a party to the contract or transaction, or (iii) has a material interest in a party to the contract or transaction;
- engage in continuing education programs for directors if appropriate; and
- exhibit high standards of personal integrity, honesty and loyalty and project a positive image of Acerus to news media, the financial community, governments and their agencies, shareholders and employees.

### **Board Composition**

The Board of Directors shall strive to ensure that the directors represent an appropriate mix of skills, experience, age, expertise and other factors. Composition of the Board of Directors should reflect business experience and skills that are compatible with the strategic and business objects of Acerus.

### **Board Chair**

In accordance with Acerus' by-laws, the directors shall select a chair of the Board of Directors from time to time. The responsibilities of such chair shall be in accordance with a position description established by the Board of Directors from time to time. In the event that the selected chair is not independent of Acerus, the Board of Directors shall consider appropriate measures to ensure that the views of the independent directors are considered and communicated to the chair and/or members of management (such measures may include the appointment of a "lead" independent director).

## **Board Committees**

The Board of Directors shall at all times maintain an Audit Committee comprised entirely of directors that are independent and financially literate. The Board of Directors may also establish such standing and/or *ad hoc* committees as it believes prudent from time to time.

Each standing committee of the Board of Directors shall be subject to a charter setting out its responsibilities, duties, qualifications for members and reporting to the Board of Directors. From time to time, each committee and the Board of Directors shall review the respective charters to determine if any changes are advisable.

## **Meetings**

It is the standard practice of the Board of Directors to hold a meeting (together with a meeting of each of the standing committees of the Board of Directors) on a quarterly basis. Additional meetings may also be called upon proper notice (in accordance with Acerus' bylaws) to address specific matters. While the Board of Directors shall generally strive to operate by way of meetings at which a thorough discussion of the applicable matters can occur, the Board of Directors may from time to time take action by way of unanimous written resolution.

At each in person meeting of the Board of Directors, the independent directors shall be entitled to request that an *in camera* session excluding: (a) any management or other attendees invited to the applicable meeting; and (b) any non-independent directors. Following any such meeting, the Board of Directors shall promptly inform management to the extent any action is required.

## **Access to Management and Outside Advisors**

Directors shall have access to members of senior management and are encouraged to raise any questions or concerns directly with senior management. The Board of Directors and its committees may invite any member of senior management, outside advisor or other person to attend any of their meetings.

The Board of Directors and any of its committees may retain an outside advisor at the expense of Acerus at any time and have the authority to determine the advisor's fees and other retention terms. Individual directors may retain an outside advisor at the expense of Acerus with the approval of the Board of Directors.

## **Performance Assessment**

On an annual basis, the Board of Directors shall assess how well it has performed the responsibilities and duties set out in this mandate.

## **Matters Requiring Board Approval**

Approval of the Board of Directors shall be required for, among other things:

- dividends/distributions;
- significant acquisitions/dispositions;
- related party transactions;
- the release of any financial information to be publicly disseminated;
- the issuance or repurchase of Shares or other securities of Acerus;
- such matters as are required under the investment policies of Acerus;
- the terms of reference of committees of the board;
- any other matter that would give rise to a "material change" to Acerus; and

- any other matters which the Board of Directors is required to approve in accordance with applicable laws.

The foregoing list is intended to specify particular matters requiring board approval and is not intended to be an exhaustive list.

#### **Code of Business Conduct and Ethics**

The Board of Directors will adopt a Code of Business Conduct and Ethics for Acerus having regard to the recommendations of the corporate governance and nominating committee.

The Board of Directors will direct the corporate governance and nominating committee (or such other committee as may be designated from time to time) to monitor compliance with the Code of Business Conduct and Ethics and recommend disclosures with respect thereto. The Board of Directors will consider any report of the corporate governance and nominating committee concerning these matters, and will approve, if determined appropriate, the disclosure of the Code of Business Conduct and Ethics.

The Board shall consider any report of the corporate governance and nominating committee with respect to any waiver granted to a director or senior officer of Acerus from complying with the Code of Business Conduct and Ethics and shall approve or reject such request as it deems appropriate.

## Schedule B

### ACERUS PHARMACEUTICALS CORPORATION

#### CODE OF CONDUCT

This Code of Conduct ("**Code**") represents standards of conduct for every director, officer and employee of Acerus Pharmaceuticals Corporation (the "**Corporation**") and its subsidiaries.

The Corporation expects all of its directors, officers and employees to comply with the laws and regulations governing its conduct and further is committed to promoting honesty and integrity and maintaining the highest standard of ethical conduct in all of its activities. The Corporation's business success is dependent on trusting relationships, which are built on this foundation of integrity. Our reputation is founded on the personal integrity of the Corporation's personnel and accordingly this Code is applicable to all of the Corporation's directors, officers and employees (and those of its affiliates).

Each of us occupies a position of trust in our relations with our colleagues, fellow employees, customers, competitors, suppliers, government authorities, investors and the public. Whatever the area of activity, we should, of course, be honest and responsible in our relations with others.

This Code applies, without exception, to all directors, officers and employees of the Corporation and its affiliates (and references to "employee" in this Code should be read to include directors and officers). It is the responsibility of each and every employee to live up to the standards outlined in the Code to build on the Corporation's foundation of goodwill. These standards are intended as a guide to making the right choice when faced with a complicated situation and adopting a higher standard of behaviour than simply what is 'legal'. The Vice President, General Counsel and Corporate Secretary will report to the Corporation's board of directors (the "**Board**") on compliance with the Code.

This is not a complete Code of Conduct. No statement can offer a complete guide to cover all possible situations that might be encountered. There are some areas, however, which because of their special importance, deserve particular attention and these are set out in what follows.

If there are any doubts as to whether a course of action is proper, or about the application or interpretation of any legal requirement, discuss it with the Vice President, General Counsel and Corporate Secretary or such other person as he or she may designate from time to time.

#### **Conflicts of Interest**

Each employee of the Corporation must avoid any conflict, or perception of conflict, between his or her personal interests and the interests of the Corporation in transacting the Corporation's business. A conflict situation can arise when an employee takes actions or has interests that may make it difficult or even appear to make it difficult to perform his or her work objectively and effectively.

Some examples of a conflict of interest might include:

- employment by a competitor or potential competitor, regardless of the nature of employment, while employed by the Corporation;
- acceptance of gifts, payment, or services from those seeking to do business with the Corporation;

- purchases of goods and services by the Corporation leading to kickbacks, “under-the-table payments” or rebates to directors, officers or employees, or their families
- passing confidential information to competitors;
- investment activity using insider information;
- ownership of, or substantial interest in, a company which is a competitor or supplier of the Corporation; or
- acting as a consultant to a customer or supplier of the Corporation.

Employees should fully and promptly disclose to the Vice President, General Counsel and Corporate Secretary all circumstances that could be construed or perceived as a conflict of interest. Full disclosure creates an opportunity to resolve unclear situations and dispose of conflicting interests before any difficulty can arise. When an employee is in doubt as to whether or not a conflict of interest exists, he or she should consult the Vice President, General Counsel and Corporate Secretary.

#### Outside Business Activities / Other Employment

The Corporation should not be deprived of any employee's best efforts on the job because of excessive outside demands on his or her time, energy or attention. There are cases, however, where an employee may start his or her own outside businesses or take on additional part-time work with organizations that are neither competitors, suppliers or customers. This in itself does not constitute a conflict of interest. It is every employee's responsibility to ensure that the second job does not conflict with the interests of the Corporation. This means, for example, ensuring that the two activities are strictly separated. This can be done by ensuring that:

- the other organization's work is not done on the Corporation's time;
- customers and colleagues from the outside activity do not contact an employee at the Corporation;
- the Corporation's equipment and supplies, or the time of any corporate personnel, are not used for outside work;
- the Corporation's products or services from the outside business are not promoted to other corporate employees during working hours; and
- products or services from outside work are not sold to the Corporation.

#### Gifts and Entertainment

To avoid both the reality and the appearance of improper relations with suppliers or potential suppliers, the following standards will apply to the receipt of gifts and entertainment by directors, officers and employees of the Corporation.

Each employee must never use his or her position to obtain personal gain or become obligated to persons with whom the Corporation does business. Employees must not accept, directly or indirectly, gifts of value, including payments, services, fees, special privileges, pleasure trips, accommodations and loans from any person, organization, or group doing business or seeking to do business with the Corporation without obtaining the prior approval of the Vice President, General Counsel and Corporate Secretary, or such person as he or she may designate from time to time.

Directors, officers and employees shall not encourage or solicit entertainment from any individual or company with whom the Corporation does business. Entertainment includes, but is not limited to, activities such as dining, attending sporting or other special events and travel.

If an employee has any doubt regarding the acceptance of such gift or benefit, he or she should discuss it with the Vice President, General Counsel and Corporate Secretary.

### **Corporate Opportunities**

Employees are prohibited from (a) taking for themselves personally corporate opportunities that are discovered through the use of the Corporation's property, information or position; (b) using the Corporation's property, information or position for personal gain; and (c) competing with the Corporation. Employees owe a duty to the Corporation to advance its legitimate interests when the opportunity to do so arises.

### **Fair Dealing**

Each employee should endeavour to deal fairly with the Corporation's shareholders, customers, suppliers, competitors and employees. None should take unfair advantage of anyone through manipulation, concealment, abuse of privileged information, misrepresentation of material facts, or any other unfair dealing practice.

### **Protection and Proper Use of the Corporation's Assets**

All employees should protect the Corporation's assets and ensure their efficient use. All of the Corporation's assets should be used for legitimate business purposes. Equipment, materials, supplies and services, including Internet access, that are purchased by the Corporation are the property of the Corporation and must be used only in the interest of the Corporation and must be protected from theft, misuse or damage.

### **Compliance with Laws, Rules and Regulations (including Insider Trading Laws)**

The laws of the jurisdiction where the Corporation does business cover many aspects of the Corporation's business. The Corporation is committed to operating within the framework of these laws and regulations. Therefore, to ensure adherence to all applicable laws, all employees should take reasonable steps to familiarize themselves with the laws and regulations affecting their work and ensure that their conduct complies with those laws. Ignorance of the law is not a defence.

While striving to achieve challenging goals and objectives, all employees are expected to comply with the law and must not encourage other employees, contractors or suppliers to engage in any activities that are accomplished by breaking the law or take part in any unethical business dealings.

The Corporation will proactively promote compliance with laws, rules and regulations, including insider trading laws. The Corporation views insider trading as both unethical and illegal and will deal with it decisively. To this end, the Corporation has adopted a policy relating to trades in securities by "insiders" (the "**Insider Trading Policy**"), imposing trading restrictions and blackout periods. Employees should be knowledgeable of and comply with the Insider Trading Policy. Employees who do not have a copy of the Insider Trading Policy should contact the Vice President, General Counsel and Corporate Secretary or any other senior officer of the Corporation.

The Corporation's policy is full, fair, accurate, timely and understandable disclosure in reports and documents that the Corporation files with or submits to securities regulatory authorities and in all other

publication communications made by the Corporation. However, disclosure of information concerning the Corporation is the responsibility of the Corporation's Disclosure Committee, and employees should not disclose corporate information, including material information relating to the business and affairs of the Corporation. Any employee who becomes aware of information that may be considered material should advise a member of the Disclosure Committee so that a proper determination can be made about whether the information should be publicly disclosed. Employees who are not authorized spokespersons must not respond under any circumstances to inquiries from the investment community or the media unless specifically asked to do so by an authorized spokesperson. All such inquiries shall be referred to the Vice President, General Counsel and Corporate Secretary or such person as he or she may designate from time to time. Furthermore, employees are prohibited from participating in Internet chat room or newsgroup discussions on matters pertaining to the Corporation's activities or its securities. See the Corporation's Social Media Policy for details regarding the use of social media. Employees who encounter a discussion pertaining to the Corporation should advise the Vice President, General Counsel and Corporate Secretary or such person as he or she may designate from time to time immediately, so the discussion may be monitored.

The activities of all employees should withstand close scrutiny. If in doubt, employees should discuss the matter with the Vice President, General Counsel and Corporate Secretary or such person as he or she may designate from time to time.

### **Confidentiality**

Employees will be required to maintain the confidentiality of information entrusted to them by the Corporation or its customers as required by the Corporation's Corporate Disclosure Policy. Employees should be knowledgeable of and comply with the Corporation's Corporate Disclosure Policy. Employees that do not have a copy of the Corporation's Corporate Disclosure Policy should contact the Vice President, General Counsel and Corporate Secretary or such person as he or she may designate from time to time.

Any employee privy to confidential information is prohibited from communicating such information to anyone else, unless it is necessary to do so in the course of business. Efforts will be made to limit access to such confidential information to only those who need to know the information and such persons will be advised that the information is to be kept confidential.

