

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): October 4, 2023

**Blue Water Biotech, Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of  
incorporation or organization)

**001-41294**

(Commission file number)

**83-2262816**

(IRS Employer  
Identification No.)

**201 E. Fifth Street, Suite 1900**

**Cincinnati, Ohio 45202**

(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: **(513) 620-4101**

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligations of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.00001 per share	BWV	The Nasdaq Stock Market LLC

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

**Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

*CEO Appointment*

On October 4, 2023 (the “Effective Date”), Blue Water Biotech, Inc. (the “Company”) appointed Dr. Neil Campbell, 63, as President and Chief Executive Officer of the Company and as a member of the Board of Directors (the “Board”) of the Company, effective immediately. As a Class III director, Dr. Campbell’s term lasts until the Company’s 2024 annual meeting of stockholders.

Dr. Campbell has more than 35 years of experience with public and private companies focused on biopharmaceuticals, health technologies, nanotechnologies, artificial intelligence and super-computing. He has held leadership positions with IGEN International, now Roche; Celera Genomics; and Abbott Laboratories. In addition, he has worked as a venture capital partner and private equity advisor. He served as executive chairman of Mosaigen, a commercial development company, from 2004 to October 2023, and has served as chairman of Patriax Industries, a protective device company, since January 2023. Prior to joining the Company, Dr. Campbell was president, CEO and a director of Marizyme Inc from November 2020 to March 2021. He also founded and served as chairman and CEO of Celios, a respiratory device company that was acquired by a private investment group. Prior to this, Dr. Campbell was the co-founder, president and CEO of Helomics, a personalized healthcare company focused on next-generation oncology and immune therapeutics and diagnostics. This company was acquired by a private equity investor. Dr. Campbell also held senior executive positions with SuperNova Diagnostics, EntreMed Pharmaceuticals and Life Technologies. Dr. Campbell has been a faculty member at Johns Hopkins University and Medical Institutes, Hong Kong University of Science and Tech, University of Liverpool, University of Baltimore and Duquesne University. He earned a bachelor of science degree from Norwich University, a master’s degree and MBA from Webster University, and a doctorate from the University of Liverpool.

Dr. Campbell has no family relationships with any of the Company’s directors or executive officers, and he is not a party to, and does not have any direct or indirect material interest in, any transaction requiring disclosure under Item 404(a) of Regulation S-K. There are no arrangements or understandings between Dr. Campbell and any other persons pursuant to which he was selected as a director.

In connection with Dr. Campbell’s appointment, the Company and Dr. Campbell entered into an employment agreement (the “Campbell Employment Agreement”), pursuant to which Dr. Campbell will serve as President and Chief Executive Officer of the Company and will be paid a signing bonus of \$75,000 and an annual base salary of \$475,000. In addition, Dr. Campbell is entitled to receive, subject to employment by the Company on the applicable date of bonus payout, an annual target discretionary bonus of up to 50% of his annual base salary, payable at the discretion of the Compensation Committee of the Board. Dr. Campbell is also eligible to receive healthcare benefits as may be provided from time to time by the Company to its employees generally, and to receive paid time off annually.

Pursuant to the Campbell Employment Agreement, Dr. Campbell was granted a long-term equity incentive grant in the form of an option to purchase 3% of the total outstanding shares of the Company’s common stock as of the Effective Date. Such award vests in quarterly increments over a period of three years from the Effective Date, subject to Dr. Campbell’s continued employment by the Company on the applicable vesting date. Dr. Campbell’s option grant has an exercise price per share equal to \$0.4305, which was the closing price of the Company’s common stock on the Nasdaq Stock Market on the grant date.

Pursuant to the Campbell Employment Agreement, Dr. Campbell agreed to be bound by certain non-compete and non-solicitation covenants contained therein.

The foregoing description of the Campbell Employment Agreement is qualified in its entirety by reference to the text of such agreement, which is filed as Exhibit 10.1 to this Current Report on Form 8-K and incorporated herein by reference.

### *CFO Resignation and Appointment*

Effective as of October 4, 2023, Jon Garfield resigned as Chief Financial Officer of the Company. The Company and Mr. Garfield entered into a separation agreement (the “Separation Agreement”), which provides for two months of severance payment. The foregoing description of the Separation Agreement is qualified in its entirety by reference to the full text of such agreement, a copy of which is filed as Exhibit 99.1 to this Current Report on Form 8-K and incorporated herein by reference.

On the Effective Date, the Company appointed Bruce Harmon, 65, as Chief Financial Officer of the Company, effective immediately.

Mr. Harmon has more than 40 years of experience in financial positions with life sciences companies and various other industries. Mr. Harmon has served in a variety of roles, including chief financial officer, controller, chief executive officer, and audit committee chairman. He has been an independent consultant since 2008 through his business, Lakeport Business Services, Inc., and served in the outsourced CFO capacity for multiple publicly traded companies. During this time, Mr. Harmon was CFO of Marizyme Inc. from 2020 to 2021, CFO of bioAffinity Technologies Inc. in 2022, a director of Dale Biotech LLC since 2017, and a director of Patriax Industries since 2023. He has extensive experience with fundraising, public offerings, mergers and acquisitions, and turnarounds. Earlier in his career, he was a member of a team that, at the invitation of the Environmental Programmé, presented a green building product to delegates at the United Nations. He earned a bachelor of science degree in accounting from Missouri State University.