Except as required by law, all information regarding the affairs of the Corporation must be considered confidential by all employees until it is available to the public. Confidential information includes all non-public types of corporate data, corporate records and information on individuals and information that might affect the Corporation's competitive position.

In order to prevent the misuse or inadvertent disclosure of material information, the procedures set forth below should be observed at all times:

- (a) confidential matters should not be discussed in places where the discussion may be overheard, such as elevators, hallways, restaurants, airplanes or taxis;
- (b) confidential documents should not be read in public places, left in unattended conference rooms, left behind when a meeting is over or discarded where they can be retrieved by others. Similarly, employees should not leave confidential information at their homes where it can be accessed by others;
- (c) transmission of documents via electronic means, such as by fax or directly from one computer to another, should be made only where it is reasonable to believe that the transmission can be made and received under secure conditions;

- (d) access to confidential electronic data should be restricted through the use of passwords;
- (e) unnecessary copying of confidential documents should be avoided and extra copies of confidential documents should be shredded or otherwise destroyed;
- (f) all proprietary information, including computer programs and other records, remain the property of the Corporation and may not be removed, disclosed, copied or otherwise used except in the normal course of employment or with the prior permission of the Vice President, General Counsel and Corporate Secretary or such other person as he or she may designate from time to time; and
- (g) documents and files containing confidential information should be kept in safe locations accessible to restricted individuals only.

Confidential information should not be destroyed or removed from the premises without the express consent of management or except as required by the terms of employment.

When leaving the employ of the Corporation, an employee must return all confidential information in any form and all copies which are, or may have been, in his or her possession. Employees are also expected not to divulge confidential information learned during the course of his or her employment.

If an employee has any doubt as to the confidentiality of specific information, he or she should discuss it with the Vice President, General Counsel and Corporate Secretary or such person as he or she may designate from time to time.

### **Fraud**

Management is responsible for the detection and prevention of fraud, misappropriation and other irregularities. All employees should be familiar with the types of improprieties in this regard that could potentially occur within his or her area of responsibility and should be alert for any indication of irregularity and report such in accordance with the provisions of this Code of Conduct. From time to time, the Corporation's auditors may specifically inquire regarding whether an employee is aware of any fraudulent behaviour, and employees should respond to any such inquiries in a truthful and complete manner.

### **Harassment and Discrimination**

The Corporation supports the spirit and intent of applicable human rights and anti-discrimination laws. The Corporation will not tolerate any behaviour which conflicts with these principles and laws. Any employee whose actions are inconsistent with these principles will be disciplined, up to and including dismissal.

All employees of the Corporation should treat one another with courtesy, dignity and respect. Harassment, including sexual harassment, is a form of discrimination and will not be permitted at any level of the Corporation or in any part of the employment relationship. This includes areas such as recruitment, promotion, training opportunities, salary, benefits and terminations.

Forms of harassment include, but are not limited to, unwelcome verbal or physical advances and sexually, racially, or otherwise derogatory or discriminatory materials, statements or remarks.

All employees of the Corporation are entitled to harassment-free employment. Every customer is entitled to harassment-free services. Each employee has a responsibility to ensure that neither employees nor any external contacts are subjected to harassment.

Complaints will be treated with seriousness, sensitivity and in as discreet and confidential a manner as possible. If any employee believes he or she is being subjected to harassment or observe or know of a colleague or group of employees who are being harassed, he or she should contact the Vice President, General Counsel and Corporate Secretary or any other senior officer of the Corporation for advice and assistance. There will be no retaliation for reporting harassment incidents.

### **Occupational Health and Safety**

The Corporation is committed to maintaining a safe and healthy working environment and to the protection of employees from injury in accordance with its Occupational Health and Safety Policy.

### **Disclosure**

Employees should talk to supervisors, managers or other appropriate personnel when in doubt about the best course of action in a particular situation. If any employee may have breached the Code or observed a breach of the Code by another employee, he or she has a responsibility to report it immediately to the Vice President, General Counsel and Corporate Secretary or such person as he or she may designate from time to time. The Corporation will protect from retaliation any employee who, in good faith, reports actual or perceived breaches by another employee or problems with corporate policies, procedures or controls. Management will report to the Board on compliance with the Code. Breaches of the Code will be dealt with promptly and fairly and may, if appropriate, result in immediate disciplinary action, up to and including termination of employment.

The Vice President, General Counsel and Corporate Secretary is the first source of information regarding the Code or when reporting an item of concern. The Vice President, General Counsel and Corporate Secretary or the Board may, if a conflict is disclosed fully and in advance, permit the conflict in certain limited instances.

The Corporation has also adopted a "Whistle Blowing Policy" which provides for the receipt, retention and treatment of complaints received by the Corporation regarding accounting, internal accounting controls or auditing matters and the confidential, anonymous submission by employees of the Corporation of concerns regarding questionable accounting or auditing matters. Employees should be knowledgeable of and comply with the Whistle Blowing Policy. Employees who do not have a copy of the Whistle Blowing Policy should contact the Vice President, General Counsel and Corporate Secretary or any other senior officer of the Corporation.

### **Dealing with Public Officials and Governmental Regulatory Agencies**

Domestic and foreign laws and regulations may require the Corporation to be in contact with public officials or governmental regulatory agencies on a wide variety of matters. Directors, officers and employees who regularly make these contacts have special responsibilities for upholding the Corporation's good name.

No employee shall make any form of payment, direct or indirect, to any public official or governmental regulatory agency (other than in the ordinary course of legitimate business) as inducement to procuring or keeping business or having a law or regulation enacted, defeated, or violated. Directors, officers and employees shall abide by all applicable anti-corruption and anti-bribery laws in the jurisdictions in which Acerus carries on business, including the U.S. *Foreign Corrupt Practices Act* (FCPA).

On ceremonial occasions, senior officers of the Corporation may publicly give gifts of more than nominal value to public institutions and public bodies. From time to time, directors, officers and employees may entertain public officials but only under the following conditions:

- o it is legal and permitted by the entity represented by the official;
- o the entertainment is not solicited by the public official;
- o the entertainment occurs infrequently or it arises out of the ordinary course of business;
- o it does not involve lavish expenditures, considering the circumstances; and
- o the settings and types of entertainment are reasonable, appropriate and fitting for employees, officers or directors, their guests and the business at hand.

### **Political Activities and Contributions**

Directors, officers and employees are encouraged to participate fully as private citizens in the democratic process at any level.

Directors, officers and employees engaging in the political process should do so on their own time and must take care to separate their personal activities from their association with the Corporation and ensure that they do not leave the impression that they speak or act for the Corporation.

### **Privacy**

The Corporation respects the personal privacy of directors, officers, employees, consultants, contractors, customers, suppliers and agents and endeavours to comply with the letter and the spirit of applicable laws and regulations governing the privacy of personal information.

### **Waivers**

Any waiver of this Code for executive officers or directors of the Corporation may be made only by the Board or a committee of the Board and must be promptly disclosed to the Corporation's shareholders.

### **Compliance**

New directors, officers and employees of the Corporation and its subsidiaries will be advised of this Code and its importance and this Code will be brought to the attention of all employees on an annual basis. The Board will review and, to the extent necessary, revise and update this Code on an annual basis.

Any employee who violates this Code may face disciplinary action up to and including termination of his or her employment with the Corporation. The violation of this Code may also violate certain laws. If the Corporation discovers that an employee has violated such laws, it may refer the matter to the appropriate legal authorities.

### **Effective Date**

This Code is effective as of June 2011, as amended May 10, 2019.

## Schedule C

### ACERUS PHARMACEUTICALS CORPORATION

#### AUDIT COMMITTEE CHARTER

##### **Organization**

This Charter governs the operations of the Audit Committee of Acerus (the "Committee"). The board of directors will appoint a Committee of at least three members and will designate one member as chair or delegate the authority to designate a chair to the Committee. All of the members will be directors who are "independent", as defined by National Instrument 52-110 – *Audit Committees*.

Each member of the Committee will be financially literate, or become financially literate within a reasonable period of time.

The Committee will meet at least quarterly. The Committee will meet separately and periodically with management, internal audit and with the independent auditors. The Committee will report regularly to the board with respect to its activities.

##### **Purpose**

The purpose of the Committee will be to provide assistance to the board in fulfilling its oversight responsibility to the shareholders, potential shareholders, the investment community, and others relating to: (i) the integrity of Acerus' financial statements; (ii) Acerus' compliance with legal and regulatory requirements; and (iii) the independent auditors' qualifications and independence.

The Committee may retain (and set and pay the compensation) of such outside legal, accounting or other advisors as it considers necessary to carry out its duties.

In fulfilling its purpose, it is the responsibility of the Committee to maintain free and open communication between the Committee, independent auditors and management, and to determine that all parties are aware of their responsibilities.

##### **Duties and Responsibilities**

The Committee has the responsibilities and powers set forth in this Charter. Management is responsible for the preparation, presentation, and integrity of Acerus' financial statements, for the appropriateness of the accounting principles and reporting policies that are used and for implementing and maintaining internal control over financial reporting. The independent auditors are responsible for auditing Acerus' annual financial statements and for reviewing Acerus' unaudited interim financial statements.

The following will be the principal duties and responsibilities of the Committee. These are set forth as a guide with the understanding that the Committee may supplement them as appropriate.

- The Committee will be responsible to advise the board, for the board's recommendation to shareholders, in respect of the appointment, compensation and retention of the independent auditors.
- The Committee will be directly responsible for the oversight of the work of the independent auditors (including resolution of disagreements between management and the auditors regarding financial reporting) for the purpose of preparing or issuing an audit report or performing other audit, review, or attest services for Acerus, and the independent auditors report directly to the Committee.

- Annually, the Committee will obtain and review a report by the independent auditors describing: (i) the firm's internal quality control processes; (ii) all relationships between the independent auditors and Acerus (to assess the auditors' independence); and (iii) such other matters as are required by law or regulation.
- The Committee will determine that the independent audit firm has a process in place to address the rotation of the lead audit partner and other audit partners serving the account as required under Canadian independence standards.
- The Committee will pre-approve all audit and non-audit services provided by the independent auditors and will only engage the independent auditors to perform non-audit services permitted by law or regulation. The Committee may delegate pre-approval authority to a member of the Audit Committee. The decisions of any Committee member to whom pre-approval authority is delegated must be presented to the full Committee at its next scheduled meeting.
- The Committee will discuss with the independent auditors the overall scope and plans for their audits.
- The Committee will review with the independent auditors any audit problems or difficulties encountered during the course of the audit work, including any restrictions on the scope of the independent auditors' activities or access to requested information, and management's response. The Committee will review any accounting adjustments that were noted or proposed by the auditors but were not recorded (as immaterial or otherwise) and any "management" or "internal control" letter issued, or proposed to be issued, by the audit firm.
- The Committee will review and recommend approval of the quarterly and annual audited financial statements to the board, including Management's Discussion and Analysis, with management and the independent auditors prior to the issuance and/or filing of same. (References in this paragraph to the external auditors apply to the annual financial statements only.) The Committee's review of the financial statements will include: (i) major issues regarding accounting principles and financial statement presentation, including any significant changes in Acerus' selection or application of accounting principles, and major issues as to the adequacy of Acerus' internal controls and any specific remedial actions adopted in light of material control deficiencies; (ii) discussions with management and the independent auditors regarding significant financial reporting issues and judgments made in connection with the preparation of the financial statements and the reasonableness of those judgments; (iii) consideration of the judgment of both management and the independent auditors about the quality of accounting principles; and (iv) the clarity of the disclosures in the financial statements. Also, the Committee will discuss the results of the annual audit and any other matters required to be communicated to the Committee by the independent auditors under professional standards.
- The Committee will review and approve all related party transactions not in the ordinary course of business in the absence of a special committee of the board designated for such function.
- The Committee will review earnings press releases for recommendation to the board.
- The Committee will discuss with management and the independent auditors the adequacy and effectiveness of internal control over financial reporting, including any significant deficiencies or material weaknesses identified by management in respect of Canadian securities laws requirements.
- The Committee will review with management Acerus' compliance systems with respect to legal and regulatory requirements.

- As requested by the board, discuss with management and, where appropriate, the external auditors of Acerus, Acerus' major risk exposures (whether financial, operational or otherwise) and the steps management has taken to monitor and control such exposures.
- The Committee will ensure that Acerus establishes appropriate policies and procedures for the receipt, retention, and treatment of complaints received by Acerus regarding accounting, internal accounting controls, or auditing matters, and the confidential, anonymous submission by employees of Acerus of concerns regarding questionable accounting or auditing matters.
- The Committee will ensure that Acerus has in effect clear hiring policies for employees or former employees of the independent auditors that meet Canadian independence standards and applicable stock exchange listing standards.
- The Committee will perform an evaluation of its performance at least annually to determine whether it is functioning effectively.
- The Committee will review and reassess this Charter at least annually.

Schedule D



ACERUS PHARMACEUTICALS CORPORATION  
OMNIBUS INCENTIVE PLAN

## ACERUS PHARMACEUTICALS CORPORATION OMNIBUS INCENTIVE PLAN

### Section 1 Interpretation and Administrative Provisions

#### (1) Purposes

The purposes of this Plan are to assist the Company and its affiliates to attract, retain and motivate key employees, directors and consultants by granting to them (i) options to purchase common shares in its capital, (ii) restricted share units, (iii) performance share units and (iv) deferred share units.

#### (2) Definitions

When used herein, unless the context otherwise requires, the following terms have the following meanings, respectively:

“**affiliate**”, “**associate**” and “**jointly or in concert**” have the respective meanings set forth in the *Securities Act* (Ontario), as amended from time to time.

“**Applicable Withholding Taxes**” has the meaning set out in Section 2(4).

“**Annual Board Retainer**” means the annual retainer paid by the Company to a director in a fiscal year for service on the Board, together with Board committee fees, attendance fees and retainers to committee chairs.

“**Award**” means an Option, RSU, PSU or DSU granted under this Plan.

“**Award Agreement**” means an Option Agreement, PSU Agreement, RSU Agreement or DSU Agreement as the context requires.

“**Award Date**” means the date the Board grants an Award under this Plan.

“**Blackout Period**” means any period imposed by the Company, during which specified individuals, including insiders of the Company, may not trade in the Company's securities (including for greater certainty any period during which specific individuals are restricted from trading because they have material non-public information), but does not include any period when a regulator has halted trading in the Company's securities.

“**Board**” means the Board of Directors of the Company.

“**Business Day**” means a day other than a Saturday, Sunday or other day when banks in the City of Toronto, Ontario are not generally open for business.

“**Catch Up Year**” has the meaning set out in Section 4(4).

“**Cause**” a termination shall be deemed to have been for “cause” in any circumstances where such termination arises in connection with: (i) the Participant’s conviction in a court of law or entering a plea of guilty to any offence under the *Criminal Code* (Canada) or any similar legislation of any jurisdiction punishable by imprisonment; (ii) any moral turpitude whatsoever or any act or omission by the Participant that constitutes fraud, dishonesty, breach of trust or theft involving funds, property, business or affairs of the Company or any of its subsidiaries; or (iii) any other circumstances constituting “cause” under applicable laws.

**“Change of Control”** means, unless the Board determines otherwise, the happening, in a single transaction or in a series of related transactions, of any of the following events:

- (a) any transaction (other than a transaction described in clause (b) below) pursuant to which any Person or group of Persons acting jointly or in concert acquires the direct or indirect beneficial ownership of securities of the Company representing 50% or more of the aggregate voting power of all of the Company’s then issued and outstanding securities entitled to vote in the election of directors of the Company;
- (b) there is consummated an arrangement, amalgamation, merger or similar transaction involving (directly or indirectly) the Company and, immediately after the consummation of such arrangement, amalgamation, merger or similar transaction, the shareholders of the Company immediately prior thereto do not beneficially own, directly or indirectly, either (i) outstanding voting securities representing more than 50% of the combined outstanding voting power of the surviving or resulting entity in such arrangement, amalgamation, merger or similar transaction or (ii) more than 50% of the combined outstanding voting power of the parent of the surviving or resulting entity in such arrangement, amalgamation, merger or similar transaction, in each case in substantially the same proportions as their beneficial ownership of the outstanding voting securities of the Company immediately prior to such transaction;
- (c) the sale, lease, exchange, license or other disposition of all or substantially all of the Company’s consolidated assets to a Person other than a Person that was an affiliate of the Company at the time of such sale, lease, exchange, license or other disposition, other than a sale, lease, exchange, license or other disposition to an entity, more than fifty percent (50%) of the combined voting power of the voting securities of which are beneficially owned by shareholders of the Company in substantially the same proportions as their beneficial ownership of the outstanding voting securities of the Company immediately prior to such sale, lease, exchange, license or other disposition;
- (d) the passing of a resolution by the Board or shareholders of the Company to substantially liquidate the assets of the Company or wind-up the Company’s business or significantly rearrange its affairs in one or more transactions or series of transactions or the commencement of proceedings for such a liquidation, winding-up or re-arrangement (except where such re-arrangement is part of a bona fide reorganization of the Company in circumstances where the business of the Company is continued and the shareholdings of shareholders of the Company remain substantially the same following the re-arrangement); or
- (e) individuals who, as of the date hereof, are members of the Board (the “Incumbent Board”) cease for any reason to constitute at least a majority of the members of the Board; provided, however, that if the appointment or election (or nomination for election) of any new Board member was approved or recommended by a majority vote of the members of the Incumbent Board then still in office, such new member will, for purposes of this Plan, be considered as a member of the Incumbent Board

**“Committee”** means the committee of the Board responsible for recommending to the Board the compensation of the key employees, Directors and Consultants.

**“Company”** means Acerus Pharmaceuticals Corporation and any of its successors.

“**Consultant**” has the meaning set out in National Instrument 45-106 - Prospectus and Registration Exemptions as amended from time to time.

“**Cumulative Shortfall Year**” has the meaning set out in Section 4(4).

“**Deferred Share Unit**” or “**DSU**” means a unit designated as a Deferred Share Unit representing the right to receive one Share (or its cash equivalent) in accordance with the terms set forth in this Plan.

“**Director**” means a non-employee member of the Board of Directors of any Participating Entity.

“**DSU Agreement**” means a signed, written agreement between a DSU Participant and the Company, substantially in the form attached as Schedule “E” hereto, subject to any amendments or additions thereto as may, in the discretion of the Board, be necessary or advisable, evidencing the terms and conditions on which a DSU has been granted under this Plan.

“**DSU Election Notice**” means an election notice substantially in the form attached hereto in Schedule “F” (subject to any amendments or additions thereto as may, in the discretion of the Board, be necessary or advisable).

“**DSU Participant**” means a director of the Company (who for greater certainty may also be an employee, if applicable) who has been designated by the Company for participation in the Plan and who has agreed to participate in the Plan and to whom Deferred Share Units have or will be granted hereunder.

“**DSU Payment Date**” means, with respect to a Deferred Share Unit granted to a DSU Participant, no later than December 31, of the fiscal year following the fiscal year in which the DSU Termination Date occurred.

“**DSU Settlement Notice**” means a notice, in substantially the form attached hereto in Schedule “G” (subject to any amendments or additions thereto as may, in the discretion of the Board, be necessary or advisable), by the Company electing the desired form of settlement of Deferred Share Units.

“**DSU Termination Date**” of a DSU Participant means, the day that the DSU Participant ceases to be a director and, if applicable, an employee of the Company for any reason.

“**Elected Amount**” has the meaning set out in Section 5(3)(a).

“**Exercise or Surrender Notice**” means a notice in writing substantially in the form set out in Schedule “A” hereto signed by a Participant and stating the Participant's intention to exercise or surrender a particular Option.

“**Exercise Period**” means the period of time during which an Option granted under this Plan may be exercised.

“**Exercise Price**” means the price at which Shares may be purchased on the exercise of an Option.

“**Expiry Date**” means:

- (a) in respect of any Option, the fifth anniversary of its Award Date unless an earlier date is specified by the Board; and

- (b) in respect of any Share Unit, the date specified in the applicable Award Agreement, if any, as the date on which the Share Unit will be terminated and cancelled or, if later or no such date is specified in the applicable Award Agreement, December 31 of the third (3rd) calendar year commencing after the Award Date,

in the case of each, subject to extension in the event the Expiry Date occurs during a Blackout Period in which case, but subject to Section 4(5)(b) in respect of Share Units, the Expiry Date shall be extended until 10 Business Days after the end of the Blackout Period.

**"Market Value"** means, on any particular day, the volume weighted average trading price of a Share on the Toronto Stock Exchange for the five (5) preceding days on which the Shares were traded, or, in the event that such Shares are not listed and posted for trading on the Toronto Stock Exchange, on any other stock exchange as selected by the Board for these purposes. In the event that such Shares are not listed and posted for trading on any stock exchange, the Market Value shall be the fair market value of such Shares as determined by the Board in its sole and absolute discretion.

**"Option"** means a right granted to a Participant to purchase Shares on the terms set out in the Plan.

**"Option Agreement"** means a signed, written agreement between a Participant and the Company, substantially in the form attached as Schedule "B" hereto, subject to any amendments or additions thereto as may, in the discretion of the Board, be necessary or advisable, evidencing the terms and conditions on which an Option has been granted under this Plan.

**"Participant"** means an employee, Director or Consultant of a Participating Entity who the Board determines may participate in this Plan (and includes, where appropriate, a DSU Participant).

**"Participating Entity"** means the Company and any affiliate of the Company which is designated by the Board from time to time.

**"Performance Period"** means, with respect to PSUs, the period specified by the Board for achievement of any applicable Performance Vesting Conditions as a condition to Vesting.

**"Performance Vesting Conditions"** means such performance-related conditions in respect of the Vesting of Share Units determined by the Board at the time of the Award, which may include but are not limited to, financial or operational performance of the Company, total shareholder return, individual performance criteria or otherwise, which may be measured over a specified period.

**"Person"** means any individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, and a natural person in such person's capacity as trustee, executor, administrator or other legal representative.

**"Plan"** means this Acerus Pharmaceuticals Corporation Omnibus Incentive Plan as it may be amended from time to time in accordance with its terms.

**"PSU"** means a right granted to a Participant to receive a Share or its cash equivalent that generally becomes Vested, if at all, following a period of continuous employment and subject to the attainment of Performance Vesting Conditions and the satisfaction of such other conditions to Vesting, if any, as may be determined by the Board.

**"PSU Agreement"** means a signed, written agreement between a Participant and the Company, substantially in the form attached as Schedule "C" hereto, subject to any amendments or additions

thereto as may, in the discretion of the Board, be necessary or advisable, evidencing the terms and conditions on which a PSU has been granted under this Plan.

**"Retirement"** means resignation in circumstances which the Board, in its discretion, determines is Retirement and on such terms as the Board may specify.

**"RSU"** means a right granted to a Participant to receive a Share or its cash equivalent that generally becomes Vested, if at all, following a period of continuous employment and subject to Time Vesting Conditions of the Participant with a Participating Entity.

**"RSU Agreement"** means a signed, written agreement between a Participant and the Company, substantially in the form attached as Schedule "D" hereto, subject to any amendments or additions thereto as may, in the discretion of the Board, be necessary or advisable, evidencing the terms and conditions on which an RSU has been granted under this Plan.

**"Share"** means a common share of the Company.

**"Share Unit"** means either an RSU or a PSU as the context requires.

**"Share Unit Account"** has the meaning set out in Section 4(3).

**"Share Unit Settlement Date"** has the meaning set out in Section 4(5)(a)(i).

**"Share Unit Settlement Notice"** means a notice, in substantially the form attached hereto in Schedule "H" (subject to any amendments or additions thereto as may, in the discretion of the Board, be necessary or advisable), by the Company electing the desired form of settlement of Share Units.

**"Shortfall Year"** has the meaning set out in Section 4(4).

**"Termination Date"** means a Participant's last day of actual and active employment or the end of his or her term as a Director or Consultant, as applicable, and does not include any period of statutory, contractual or reasonable notice or any period of salary continuance or deemed employment.

**"Termination Notice"** has the meaning set out in Section 5(4)(a).

**"Time Vesting Conditions"** means any conditions relating to continued service with a Participating Entity for a period of time in respect of the Vesting of Share Units determined by the Board at the time of the Award.

**"Vested"** means (i) with respect to an Option, that it has become exercisable, and (ii) with respect to Share Units, the applicable Time Vesting Conditions, Performance Vesting Conditions and/or any other conditions for Vesting in relation to a whole or a percentage of the number of Share Units covered by an Award determined by the Board in connection with each RSU or PSU granted pursuant to the Plan, as the case may be, have been met. **"Vest"** and **"Vesting"** have corresponding meanings.

**"Vesting Date"** means a date on which the applicable Time Vesting Conditions, Performance Share Conditions and/or any other conditions for a Share Unit becoming Vested are met.

“**Vesting Period**” means, with respect to an Award, a period specified by the Board, commencing on the Award Date and ending no later than immediately prior to the Expiry Date.

**(3) Interpretation**

The Plan is to be interpreted as follows:

- (a) the use of headings is for ease of reference only and does not affect construction or interpretation of this Plan.
- (b) Where the context so requires, words importing the singular number include the plural and vice versa, and words importing the masculine gender include the feminine and neuter genders.
- (c) References to Sections and Subsections are references to sections and subsections in this Plan, unless otherwise specified.
- (d) All amounts paid or values to be determined under the Plan shall be in Canadian dollars.
- (e) Whenever the Board is to exercise discretion in the administration of the terms and conditions of this Plan or any Award, the term “discretion” means the “sole and absolute discretion” of the Board.
- (f) Where the words “including” or “includes” appear in this Plan, they mean “including (or includes) without limitation”.