Mr. Harmon has no family relationships with any of the Company’s directors or executive officers, and he is not a party to, and does not have any direct or indirect material interest in, any transaction requiring disclosure under Item 404(a) of Regulation S-K. There are no arrangements or understandings between Mr. Harmon and any other persons pursuant to which he was selected as a director.

In connection with Mr. Harmon’s appointment, the Company and Mr. Harmon entered into an employment agreement (the “Harmon Employment Agreement”), pursuant to which Mr. Harmon will serve as Chief Financial Officer of the Company and will be paid an annual base salary of \$325,000. In addition, Mr. Harmon is entitled to receive, subject to employment by the Company on the applicable date of bonus payout, an annual target discretionary bonus of up to 30% of his annual base salary, payable at the discretion of the Compensation Committee of the Board. Pursuant to the Harmon Employment Agreement, Mr. Harmon is also eligible to receive healthcare benefits as may be provided from time to time by the Company to its employees generally, and to receive paid time off annually.

Pursuant to the Harmon Employment Agreement, Mr. Harmon was granted a long-term equity incentive grant in the form of an option to purchase 1% of the total outstanding shares of the Company’s common stock as of the Effective Date. Such award vests in quarterly increments over a period of three years from the Effective Date, subject to Mr. Harmon’s continued employment by the Company on the applicable vesting date. Mr. Harmon’s option grant has an exercise price per share equal to \$0.4305, which was the closing price of the Company’s common stock on the Nasdaq Stock Market on the grant date.

Pursuant to the Harmon Employment Agreement, Mr. Harmon agreed to be bound by certain non-compete and non-solicitation covenants contained therein.

The foregoing description of the Harmon Employment Agreement is qualified in its entirety by reference to the text of such agreement, which is filed as Exhibit 10.2 to this Current Report on Form 8-K and incorporated herein by reference.

### *Appointment of Chairman*

Dr. Campbell’s appointment as President and Chief Executive Officer replaces the Company’s prior intentions for James Sapirstein to step in as Interim Executive Chairman. As previously disclosed in the Company’s Current Report on Form 8-K filed on August 22, 2023, Mr. Sapirstein has been serving as Lead Independent Director during the Company’s search for a replacement for Joseph Hernandez, who resigned on August 16, 2023. Mr. Sapirstein was originally intended to assume the position of Interim Executive Chairman on September 30, 2023. Instead, effective October 4, 2023, the Board elected Mr. Sapirstein as non-executive Chairman of the Board. Mr. Sapirstein will continue to serve as Lead Independent Director through October 31, 2023. In recognition of Mr. Sapirstein’s contributions to the Company as Lead Independent Director, the Board of Directors approved an increase in Mr. Sapirstein’s compensation for serving as Lead Independent Director from \$25,000 to \$40,000 per month for the period from August 2023 through October 2023.

## *Indemnification Agreements*

Effective October 4, 2023, the Company adopted a new standard form of indemnification agreement with all of its officers and directors, including Dr. Campbell and Mr. Harmon. A form of the agreement is attached as Exhibit 10.3 hereto.

### **Item 8.01 Other Events.**

On October 10, 2023, the Company issued a press release to announce the appointments of Neil Campbell and Bruce Harman described in Item 5.02 herein (the "[Press Release](#)"). The Press Release is attached hereto as Exhibit 99.2 and incorporated herein by reference.

### **Item 9.01. Financial Statements and Exhibits.**

#### (d) Exhibits

10.1	<a href="#">Employment Agreement, dated October 4, 2023, between the Company and Dr. Neil Campbell</a>
10.2	<a href="#">Employment Agreement, dated October 4, 2023, between the Company and Bruce Harmon</a>
10.3	<a href="#">Form of Indemnification Agreement</a>
99.1	<a href="#">General Release of Claims, dated October 5, 2023</a>
99.2	<a href="#">Press Release, dated October 10, 2023</a>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**Blue Water Biotech, Inc.**

By: /s/ Dr. Neil Campbell

Name: Dr. Neil Campbell

Title: Chief Executive Officer

Dated: October 10, 2023

**EMPLOYMENT AGREEMENT**

This EMPLOYMENT AGREEMENT (the “Agreement”) is made and entered into as of October 4, 2023 by and between Blue Water Biotech, Inc., a Delaware corporation (the “Company”) and Dr. Neil J. Campbell (“Executive”).

WHEREAS, the Company desires to employ Executive and to enter into this Agreement embodying the terms of such employment, and Executive desires to enter into this Agreement and to accept such employment, subject to the terms and provisions of this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the Company and Executive hereby agree as follows:

Section 1. **Definitions.** Capitalized terms not otherwise defined in this Agreement shall have the meaning set forth on Appendix A, attached hereto.