**Section 2 Administration**

**(1) Administration**

This Plan will be administered by the Board and the Board has complete authority, in its discretion, to interpret the provisions of this Plan. In administering and interpreting the Plan, the Board may adopt, amend and rescind administrative guidelines and other rules and regulations relating to this Plan and make all other determinations and take all other actions necessary or advisable for the implementation and administration of this Plan which the Board determines, in its discretion, are necessary or advisable. The Board's determinations and actions within its authority under this Plan are final, conclusive and binding on the Company, its affiliates and all other Persons.

To the extent applicable, any Awards issued to any US Taxpayer (as defined in Schedule “J”) shall be subject to the additional provisions of Schedule “J”.

**(2) Delegation to Committee**

To the extent permitted by applicable law, the Board may, from time to time, delegate to the Committee all or any of the powers conferred on the Board under the Plan. In such event, references to the Board mean and include the Committee and the Committee will exercise the powers delegated to it by the Board in the manner and on the terms authorized by the Board. Any decisions made or actions taken by the Committee arising out of or in connection with the administration or interpretation of this Plan within its authority under this Plan, are final, conclusive and binding on the Participating Entities and all other Persons.

**(3) Eligibility**

Participation in the Plan is entirely voluntary.

All employees and Directors of Participating Entities are eligible to participate in this Plan. In addition, and subject to applicable laws, the Board may determine in its discretion which Consultants are eligible to participate in this Plan. However, under no circumstances may grants of RSUs or PSUs be made to Directors or Consultants under this Plan.

Eligibility to participate in the Plan does not confer upon any Person any right to be granted Awards pursuant to this Plan. In addition, no Participant has any claim or right to be granted an Award (including, without limitation, an Award granted in substitution for any Award that has expired pursuant to the terms of this Plan).

**(4) Taxes and Other Source Deductions**

Notwithstanding any other provision contained herein, the relevant Participating Entity shall be entitled to withhold from any amount payable to a Participant, either under this Plan or otherwise, such amounts as may be necessary so as to ensure that the relevant Participating Entity is in compliance with all applicable withholding tax or other source deduction liabilities relating to the settlement of Awards hereunder (the “**Applicable Withholding Taxes**”). It is the responsibility of the Participant to complete and file any tax returns which may be required within the periods specified in applicable laws as a result of the Participant’s participation in the Plan. The Company shall not be held responsible for any tax consequences to a Participant as a result of the Participant’s participation in the Plan and the Participant shall indemnify and save harmless the Company from and against any and all loss, liability, damage, penalty or expense (including legal expense), which may be asserted against the Company or which the Company may suffer or incur arising out of, resulting from, or relating in any manner whatsoever to any tax liability in connection therewith. For greater certainty, unless not required under the *Income Tax Act* (Canada) or any other applicable law, no cash payment will be made nor will Shares be issued until: (a) an amount sufficient to cover the Applicable Withholding Taxes payable on the settlement of Awards (including, for certainty, the exercise of any Options) has been received by the Company (or withheld by the Company as noted above, if applicable); (b) the Participant undertakes to arrange, in a manner satisfactory to the Board, in its sole discretion, for such number of Shares to be sold as is necessary to raise an amount equal to the Applicable Withholding Taxes, and to cause the proceeds from the sale of such Shares to be delivered to the Company; or (c) the Participant has made other arrangements, satisfactory to the Board, in its sole discretion, to cover the Applicable Withholding Taxes payable on the settlement of Awards (including, for certainty, the exercise of any Options).

**(5) Information**

Each Participant shall provide the Company with all information the Company requires from that Participant in order to administer this Plan.

**(6) Indemnification**

Each member of the Board and Committee is indemnified and held harmless by the Company against any cost or expense arising out of any act or omission to act in connection with this Plan to the extent permitted by applicable law. This indemnification is in addition to any rights of indemnification a Board or Committee member may have as director or otherwise.

**(7) Governing Law**

This Plan shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**(8) Total Shares Subject to Awards**

The maximum number of Shares available for issuance pursuant to the Plan and any other security-based compensation arrangement of the Company subsequent to the date hereof shall not exceed a number which will be fixed at 10% of the issued and outstanding Shares from time to time. In addition, the grant of Awards under the Plan is subject to the following additional limitations:

- (a) no more than 10% of the Company's outstanding issue may be issued under the Plan or pursuant to any other security-based compensation arrangements of the Company in any one (1) year period;
- (b) no more than 5% of the Company's outstanding issue may be issued under the Plan or pursuant to any other security-based compensation arrangements of the Company to any one Person;
- (c) the number of Shares issuable to insiders at any time pursuant to all of the Company's security-based compensation arrangements shall not exceed 10% of the outstanding Shares on a non-diluted basis and the number of Shares to be issued to insiders, within any one year period, pursuant to all of the Company's security-based compensation arrangements shall not exceed 10% of the outstanding Shares on a non-diluted basis; and
- (d) the aggregate number of Shares reserved for issue to any one service provider of the Company shall not exceed 2% of the total number of Shares then outstanding, excluding Shares issued to such service provider upon the exercise of Options over the preceding 12-month period.

For the purposes of this Plan, "insider", "security-based compensation arrangement" and "service provider" have the meanings set out in the TSX Company Manual.

If for any reason, any Shares subject to issuance on the exercise of Options granted under this Plan are not issued, for reasons including a termination, expiration or cancellation of an Option, such Shares will again become available for issuance under this Plan. If any Share Units or DSUs granted under this Plan expire, terminate or are cancelled for any reason without being settled in the form of Shares issued from treasury, such Shares will again become available for issuance under this Plan.

This Plan is considered an "evergreen" plan, since the Awards which have been exercised shall be available for subsequent grants under the Plan and the number of Awards available to grant increases as the number of issued and outstanding Shares increases.

**(9) Award Agreements**

All grants of Awards under this Plan will be evidenced by Award Agreements. Any one officer or director of the Company is authorized and empowered to execute on behalf of the Company and deliver an Award Agreement to a Participant.

**Section 3 Grant of Options**

**(1) Grant of Options**

The Board may, in its discretion, from time to time, subject to the provisions of this Plan and such other terms and conditions as the Board may prescribe, grant Options to any Participant, and the Participant shall execute an Option Agreement evidencing the same.

**(2) Terms and Conditions of Options**

Subject to this Section 3, the Board shall determine the following in its sole discretion with respect to each Option:

- (a) the number of Shares issuable on the exercise of such Option;
- (b) the Exercise Price;
- (c) the Expiry Date;
- (d) the vesting schedule, if any, and
- (e) such other terms and conditions as the Board may consider appropriate in its sole discretion.

**(3) Exercise Price**

The Exercise Price under any Option will be as determined by the Board but may not be less than the Market Value of a Share at the Award Date, except where an Option is granted in exchange for another Option, subject to Toronto Stock Exchange approval.

**(4) Term of Options**

Subject to Section 3(8) and to any accelerated termination pursuant to the Plan, each Option expires on the Expiry Date.

**(5) Payment of Exercise Price**

- (a) Subject to the provisions of this Plan and any Option Agreement, Options may be exercised by delivery of a fully completed Exercise or Surrender Notice to the Chief Executive Officer and/or Chief Financial Officer of the Company accompanied by payment in full of the applicable Exercise Price and any Applicable Withholding Taxes. The Exercise Price and any Applicable Withholding Taxes may be paid by wire transfer, certified cheque, bank draft or money order payable to the Company.

- (b) A Participant may, rather than exercise any Option which such Participant is entitled to exercise under the Plan, elect to surrender such Option by giving irrevocable notice in writing of termination of such Option, in whole or in part, and requesting the Company in consideration for such surrender to issue to the Participant that number of Shares, disregarding fractions, which, when multiplied by the Market Value have a value equal to the number of Shares terminated multiplied by the difference between the Market Value and the exercise price per Share to which the Option so terminated relates.

**(6) Issue of Shares**

No Shares will be issued or transferred until full payment of the Exercise Price therefor and any Applicable Withholding Taxes have been received by the Company and all conditions to the issue of the Shares have been met. As soon as practicable after receipt of any Exercise or Surrender Notice and full payment of the Exercise Price and the satisfaction of all conditions to the issue of the Shares, the Company will deliver to the Participant a certificate or certificates representing the acquired Shares.

**(7) Conditions to Delivery of Shares**

The Company's obligation to issue and deliver Shares upon the exercise of any Option is subject to:

- (a) the satisfaction of all requirements under applicable laws in respect thereof and obtaining all approvals the Company shall determine to be necessary or advisable in connection with the authorization, issuance or sale thereof, including shareholder approval, if required; and
- (b) if such Shares are listed on any stock exchange or quotation market in Canada or the United States, compliance with the requirements of such stock exchanges or quotation markets.

**(8) Extension of Options that Expire During a Blackout Period**

If an Option would otherwise expire during a Blackout Period, the term of such Option shall automatically be extended until ten (10) Business Days after the end of the Blackout Period.

**(9) Effect of Exercise**

A Participant shall have no further rights, title or interest with respect to any Option that has been exercised.

**Section 4 Grant of Share Units**

**(1) Grant of RSUs and PSUs**

The Board may, in its discretion, from time to time, subject to the provisions of this Plan and such other terms and conditions as the Board may prescribe, grant RSUs or PSUs to any Participant, and the Participant shall execute an RSU Agreement or PSU Agreement, as applicable.

**(2) Number and Type of Share Units**

- (a) Each Award Agreement shall set forth the type and Award Date of the Share Units evidenced thereby, the number of RSUs or PSUs subject to such Award, the applicable

Vesting conditions, and the applicable Vesting Period(s) and may specify such other terms and conditions consistent with the terms of the Plan as the Board shall determine or as shall be required under any other provision of the Plan.

- (b) One (1) RSU is equivalent to one (1) Share. PSUs that are subject to Performance Vesting Conditions may become Vested PSUs based on a multiplier, which may be greater or less than 100%, subject to such percentage being no greater than 300%.

### (3) Share Unit Accounts

An account, called a “**Share Unit Account**”, shall be maintained by a Participating Entity for each Participant and will be credited with such notional grants of Share Units as are received by a Participant from time to time. Share Units that fail to Vest in a Participant, or that are paid out to the Participant, shall be cancelled and shall cease to be recorded in the Participant's Share Unit Account as of the date on which such Share Units are forfeited or cancelled under the Plan or are paid out, as the case may be. For greater certainty, where a Participant is granted both RSUs and PSUs, such RSUs and PSUs shall be recorded separately in the Participant's Share Unit Account.

### (4) Performance Vesting Conditions

In the case of PSUs, if the Performance Vesting Conditions for a fiscal year are not met during such fiscal year (the “**Shortfall Year**”), the PSUs which were scheduled to Vest at the end of each such Shortfall Year may Vest in future years, if in a subsequent fiscal year for which PSUs may Vest (the “**Catch Up Year**”), the Performance Vesting Conditions for the Catch Up Year are equal to or greater than the cumulative Performance Vesting Conditions for the Shortfall Year and Catch Up Year. Further, if Performance Vesting Conditions are not met for more than one fiscal year (“**Cumulative Shortfall Years**”), the PSUs which were scheduled to Vest in such Cumulative Shortfall Years may Vest in a Catch Up Year, if in a Catch Up Year the Performance Vesting Conditions for the Catch Up Year are equal to or greater than the cumulative Performance Vesting Conditions for the Cumulative Shortfall Years and the Catch Up Year.

### (5) Settlement of Share Units

- (a) Except as otherwise provided in an Award Agreement:
  - (i) all of the Vested Share Units covered by a particular grant and related Share Units may be settled on the first Business Day following their Vesting Date (the “Share Unit Settlement Date”);
  - (ii) the Company is entitled to deliver to the Participant, within 5 Business Days following the Share Unit Settlement Date, a Share Unit Settlement Notice providing for the method of settlement for the Share Units in respect of any or all Vested Share Units held by the Participant; and
  - (iii) in the Share Unit Settlement Notice, the Company will elect, in the Company's sole discretion, including with respect to any fractional Share Units, to settle Vested Share Units for their cash equivalent (determined in accordance with Section 4(6)(a)), Shares (determined in accordance with Section 4(6)(b)) or a combination thereof; provided, however, that the Company shall at all relevant times reserve the right to modify the method of settlement (even if a Share Unit Settlement Notice has already been delivered to the Participant).

- (b) Except as otherwise provided in an Award Agreement, subject to Section 4(5)(c), settlement of Share Units shall take place promptly following delivery of a Share Unit Settlement Notice and take the form set out in the Share Unit Settlement Notice (unless otherwise modified by the Company) through:
- (i) in the case of settlement of Share Units for their cash equivalent, delivery of the cash equivalent to the Participant;
  - (ii) in the case of settlement of Share Units for Shares, delivery of a share certificate to the Participant or the entry of the Participant's name on the share register for the Shares; or
  - (iii) in the case of a settlement of Share Units for a combination of Shares and cash, a combination of (i) and (ii) above.

Subject to the paragraph below, if a Share Unit would otherwise expire during a Blackout Period, the term of such Share Unit shall automatically be extended until ten (10) Business Days after the end of the Blackout Period.

Notwithstanding any other provision of the Plan, in no event will the Share Unit Settlement Date (and any subsequent payment with respect thereof) for any Share Units granted hereunder be made later than the end of the third calendar year after the first year of a Participant's services in respect of which the Share Units were granted or credited, and any Share Units that have not settled and been paid by such date will automatically expire or will accelerate and be settled and paid out by such date, at the sole discretion of the Company.

- (c) Except as otherwise provided in an Award Agreement, if a Share Unit Settlement Notice is not received by a Participant in respect of his or her Share Units within 5 Business Days following the Share Unit Settlement Date, settlement shall take the form of Shares issued from treasury as set out in Section 4(6)(b).

**(6) Determination of Amounts**

- (a) For the purposes of determining the cash equivalent of Share Units to be made pursuant to Section 4(5)(b)(i) or Section 4(5)(b)(iii), such calculation will be made on the Share Unit Settlement Date based on the Market Value on the Share Unit Settlement Date multiplied by the number of Vested Share Units in the Participant's Share Unit Account which the Company desires to settle in cash pursuant to the Share Unit Settlement Notice.
- (b) For the purposes of determining the number of Shares from treasury to be issued and delivered to a Participant upon settlement of Share Units pursuant to Section 4(5)(b)(ii) or Section 4(5)(b)(iii), such calculation will be made on the Share Unit Settlement Date based on the whole number of Shares equal to the whole number of Vested Share Units then recorded in the Participant's Share Unit Account which the Company desires to settle pursuant to the Share Unit Settlement Notice. Shares issued from treasury will be issued in consideration for the past services of the Participant and the entitlement of the Participant under this Plan shall be satisfied in full by such issuance of Shares. If applicable, the Company shall also make a cash payment to the Participant with respect to the value of fractional Share Units standing to the Participant's credit after the maximum number of whole Shares have been issued by the Company, calculated by multiplying (i) the number of such fractional Share Units by (ii) the Market Value on the Share Unit Settlement Date.

## **Section 5      Deferred Share Units**

### **(1)      Grant of Deferred Share Units**

Subject to this Section 5, the Board may recommend the grant of, from time to time, Deferred Share units to a DSU Participant. The grant of a Deferred Share Unit shall be evidenced by a DSU Agreement, signed on behalf of the Company. The Company shall maintain a notional account for each DSU Participant, in which shall be recorded the number of Deferred Share Units granted or credited to such DSU Participant. The grant of a Deferred Share Unit to a DSU Participant, or the settlement of a Deferred Share Unit, under the Plan shall neither entitle each DSU Participant to receive nor preclude such DSU Participant from receiving subsequently granted Deferred Share Units.

### **(2)      Equivalence**

One (1) Deferred Share Unit is equivalent to one (1) Share. Fractional Deferred Share Units are permitted under the Plan.

### **(3)      Election Notice; Elected Amount.**

- (a) Subject to Board approval, a DSU Participant may elect by filing a DSU Election Notice, once each fiscal year, to be paid up to one hundred percent (100%) of his or her Annual Board Retainer in the form of Deferred Share Units (the "Elected Amount"), with the balance being paid in cash in accordance with the Company's regular practices of paying such cash compensation. In the case of an existing DSU Participant, the election must be completed, signed and delivered to the Company by the end of the fiscal year preceding the fiscal year to which such election is to apply. In the case of a new DSU Participant, the election must be completed, signed and delivered to the Company as soon as possible, and, in any event, no later than 30 days, after the director's appointment, with such election to be effective on the first day of the fiscal quarter of the Company next following the date of the Company's receipt of the election until the final day of such fiscal year. For the first year of the Plan, DSU Participants must make such election as soon as possible, and, in any event, no later than 30 days, after adoption of the Plan and the election shall be effective on the first day of the fiscal quarter of the Company next following the date of the Company's receipt of the election until the final day of such fiscal year. If no election is made in respect of a particular fiscal year, the new or existing DSU Participant will be paid in cash in accordance with the Company's regular practices of paying such cash compensation.
- (b) The DSU Election Notice shall, subject to any minimum amount that may be required by the Board, from time to time, designate the percentage of the Annual Board Retainer for the applicable fiscal year that is to be deferred into Deferred Share Units, with the remaining percentage to be paid in cash in accordance with the Company's regular practices of paying such cash compensation.
- (c) In the absence of a designation to the contrary (including delivery of a DSU Election Notice by a DSU Participant requesting that a greater or lesser percentage of his or her Annual Board Retainer be payable in the form of Deferred Share Units relative to the percentage previously elected by such DSU Participant), the DSU Participant's Election Notice shall remain in effect unless otherwise terminated.

**(4) Termination Right**

- (a) Each DSU Participant is entitled to terminate his or her participation in the Plan by filing with the Chief Financial Officer of the Company, or such other officer of the Company designated by the Board, a notice electing to terminate the receipt of additional Deferred Share Units in substantially the form of Schedule "I" attached hereto ("Termination Notice"). Such Termination Notice shall be effective as of the date received by the Company.
- (b) Thereafter, any portion of such DSU Participant's Annual Board Retainer payable, and subject to compliance with Section 5(3), all subsequent Annual Board Retainers shall be paid in cash in accordance with the Company's regular practices of paying such cash compensation.
- (c) For greater certainty, to the extent a DSU Participant terminates his or her participation in the Plan, he or she shall not be entitled to become a DSU Participant again until the fiscal year following the fiscal year in which the Termination Notice becomes effective.

**(5) Calculation**

The number of Deferred Share Units (including fractional Deferred Share Units) granted at any particular time pursuant to this Plan will be calculated by: (a) in the case of an Elected Amount, by dividing (i) the dollar amount of the Elected Amount allocated to the DSU Participant by (ii) the Market Value of a Share on the applicable Award Date; or (b) in the case of a grant of Deferred Share Units pursuant to Section 5(1), by dividing (i) the dollar amount of such grant by (ii) the Market Value of a Share on the date of grant.

**(6) Vesting**

All Deferred Share Units recorded in a DSU Participant's Deferred Share Unit notional account shall vest on the DSU Termination Date, unless otherwise determined by the Board at its sole discretion and in compliance with Section 7(10)(f).

**(7) Settlement in respect of Deferred Share Units**

- (a) In respect of an award of Deferred Share Units granted to a DSU Participant, settlement shall be as soon as practicable following the DSU Termination Date and no later than the DSU Payment Date.
- (b) Within five (5) Business Days following the DSU Termination Date, the Company shall deliver to the DSU Participant (or where the DSU Participant has died, the legal representative of the DSU Participant) a DSU Settlement Notice providing for the method of settlement for the Deferred Share Units in respect of all Deferred Share Units held by the DSU Participant.
- (c) In the DSU Settlement Notice, the Company will elect, in the Company's sole discretion, including with respect to any fractional Deferred Share Units, to settle the Deferred Share Units for their cash equivalent (determined in accordance with Section 5(8)(a)), Shares (determined in accordance with Section 5(8)(b)) or a combination thereof; provided, however, that the Company shall at all relevant times reserve the right to modify the method of settlement (even if a DSU Settlement Notice has already been delivered to the DSU Participant).

- (d) Except as otherwise provided in an Award Agreement, subject to Section 5(7)(e), settlement of Deferred Share Units shall take place promptly following deliver of a DSU Settlement Notice and take the form set out in the DSU Settlement Notice (unless otherwise modified by the Company) through:
  - (i) in the case of settlement of Deferred Share Units for their cash equivalent, delivery of the cash equivalent to the DSU Participant;
  - (ii) in the case of the settlement of Deferred Share Units for Shares, delivery of a share certificate to the DSU Participant or the entry of the DSU Participant's name on the share register for the Shares; or
  - (iii) in the case of a settlement of Deferred Share Units for a combination of Shares and cash, a combination of (i) and (ii) above.
- (e) If a DSU Settlement Notice is not received by a DSU Participant in respect of his or her Deferred Share Units within five (5) Business Days following the DSU Termination Date, settlement shall take the form of Shares issued from treasury as set out in Section 5(8)(b).

**(8) Determination of Amounts**

- (a) For a cash settlement, for purposes of determining the aggregate Market Value of the Shares which would otherwise be issuable in settlement of such DSUs, such calculation will be made based on the Market Value on the DSU Termination Date multiplied by the number of Deferred Share Units in the Participant's Deferred Share Unit notional account as of the DSU Termination Date.
- (b) For the purposes of determining the number of Shares to be issued from treasury and delivered to a DSU Participant upon settlement of Deferred Share Units, such calculation will be made on the DSU Termination Date, or if the DSU Termination Date is not a Business Day, on the next such Business Day, based on the whole number of Shares equal to the whole number of Deferred Share Units then recorded in the Participant's Deferred Share Unit notional account. Shares issued from treasury will be issued in consideration for the past services of the DSU Participant to the Company and the entitlement of the DSU Participant under this Plan shall be satisfied in full by such issuance of Shares. If applicable, the Company shall also make a cash payment to the DSU Participant with respect to the value of fractional Deferred Share Units standing to the DSU Participant's credit after the maximum number of whole Shares have been issued by the Company, calculated by multiplying (i) the number of such fractional Deferred Share Units by (ii) the Market Value on the DSU Termination Date.

**Section 6 Termination of Employment**

**(1) Resignation**

If a Participant resigns from employment or as a director or Consultant with a Participating Entity, the Participant shall forfeit all rights, title and interest in the Participant's Awards which are not Vested on the date the notice of resignation is delivered to the Company. The Participant may exercise the Participant's Options which are Vested on the date the notice of resignation is delivered to the Company until the earlier of: (i) the end of the Exercise Period; and (ii) 10 days after the date the notice of resignation is delivered to the Company, after which time all Options expire.

**(2) Termination for Cause**

If a Participant's employment is terminated by a Participating Entity for Cause or the Participant ceases to be a director or Consultant on a similar basis, the Participant shall forfeit all rights, title and interest in all the Participant's Awards, whether Vested or not Vested at the Termination Date.

**(3) Retirement, Death, Disability and Disposition of a Participating Entity**

If a Participant's employment or other position with a Participating Entity ceases because of the death, disability or Retirement of the Participant, or because the Person which employs the Participant or to which the Participant is a director or Consultant, ceases to be a Participating Entity:

- (a) all of the Options that would Vest in the one year period following the Termination Date will vest immediately prior to the Termination Date and the Participant or his or her legal representatives, as applicable, may exercise such Options and any Options that had Vested as of the Termination Date for the one year period following the Termination Date after which time all Options expire;
- (b) if a Participant's RSUs have not Vested, subject to the Board's approval, a pro rata portion of the Participant's RSUs that are scheduled to Vest on the next scheduled Vesting Date set forth in the RSU Agreement for such RSUs will Vest, based on the number of days that have elapsed between the Award Date and the Termination Date, and such RSUs will be settled in accordance with the provisions of Section 4 on the next scheduled Vesting Date set forth in the RSU Agreement;
- (c) if a Participant's PSUs have not Vested, any PSUs standing to the credit of such Participant shall continue to Vest (and be settled) in the normal course for a period of ninety (90) days extending from the end of the fiscal year in which the Termination Date occurs (the "90 Day Period"). Subject to the Board's approval, any PSUs which do not Vest in the normal course during the 90 Day Period shall vest pro rata upon the Termination Date to take into account only the period that has elapsed between the Award Date and the Termination Date, provided the Performance Vesting Conditions are satisfied in respect of the applicable Performance Period in which the Termination Date occurs. For purposes of this determination, the catch-up provisions in Section 4(4) shall have no application.

**(4) Termination without Cause**

If a Participant's employment is terminated without Cause, the Participant resigns because he or she has been constructively dismissed, or the Participant ceases to be a director or Consultant on a similar basis then:

- (a) all of the Participant's Options which are Vested on the Termination Date may be exercised until the earlier of the Expiry Date or 90 days after the Termination Date, after which time all Options expire;
- (b) a Participant's RSUs that have not Vested shall Vest in accordance with Section 6(3)(b); and
- (c) a Participant's PSUs that have not Vested shall Vest in accordance with Section 6(3)(c).

**(5) Discretion to Permit Exercise**

Subject to applicable laws, the Board may, in its discretion, at any time permit the exercise of any or all Options held by the Participant or by the Participant's estate, as the case may be, in the manner and on the terms authorized by the Board in its discretion, provided that the Board may not, in any case, authorize the exercise of an Option pursuant to this Section beyond the expiration of the Exercise Period of the particular Option.

**(6) Unexercisable Options**

Except in connection with the death, disability or Retirement of a Participant or because the Person which employs the Participant or to which the Participant is a director or Consultant, ceases to be a Participating Entity as provided for in Section 6(3), any Options held by the Participant that were not exercisable or Vested at the Termination Date shall immediately expire and be cancelled on such date.

**(7) Leave of Absence**

For the purposes of the Plan, a Participant who is granted in writing a leave of absence or who is entitled to a statutory leave of absence shall be deemed to have remained in the employ of the Company or the applicable Participating Entity, as applicable, during such leave of absence.

**(8) No Entitlement to Damages**

A Participant shall have no entitlement to damages or other compensation arising from or related to not receiving a grant of Options, RSUs, PSUs or Shares which would have been made to the Participant or which would have Vested after the Participant's termination date. However, nothing herein is intended to limit any statutory entitlements on termination and such statutory entitlements shall, if required, apply despite this language to the contrary.

**Section 7 General**

**(1) General**

The provisions contained in this Plan and any Award Agreement and the existence of any Awards shall not affect in any way the right of the Company or its shareholders or affiliates to take any action, including any change in the Company's capital structure or its business, or any acquisition, disposition, amalgamation, combination, merger or consolidation, or the creation or issuance of any bonds, debentures, shares or other securities of the Company or of an affiliate thereof or the determination of the rights and conditions attaching thereto, or the dissolution or liquidation of the Company or of any of its affiliates or any sale or transfer of all or any part of their respective assets or businesses or ceasing to be a reporting issuer or to be listed on any stock exchange, whether or not any such corporate action or proceeding would have an adverse effect on this Plan or any Awards granted hereunder.

**(2) Reorganization of Company's Capital**

If the Company effects a subdivision or consolidation of Shares or any similar capital reorganization or a payment of a stock dividend (other than a stock dividend that is in lieu of an ordinary cash dividend), or if any other change is made in the capitalization of the Company that, in the opinion of the Board, would warrant the amendment or replacement of any existing Awards in order to adjust:

- (a) the number of Shares that may be acquired on the exercise of any outstanding Options;

- (b) the Exercise Price of any outstanding Options; or
- (c) the number of Share Units or DSUs in the Participant's Share Unit Account or notional account, as applicable,

in order to preserve proportionately the rights and obligations of the Participants, the Board will authorize such steps to be taken as may be equitable and appropriate to that end as determined by the Board in its sole discretion.

**(3) Other Events Affecting the Company**

In the event of an amalgamation, arrangement, combination, spin-off or other reorganization or any other corporate transaction having a similar effect involving the Company that, in the opinion of the Board, warrants the amendment or replacement of any existing Awards in order to adjust:

- (a) the number of Shares that may be acquired on the exercise of any outstanding Options;
- (b) the Exercise Price of any outstanding Options;
- (c) the number of Share Units or DSUs in the Participant's Share Unit Account or notional account, as applicable; or
- (d) the kind of shares covered by outstanding Awards,

in order to preserve proportionately the rights and obligations of the Participants, the Board will authorize such steps to be taken as may be equitable and appropriate to that end as determined by the Board in its sole discretion.

**(4) Immediate Exercise of Awards**

Where the Board determines that the steps provided in Section 7(2) and Section 7(3) would not preserve proportionately the rights and obligations of the Participants in the circumstances or the Board otherwise determines that it is appropriate, the Board may permit the Vesting and exercise, as applicable, effective no later than the Business Day immediately prior to the date on which the event referenced in Section 7(2) and Section 7(3), as applicable, is consummated, of any outstanding Awards that are not then otherwise Vested and the cancellation of any outstanding Options which are not exercised within any specified period.

**(5) Change of Control**

In the event of a Change of Control, the Board may accelerate the expiry of Options granted under this Plan to the Business Day immediately following the date on which such Change of Control is consummated provided that:

- (a) the Board accelerates the Vesting of the Options prior to the date on which the Change of Control is consummated; and
- (b) the Company gives notice of the accelerated Vesting and expiry to all Participants not less than 10 Business Days prior to the date of consummation of the Change of Control.

In the event of a Change of Control, the Board shall have the authority to take all necessary steps so as to ensure the preservation of the economic interests of the Participants in, and to prevent the dilution

or enlargement of, any RSUs or PSUs, including, without limitation: (i) ensuring that the Company or any entity which is or would be the successor to the Company or which may issue securities in exchange for Shares upon the Change of Control becoming effective will provide each Participant with new or replacement or amended RSUs or PSUs, as the case may be, which will continue to Vest following the Change of Control on similar terms and conditions as provided in this Plan; (ii) causing all or a portion of the outstanding Share Units to Vest immediately prior to the Change of Control; or (ii) any combination of the above.

In addition, in the event of a Change of Control, for each Option with an Exercise Price greater than the consideration offered in connection with any such transaction, the Board may in its discretion elect to cancel such Option without any payment to the Participant holding such Option.

**(6) Fractional Shares**

No fractional Shares will be issued on the exercise of an Option or the settlement of a Share Unit. Accordingly, if as a result of any adjustment to either the Exercise Price or the number of Shares issuable on exercise of an Option is made pursuant to the Plan, or to the number of Share Units in the Participant's Share Unit Account, the Participant would become entitled to receive a fractional Share on the exercise of an Option or the settlement of a Share Unit, the Participant has the right to acquire only the number of full Shares and no payment or other adjustment will be made with respect to the fractional Shares so disregarded.

**(7) Legal Requirement**

The Company is not obligated to grant any Awards, issue any Shares or other securities, make any payments or take any other action if, in the opinion of the Board, in its discretion, such action would constitute a violation by a Participant or the Company of any provision of any applicable statutory or regulatory requirement of any government or governmental authority. No Award will be granted, and no Shares will be issued under this Plan, where such grant or issue would require registration of this Plan or of the Awards or Shares under the securities laws of any foreign jurisdiction, and any purported grant of any Award or purported issue of any Shares under this Plan in violation of this provision is void. Shares issued to Participants under this Plan may be subject to limitations on sale or resale under applicable securities laws.

**(8) Participant's Entitlement**

Except as otherwise provided in this Plan, Awards previously granted under this Plan, whether or not then exercisable, are not affected by any change in the relationship between or ownership of the Company and an affiliate.

**(9) Rights of Participant**

The granting of any Award is not to be construed as giving a Participant a right to remain in the employ of the Company or a Participating Entity nor to continue to serve as a director or Consultant.

**(10) Amendment or Discontinuance**

- (a) In addition to any other rights provided in this Plan, but subject to Section 7(10)(b) and Section 7(10)(c) the Board may: (i) amend, suspend or terminate this Plan or any portion thereof at any time and without notice to or approval from any Participant; or (ii) amend or modify any outstanding Award in any manner to the extent that the Board would have had the initial authority to grant the Award as so modified or amended, whereupon the

Plan shall be amended or discontinued, as appropriate, in the manner and to the extent required by applicable laws and other rules and regulations.

- (b) The Board shall not take any action pursuant to Section 7(10)(a) that would adversely affect or alter the rights of a Participant in relation to a previously granted Award in a material manner, unless: (i) such action is permitted by the Plan or the Award Agreement relating to such Award; or (ii) the prior consent of the affected Participant is obtained, and provided that such action is taken in accordance with applicable law and subject to any required regulatory approval, including approval from any stock exchange upon which the Shares are then listed and shareholder approval.
- (c) Subject to Section 7(10)(e), the Board may from time to time, in its discretion and without approval of shareholders, make changes to the Plan or any Award that do not require the approval of shareholders under Section 7(10)(d), which may include but are not limited to:
  - (i) any amendment of a "housekeeping" nature, including without limitation those made to clarify the meaning of an existing provision of the Plan or any agreement, correct or supplement any provision of the Plan that is inconsistent with any other provision of the Plan or any agreement, correct any grammatical or typographical errors or amend the definitions in the Plan regarding administration of the Plan;
  - (ii) a change to the vesting provisions of the Plan, any Award Agreement and any Award granted under the Plan;
  - (iii) a change to the provisions governing the effect of termination of a Participant's employment, contract or office;
  - (iv) a change to accelerate the date on which any Award may be exercised under the Plan; or
  - (v) an amendment of the Plan or an Award as necessary to comply with applicable law or the requirements of any stock exchange upon which the securities of the Company are then listed or any other regulatory body having authority over the Company, the Plan, Participants or the shareholders of the Company.
- (d) Notwithstanding the foregoing or any other provision of the Plan, shareholder approval is required for the following amendments to the Plan:
  - (i) any increase in the maximum number of Shares that may be issuable from treasury pursuant to Awards granted under the Plan;
  - (ii) any reduction in the Exercise Price of an Option benefitting an insider of the Company;
  - (iii) any extension of the Expiry Date of an Award benefitting an insider of the Company, except in the case of an extension due to a Blackout Period;
  - (iv) any increase in the maximum number of Awards that may be issuable to insiders and associates of such insiders at any time; and
  - (v) any amendment to Section 7(10)(c) or this Section 7(10)(d) of the Plan.

- (e) If this Plan is terminated, the provisions of this Plan and any administrative guidelines, and other rules and regulations adopted by the Board and in force at the time of this Plan, will continue in effect as long as any Awards or any rights pursuant thereto remain outstanding.
- (f) No amendment to the Plan shall be made which would cause the Plan, in respect of Deferred Shares Units, to cease to be a plan described in regulation 6801(d) of the Income Tax Act (Canada) or any successor to such provision.

**(11) Severability**

If any provision of this Plan or any Award Agreement is determined to be illegal or unenforceable by any court of law in any jurisdiction, the remaining provisions are severable and enforceable in accordance with their terms, and all provisions will remain enforceable in any other jurisdiction.

**(12) General Restrictions and Assignment**

Except as required by law, the rights of a Participant under this Plan are not capable of being anticipated, assigned, transferred, alienated, sold, encumbered, pledged, mortgaged or charged and are not capable of being subject to attachment or legal process for the payment of any debts or obligations of the Participant.

Subject to the approval of the Board or the Committee, a Participant that is an individual may elect, at any time, to participate in the Plan by holding or transferring any Award granted under the Plan in or to a registered retirement savings plan established by such Participant for the sole benefit of such Participant or in a personal holding company controlled by such Participant. For the purposes of this Section 7(12), a personal holding corporation shall be deemed to be controlled by a Participant if: (i) voting securities carrying more than 50% of the votes for the election of directors of such corporation are held, otherwise than by way of security only, by or for the benefit of such Participant and the votes carried by such voting securities are entitled, if exercised, to elect a majority of the board of directors of such corporation; and (ii) all of the equity securities of such corporation are directly or indirectly held, otherwise than by way of security only, by or for the benefit of such Participant and/or his or her spouse, children or grandchildren. In the event that a Participant elects to hold the Award granted under the Plan in a registered retirement savings plan or personal holding corporation, the provisions of the Plan shall continue to apply as if the Participant held such Award directly.

Rights and obligations under this Plan may be assigned by the Company to a successor in the business of the Company, any corporation resulting from any amalgamation, reorganization, combination, merger or arrangement of the Company, or any corporation acquiring all or substantially all of the assets or business of the Company.

**(13) Market Fluctuations**

No amount will be paid to, or in respect of, a Participant under this Plan to compensate for a downward fluctuation in the price of the Shares, nor will any other form of benefit be conferred upon, or in respect of, a Participant for such purpose.

The Company makes no representations or warranties to Participants with respect to this Plan or the Awards whatsoever. Participants are expressly advised that the value of any Awards will fluctuate as the trading price of the Shares fluctuates.

In seeking the benefits of participation in this Plan, a Participant agrees to exclusively accept all risks associated with a decline in the market price of the Shares and all other risks associated with the Awards.

**(14) No Shareholder Rights**

Under no circumstances shall Awards be considered Shares or other securities of the Company, nor shall they entitle any Participant to exercise voting rights or any other rights attaching to the ownership of Shares or other securities of the Company, nor shall any Participant be considered the owner of Shares by virtue of the grant of Awards.

**(15) Unfunded and Unsecured Plan**

This Plan shall be unfunded and the Company will not secure its obligations under this Plan. To the extent any Participant or his or her estate holds any rights by virtue of a grant of Awards under this Plan, such rights shall be no greater than the rights of an unsecured creditor of the Company.

**(16) Non-Exclusivity**

Nothing contained in this Plan prevents the Board from adopting other or additional compensation arrangements for the benefit of any Participant, subject to any required regulatory or shareholder approval.

**(17) Other Employee Benefits**

The amount of any compensation deemed to be received by a Participant as a result of the exercise of an Option or the settlement of an RSU or PSU will not constitute compensation with respect to which any other employee benefits of that Participant are determined including, without limitation, benefits under any bonus, pension, profit-sharing, insurance or salary continuation plan, except as otherwise specifically determined by the Board in writing.

**(18) Tax Consequences**

It is the responsibility of the Participant to complete and file any tax returns and pay all taxes that may be required under Canadian or other tax laws within the periods specified in those laws as a result of the Participant's participation in the Plan. No Participating Entity shall be held responsible for any tax consequences to a Participant as a result of the Participant's participation in the Plan.

**(19) Effective Date**

This Plan will become effective ●, 2020, subject to shareholder approval.

**Schedule "A"**  
**ACERUS PHARMACEUTICALS CORPORATION**  
**OPTION EXERCISE OR SURRENDER NOTICE**

**Option 1 - Payment of Exercise Price**

I, \_\_\_\_\_ [Print Name], hereby exercise the Options to purchase \_\_\_\_\_ common shares ("Shares") of Acerus Pharmaceuticals Corporation (the "Company") at an exercise price of \$ \_\_\_\_\_ per Share (the "Exercise Price"). This Exercise Notice is delivered in respect of the Options to purchase \_\_\_\_\_ Shares of the Company granted to me on \_\_\_\_\_ [Insert Date] pursuant to the Option Agreement entered into between the Company and me on \_\_\_\_\_ [Insert Date].

In connection with the foregoing: (a) I enclose a certified cheque or bank draft payable to the Company; or (b) I have initiated a wire transfer of immediately available funds to the Company, in either case, in the amount of \$ \_\_\_\_\_ [Insert Amount] as full payment for the Shares to be received upon exercise of the Options. I hereby direct the Company to issue the Shares in my name.

In connection with the exercise of the Options, I hereby covenant and agree to pay to the Company, in addition to the Exercise Price, any amount that the Company is obliged to remit to a relevant taxing authority in connection with the exercise of the Options and I understand that the exercise of the Options is conditional upon me making any such payment to the Company.

Date: \_\_\_\_\_

Participant Signature: \_\_\_\_\_

**Option 2 - Option Surrender**

I, \_\_\_\_\_ [Print Name], hereby give Acerus Pharmaceuticals Corporation (the "Company") irrevocable notice of and direct the Company to purchase and terminate \_\_\_\_\_ Options and, in consideration therefore, I request the Company to issue to me that number of common shares ("Shares"), disregarding fractions, which, when multiplied by the Market Price have a value equal to the number of Options terminated multiplied by the difference between the Market Price and the Exercise Price to which the Options so terminated relate.

This Surrender Notice is delivered in respect of the Options to purchase \_\_\_\_\_ Shares of the Company granted to me on \_\_\_\_\_ [Insert Date] pursuant to the Option Agreement

entered into between the Company and me on \_\_\_\_\_ [Insert Date]. I hereby direct the Company to issue the Shares in my name.

In connection with the surrender of the Options, I hereby covenant and agree to pay to the Company any amount that the Company is obliged to remit to a relevant taxing authority in connection with the surrender of the Options and I understand that the surrender of the Options is conditional upon me making any such payment to the Company.

Date: \_\_\_\_\_

Participant Signature: \_\_\_\_\_

Schedule "B"

ACERUS PHARMACEUTICALS CORPORATION  
OPTION AGREEMENT

Acerus Pharmaceuticals Corporation (the "Company") hereby grants to the Participant named below, options (the "Options") to purchase, in accordance with and subject to the terms, conditions and restrictions of this Agreement together with the provisions of the Omnibus Incentive Plan (the "Plan") of the Company, a copy of which is attached to this Option Agreement, the number and class of shares of the Company at the Exercise Price per share set forth below:

Name of Participant: \_\_\_\_\_

Date of Grant: \_\_\_\_\_

Class and Number of Shares subject to Option (the "Shares"): \_\_\_\_\_

Expiry Date: \_\_\_\_\_

<u>Vesting Date</u>	<u>Number of Options Vested</u>	<u>Exercise Price</u>

The terms and conditions of the Plan are incorporated by reference as terms and conditions of this Agreement. All capitalized terms used in this Agreement have the meanings ascribed thereto in the Plan. The Participant acknowledges that the Participant has received, read and understands the Plan.

Each notice relating to the Option, including the exercise thereof, shall be in writing. All notices to the Company shall be delivered personally or by prepaid registered mail and shall be addressed to:

Acerus Pharmaceuticals Corporation  
2486 Dunwin Drive  
Mississauga, Ontario  
L5L 1J9  
Attention: Chief Financial Officer

All notices to the Participant shall be addressed to the principal address of the Participant on file with the Company. Either the Company or the Participant may designate a different address by written notice to the other.

This Agreement has been made in and shall be construed under and in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**ACERUS PHARMACEUTICALS  
CORPORATION**

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

I have read the foregoing Agreement and the Plan and hereby accept the Options to purchase Shares in accordance with and subject to the terms and conditions of such Agreement and the Plan. I agree to be bound by the terms and conditions of such Agreement and the Plan.

Dated \_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name of Participant

**Schedule "C"**  
**ACERUS PHARMACEUTICALS CORPORATION**  
**PERFORMANCE SHARE UNIT AGREEMENT**

**Acerus Pharmaceuticals Corporation (the "Company") hereby grants to the Participant named below, performance share units (the "PSUs") to receive, in accordance with and subject to the terms, conditions and restrictions of this Agreement together with the provisions of the Omnibus Incentive Plan (the "Plan") of the Company, a copy of which is attached to this PSU Agreement, the number and class of shares of the Company (or their cash equivalent) as set forth below:**

Name of Participant: \_\_\_\_\_

Award Date: \_\_\_\_\_

Number of PSUs: \_\_\_\_\_

Number and Class of Shares subject to the PSUs: \_\_\_\_\_

Performance Period: \_\_\_\_\_

Expiry Date: \_\_\_\_\_

The terms and conditions of the Plan are incorporated by reference as terms and conditions of this Agreement. All capitalized terms used in this Agreement have the meanings ascribed thereto in the Plan. The Participant acknowledges that the Participant has received, read and understands the Plan.

1. The PSUs will vest upon the satisfaction of the Performance Vesting Conditions set forth below prior to the Expiry Date:

[Performance Vesting Conditions to be inserted]

2. If the Performance Vesting Conditions are not satisfied prior to the Expiry Date, the PSUs will terminate and be null and void.
3. Any notice relating to the PSUs shall be in writing. All notices to the Company shall be delivered personally or by prepaid registered mail and shall be addressed to:

Acerus Pharmaceuticals Corporation  
2486 Dunwin Drive  
Mississauga, Ontario  
L5L 1J9  
Attention: Chief Financial Officer

All notices to the Participant shall be addressed to the principal address of the Participant on file with the Company. Either the Company or the Participant may designate a different address by written notice to the other.

4. This Agreement has been made in and shall be construed under and in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**ACERUS PHARMACEUTICALS  
CORPORATION**

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

I have read the foregoing Agreement and the Plan and hereby accept the PSUs in accordance with and subject to the terms and conditions of such Agreement and the Plan. I agree to be bound by the terms and conditions of such Agreement and the Plan.

Dated \_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name of Participant

Schedule "D"

ACERUS PHARMACEUTICALS CORPORATION  
RESTRICTED SHARE UNIT AGREEMENT

**Acerus Pharmaceuticals Corporation (the "Company") hereby grants to the Participant named below, restricted share units (the "RSUs") to receive, in accordance with and subject to the terms, conditions and restrictions of this Agreement together with the provisions of the Omnibus Incentive Plan (the "Plan") of the Company, a copy of which is attached to this RSU Agreement, the number and class of shares of the Company (or their cash equivalent) as set forth below:**

Name of Participant: \_\_\_\_\_

Award Date: \_\_\_\_\_

Number of RSUs: \_\_\_\_\_

Number and Class of Shares subject to the RSUs: \_\_\_\_\_

Expiry Date: \_\_\_\_\_

1. The terms and conditions of the Plan are incorporated by reference as terms and conditions of this Agreement. All capitalized terms used in this Agreement have the meanings ascribed thereto in the Plan. The Participant acknowledges that the Participant has received, read and understands the Plan.
2. The RSUs will vest: [vesting conditions to be inserted].
3. Any notice relating to the RSUs shall be in writing. All notices to the Company shall be delivered personally or by prepaid registered mail and shall be addressed to:

Acerus Pharmaceuticals Corporation  
2486 Dunwin Drive  
Mississauga, Ontario  
L5L 1J9  
Attention: Chief Financial Officer

All notices to the Participant shall be addressed to the principal address of the Participant on file with the Company. Either the Company or the Participant may designate a different address by written notice to the other.

4. This Agreement has been made in and shall be construed under and in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**ACERUS PHARMACEUTICALS  
CORPORATION**

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

I have read the foregoing Agreement and the Plan and hereby accept the RSUs in accordance with and subject to the terms and conditions of such Agreement and the Plan. I agree to be bound by the terms and conditions of such Agreement and the Plan.

Dated \_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name of Participant

Schedule "E"

ACERUS PHARMACEUTICALS CORPORATION  
DSU AGREEMENT

**Acerus Pharmaceuticals Corporation (the "Company") hereby grants to the DSU Participant named below, deferred share units (the "DSUs")** to receive, in accordance with and subject to the terms, conditions and restrictions of this Agreement together with the provisions of the Omnibus Incentive Plan (the "**Plan**") of the Company, a copy of which is attached to this DSU Agreement, the number and class of shares of the Company (or their cash equivalent) as set forth below:

Name of DSU Participant: \_\_\_\_\_

Award Date: \_\_\_\_\_

Number of DSUs: \_\_\_\_\_

Number and Class of Shares subject to the DSUs: \_\_\_\_\_

The terms and conditions of the Plan are incorporated by reference as terms and conditions of this Agreement. All capitalized terms used in this Agreement have the meanings ascribed thereto in the Plan. The Participant acknowledges that the Participant has received, read and understands the Plan. US Taxpayers should review Schedule "J" to the Plan.

Any notice relating to the DSUs shall be in writing. All notices to the Company shall be delivered personally or by prepaid registered mail and shall be addressed to:

Acerus Pharmaceuticals Corporation  
2486 Dunwin Drive  
Mississauga, Ontario  
L5L 1J9  
Attention: Chief Financial Officer

All notices to the Participant shall be addressed to the principal address of the Participant on file with the Company. Either the Company or the Participant may designate a different address by written notice to the other.

This Agreement has been made in and shall be construed under and in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**ACERUS PHARMACEUTICALS  
CORPORATION**

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

I have read the foregoing Agreement and the Plan and hereby accept the DSUs in accordance with and subject to the terms and conditions of such Agreement and the Plan. I agree to be bound by the terms and conditions of such Agreement and the Plan.

Dated \_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name of Participant

**Schedule "F"**

**ACERUS PHARMACEUTICALS CORPORATION  
DSU ELECTION NOTICE**

Pursuant to the Acerus Pharmaceuticals Corporation (the "**Company**") Omnibus Incentive Plan (the "**Plan**"), I hereby elect to receive \_\_\_\_\_ % of my Annual Board Retainer for the fiscal year of \_\_\_\_\_ in the form of Deferred Shares Units in lieu of cash.

I confirm that:

- (a) I have received and reviewed a copy of the terms of the Plan and have reviewed, considered and agreed to be bound by the terms of this Election Notice and the Plan.
- (b) I recognize that when Deferred Share Units are settled in accordance with the terms of the Plan, income tax and other withholdings as required will arise at that time. Upon settlement of the Deferred Share Units, the Company will make or arrange with me to make all appropriate withholdings as required by law at that time.
- (c) The value of Deferred Share Units is based on the value of the Shares and therefore is not guaranteed.
- (d) This election is irrevocable except as otherwise set forth in the Plan or the Schedules thereto.

All capitalized terms used herein but not otherwise defined have the meanings ascribed thereto in the Plan.

Date: \_\_\_\_\_

Name of DSU Participant: \_\_\_\_\_

Signature of DSU Participant: \_\_\_\_\_

**Schedule "G"**  
**ACERUS PHARMACEUTICALS CORPORATION**  
**DSU SETTLEMENT NOTICE**

In respect of the Deferred Share Units that vested on \_\_\_\_\_ that were granted to you by Acerus Pharmaceuticals Corporation (the "**Company**") pursuant to the Company's Omnibus Incentive Plan (the "**Plan**"), the Company hereby elects to settle the Deferred Share Units (including for any fractional Deferred Share Units) as follows [Company to select one]:

- (        )        (i) the cash equivalent, calculated in accordance with Section 5(8)(a) of the Plan;
- (        )        (ii) Shares, calculated in accordance with Section 5(8)(b) of the Plan; or
- (        )        (iii) the cash equivalent for \_\_\_\_\_ Deferred Share Units and Shares  
for \_\_\_\_\_ Deferred Share Units.

[In the event the Company elects the cash equivalent, include:] [I acknowledge that the Company will deduct from payment applicable withholding taxes in accordance with the Plan.]

[In the event the Company elects Shares, include:]

[I (check one):

- (        )        (i) enclose cash, a certified cheque, bank draft or money order to the Company in the amount of \$\_\_\_\_\_ as full payment for the applicable withholding taxes;
- (        )        (ii) undertake to arrange, in a manner satisfactory to the Board, for such number of Shares to be sold as is necessary to raise an amount equal to the applicable withholding taxes and to cause the proceeds from the sale of such Shares to be delivered to the Company; or
- (        )        (iii) if permitted by the Company, elect to settle for cash such number of Deferred Share Units as is necessary to raise funds sufficient to cover such withholding taxes with such amount being withheld by the Company.]

All capitalized terms used herein but not otherwise defined have the meanings ascribed thereto in the Plan.

Date: \_\_\_\_\_

Name of DSU Participant: \_\_\_\_\_

Signature of DSU Participant: \_\_\_\_\_

**Schedule "H"**

**ACERUS PHARMACEUTICALS CORPORATION  
SHARE UNIT SETTLEMENT NOTICE**

In respect of the [RSUs][PSUs] that Vested on \_\_\_\_\_ that were granted to you by Acerus Pharmaceuticals Corporation (the "**Company**") pursuant to the Company's Omnibus Incentive Plan (the "**Plan**"), the Company hereby elects to settle the [RSUs][PSUs] (including for any fractional [RSUs][PSUs]) as follows [Company to select one]:

- (        )        (i) the cash equivalent, calculated in accordance with Section 4(6)(a) of the Plan;
- (        )        (ii) Shares, calculated in accordance with Section 4(6)(b) of the Plan; or
- (        )        (iii) the cash equivalent for \_\_\_\_\_ [RSUs][PSUs] and Shares  
for \_\_\_\_\_ [RSUs][PSUs].

[In the event the Company elects the cash equivalent, include:] [I acknowledge that the Company will deduct from payment applicable withholding taxes in accordance with the Plan.]

[In the event the Company elects Shares, include:]

[I (check one):

- (        )        (i) enclose cash, a certified cheque, bank draft or money order to the Company in the amount of \$\_\_\_\_\_ as full payment for the applicable withholding taxes;
- (        )        (ii) undertake to arrange, in a manner satisfactory to the Board, for such number of Shares to be sold as is necessary to raise an amount equal to the applicable withholding taxes and to cause the proceeds from the sale of such Shares to be delivered to the Company; or
- (        )        (iii) if permitted by the Company, elect to settle for cash such number of [RSUs][PSUs] as is necessary to raise funds sufficient to cover such withholding taxes with such amount being withheld by the Company.]

All capitalized terms used herein but not otherwise defined have the meanings ascribed thereto in the Plan.

Date: \_\_\_\_\_

Name of Participant: \_\_\_\_\_

Signature of Participant: \_\_\_\_\_

**SCHEDULE "Y"**  
**ACERUS PHARMACEUTICALS CORPORATION**  
**DSU TERMINATION NOTICE**

Notwithstanding my previous election on the DSU Election Notice dated \_\_\_\_\_, I hereby elect to terminate my participation in the Acerus Pharmaceuticals Corporation (the "**Company**") Omnibus Incentive Plan (the "**Plan**") effective as of the date this Termination Notice is received by the Company.

I understand that the Deferred Share Units already granted under the Plan cannot be settled until the DSU Termination Date.

I confirm that I have received and reviewed a copy of the terms of the Plan and agree to continue to be bound by the Plan.

All capitalized terms used herein but not otherwise defined have the meanings ascribed thereto in the Plan.

Date: \_\_\_\_\_

Name of DSU Participant: \_\_\_\_\_

Signature of DSU Participant: \_\_\_\_\_

**Schedule "J"**  
**ACERUS PHARMACEUTICALS CORPORATION**  
**OMNIBUS INCENTIVE PLAN**

**Special Provisions Applicable to US Taxpayers**

This Schedule "J" sets forth special provisions of the Acerus Pharmaceuticals Corporation Omnibus Incentive Plan (the "Plan") that apply to Participants that are subject to Section 409A of the United States Internal Revenue Code of 1986, as amended. Terms defined in the Plan and used herein shall have the meanings set forth in the Plan document, as amended from time to time.

**1. DEFINITIONS**

For purposes of this Schedule "J":

- 1.1. "Code" means the United States Internal Revenue Code of 1986, as amended, and any applicable United States Treasury Regulations and other binding regulatory guidance thereunder.
- 1.1. "Section 409A" means Section 409A of the Code.
- 1.2. "US Taxpayer" means a Participant who is a citizen or permanent resident of the United States for purposes of the Code or a Participant for whom the compensation under this Plan would otherwise be subject to income tax under the Code.

**2. COMPLIANCE WITH SECTION 409A**

Notwithstanding any provision of the Plan to the contrary, it is intended that any payments under the Plan either be exempt from or comply with Section 409A, and all provisions of the Plan shall be construed and interpreted in a manner consistent with the requirements for avoiding taxes or penalties under Section 409A. Each US Taxpayer is solely responsible and liable for the satisfaction of all taxes and penalties that may be imposed on or for the account of such US Taxpayer in connection with the Plan or any other plan maintained by the Company (including any taxes and penalties under Section 409A), and neither the Company nor any Subsidiary of the Company shall have any obligation to indemnify or otherwise hold such US Taxpayer (or any beneficiary) harmless from any or all of such taxes or penalties.

**3. OPTION GRANTS TO US TAXPAYERS**

- 3.1. Exercise Price. For the avoidance of doubt and notwithstanding anything to the contrary in Section 3(3) of the Plan or otherwise, any Option issued to a US Taxpayer shall have an Exercise Price that is no less than "fair market value" on the Award Date which value shall be determined in accordance with Section 409A. In furtherance of the foregoing and in accordance with the rules of the Toronto Stock Exchange if the Shares are publicly traded, the Exercise Price of any Option issued to a US Taxpayer shall be the greater of (i) the per Share Market Value on the Award Date, and (ii) the closing price of the Shares on the day prior to the Award Date.

- 3.2. Term of Options. For the avoidance of doubt and notwithstanding anything to the contrary in Section 3(8) of the Plan or otherwise, in no event, including as a result of any Blackout Period, shall the term of any Option granted to a US Taxpayer be extended beyond the date which it would have expired in accordance with its terms if such Option has a per Share Exercise Price that is less than the “fair market value” of the Shares on the date of the proposed extension, or such extension would otherwise result in a violation of Section 409A.
- 3.3. Adjustments. Notwithstanding any provision of the Plan or otherwise, any adjustment to an Option issued to a US Taxpayer shall be made in accordance with the requirements of Section 409A.

#### **4. GRANT OF SHARE UNITS**

- 4.1. Vesting and Settlement. Notwithstanding anything to the contrary in Section 4 of the Plan, the RSU Agreement, the PSU Agreement or otherwise, any RSUs or PSUs issued to a US Taxpayer shall be settled within thirty (30) days of the applicable Vesting date which shall be clearly set forth in the Award Agreement or such other date on which the applicable Vesting conditions have been satisfied. For the avoidance of doubt, the Vesting date for any PSUs shall be the date on which the Board determines that the applicable Performance Vesting Conditions have been satisfied following the completion of the applicable Performance Period, including any determination of satisfaction of cumulative Performance Vesting Conditions in respect of any Catch Up Year.
- 4.2. Termination of Employment. Notwithstanding anything to the contrary in Section 6 of the Plan or otherwise, in the event that a US Taxpayer’s employment is terminated as a result of circumstances set forth in Section 6(3) “Retirement, Death, Disability and Disposition of a Participating Entity,” or Section 6(4) “Termination without Cause,” triggering special vesting protection as provided therein, the following provisions shall apply: (i) any special Vesting of RSUs that is approved by the Board, whether pro-rated or otherwise, shall be deemed to occur as of the Termination Date, (ii) the settlement of any such RSUs that are deemed Vested shall occur no later than seventy-four (74) days of the Termination Date, (iii) any waiver of Time Vesting Conditions applicable to unvested PSUs which may be approved by the Board shall be deemed to occur as of the Termination Date, and any such portion of the PSUs shall remain eligible to vest subject to the satisfaction of the remaining Performance Vesting Conditions and shall thereafter be settled no later than seventy-four (74) day following the applicable Vesting Date.

#### **5. DEFERRED SHARE UNITS**

- 5.1. Termination Notice. Notwithstanding anything to the contrary in Section 5 of the Plan or otherwise, US Taxpayers shall have a right to terminate participation in the Plan by issuance of a Termination Notice as described in the Plan, provided, however, that such Termination Notice shall only be effective as of the first day of the following fiscal year in which it is received by the Company and in no event shall a US Taxpayer be permitted to revoke his or her election to participate in the Plan with respect to any compensation earned in the same year. For the avoidance of doubt, if any US Taxpayer issues a Termination Notice, only Annual Board Retainers payable in the next following fiscal year shall become payable in cash. If any US Taxpayer terminates his or her participation in the Plan and subsequently wants to resume participation, he or she will need

to be make a new election in accordance with Section 5(3) of the Plan which will become effective only with respect to any Annual Board Retainer for the following fiscal year.

- 5.2. Vesting and Settlement of Deferred Share Units. Except as otherwise set forth in any DSU Agreement, all DSUs issued to a US Taxpayer shall be vested as of the Award Date. The schedule for settlement of any DSUs issued to a US Taxpayer shall be specified in writing whether pursuant to a DSU Settlement Notice, or otherwise, and delivered to the Company at the same time as the initial deferral election is made in accordance with Section 5(3) of the Plan; provided that, if any US Taxpayer fails to timely elect a settlement schedule or complete a DSU Settlement Notice, in accordance with Section 5(3) of the Plan and this Schedule "J", then any DSUs issued to the US Taxpayer shall be settled within thirty (30) days of the US Taxpayer's Separation from Service but in no event later than the last day of the calendar year in which such Separation of Service occurs.
- 5.3. Distributions to US Taxpayers. Notwithstanding anything to the contrary in the Plan or otherwise, no settlement of Deferred Share Units issued under the Plan shall be made with respect to a US Taxpayer unless and until such US Taxpayer's Separation From Service.
- 5.4. Distributions to Specified Employees. Solely to the extent required by Section 409A, any payment in respect of Deferred Share Units which is subject to Section 409A and which has become payable on or following Separation from Service to any Eligible Director who is determined to be a Specified Employee shall not be paid before the date which is six months after such Specified Employee's Separation from Service (or, if earlier, the date of death of such Specified Employee). Following any applicable six month delay of payment, all such delayed payments shall be made to the Specified Employee in a lump sum on the earliest possible payment date.

## **6. CHANGE OF CONTROL**

In accordance with Section 7(5) of the Plan and notwithstanding anything to the contrary herein or otherwise, all outstanding DSUs issued to a US Taxpayer shall be settled within thirty (30) days of a Change of Control; provided that, such Change of Control constitutes a "change in control" for purposes of Section 409A.

## **7. SHARE ISSUANCE AND TRANSFER RESTRICTIONS**

Notwithstanding anything to the contrary, the Company has no obligation to issue any Shares pursuant to this Plan to any U.S. Taxpayer (or any other person in the United States) unless such Shares have been registered for sale pursuant to the U.S. Securities Act of 1933 or unless such Shares may be offered and sold without such registration pursuant to and in compliance with the terms of an available exemption. The Company shall be under no obligation to register for sale under the U.S. Securities Act of 1933 any of the Shares to be offered or sold under the Plan. Shares issued and sold to US Taxpayers (or other persons in the United States) pursuant to the exercise or settlement of Awards may be subject to limitations on sale or resale under applicable securities laws. Without limiting the generality of the foregoing, the Board may cause a legend or legends to be put on any such certificates of Shares delivered under the Plan to make appropriate reference to such restrictions or may cause such Shares delivered under the Plan in book-entry form to be held subject to the Company's instructions or subject to

appropriate stop-transfer orders. If Shares cannot be issued to a US Taxpayer (or other person in the United States) upon the exercise or settlement of an Award due to legal or regulatory restrictions, the obligation of the Company to issue any Shares will terminate and the Company shall settle the Award in cash.

**8. AMENDMENT OF SCHEDULE "J"**

Notwithstanding anything to the contrary in the Plan or otherwise, the Board shall retain the power and authority to amend or modify this Schedule "J" to the extent the Board in its sole discretion deems necessary or advisable to comply with any guidance issued under Section 409A. Such amendments may be made without the approval of any US Taxpayer.