**Section 2. Acceptance and Term of Employment.**

The Company agrees to employ Executive, and Executive agrees to serve the Company, on the terms and conditions set forth herein. Executive’s employment under the terms of this Agreement shall commence on the date hereof and continue until terminated as provided in Section 7 hereof (the “Term of Employment”).

**Section 3. Position, Duties, and Responsibilities; Place of Performance.**

(a) Position, Duties, and Responsibilities. During the Term of Employment, Executive shall be employed and serve as the Chief Executive Officer and President of the Company, reporting directly to the Board of Directors of the Company, and having such duties and responsibilities commensurate with such position. Executive also agrees to serve as an officer and/or director of any member of the Company Group, in each case without additional compensation, and, without limiting the foregoing, will serve as a member of the Board at all times Executive serves as the Company’s Chief Executive Officer.

(b) Performance. Executive shall be employed with the Company on a full-time basis and shall devote an appropriate portion of his business time, attention, skill, and best efforts sufficient to assure the satisfactory performance of Executive’s duties under this Agreement (excluding periods of vacation and sick leave). Except as provided below, Executive shall not engage in any other business or occupation during the Term of Employment, including, without limitation, any activity that (x) conflicts with the interests of the Company or any other member of the Company Group, (y) interferes with the proper and efficient performance of Executive’s duties for the Company, or (z) interferes with Executive’s exercise of judgment in the Company’s best interests. Notwithstanding the foregoing, nothing herein shall preclude Executive from (i) serving, with the prior written consent of the Board, as a member of the board of directors or advisory board (or the equivalent in the case of a non-corporate entity) of non-competing for-profit and non-profit businesses and charitable organizations (ii) serving as an officer or managing member of the non-competing for-profit businesses listed on Appendix B to this Agreement, (iii) engaging in charitable activities, industry, and community affairs, and (iv) managing Executive’s personal investments, assets, and affairs; *provided, however*, that the activities set out in clauses (i), (ii), and (iii) shall be limited by Executive so as not to materially interfere, individually or in the aggregate, with the performance of Executive’s duties and responsibilities hereunder. In no event shall Executive make use of any personnel or other resources of the Company in performing his duties for any such other business or other organization.

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(c) Principal Place of Employment. The Company will permit Executive to work remotely from Executive's personal residence, although Executive understands and agrees that Executive may be required to work from, or travel to, the Company's offices from time to time as needed in connection with the performance of Executive's duties and responsibilities hereunder. Executive understands and agrees that Executive may be required to travel from time to time for business reasons

#### Section 4. **Compensation.**

During the Term of Employment, Executive shall be entitled to the following compensation:

(a) Base Salary. Executive shall be paid an annualized Base Salary (the "Base Salary"), payable in accordance with the regular payroll practices of the Company, of Four Hundred Seventy Five Thousand Dollars (\$475,000) per year, with such additional increases, if any, as may be approved in writing by the Compensation Committee. The Compensation Committee will review Executive's Base Salary for increases not less than annually.

(b) Annual Bonus. Executive shall be eligible for an annual incentive bonus award determined by the Compensation Committee in respect of each fiscal year during the Term of Employment (the "Annual Bonus"). The target Annual Bonus for each fiscal year ending on or shall be 50% of Base Salary (the "Target Annual Bonus"), with the actual Annual Bonus payable being based upon the level of achievement of annual Company and individual performance objectives for such fiscal year, as determined by the Compensation Committee and communicated to Executive. The Annual Bonus shall otherwise be subject to the terms and conditions of the annual bonus plan adopted by the Board or the Compensation Committee under which bonuses are generally payable to senior executives of the Company, as in effect from time to time. The Annual Bonus shall be paid to Executive at the same time as annual bonuses are generally payable to other senior executives of the Company subject to Executive's continuous employment through the applicable payment date but the Annual Bonus will be paid no later than ninety (90) days following the end of the year, whether fiscal or calendar, in which the Annual Bonus is awarded, *provided, however*, that such time period may be extended until fourteen days after the Company's Form 10K Annual Report of the Company is completed and filed. (subject to Section 7 below).

(c) Signing Bonus. in recognition of the mutual agreement by the Executive and the Company of the positive impact by the Executive to the Company, the Company shall also pay to the Executive a One-Time Incentive Bonus payment of Seventy Five Thousand Dollars (\$75,000) upon the execution of this Agreement. This One-Time Incentive Bonus payment will be made immediately upon the Executive's execution of this Agreement.

(d) Equity Participation. In connection with Executive's employment hereunder, Executive shall be entitled to participate in the Blue Water Biotech, Inc. Second Amended And Restated 2022 Equity Incentive Plan, as in effect from time to time, pursuant to the terms of such plan, any award agreement and such other documents Executive is required to execute pursuant to the terms of such plan (the plan, the award agreement, and such other documents collectively, the "Equity Documents"). Executive's equity participation shall be exclusively governed by the terms of the Equity Documents. Executive will receive a grant of an option to the purchase three percent (3%) of the total Company shares outstanding and issued at the Effective Date. The strike price of the option shall be the fair market value of the Company's stock on the Effective Date. Such grant shall vest at the rate quarterly over three years commencing three months after the Effective Date and ending on the third anniversary of the Effective Date.

## Section 5. **Employee Benefits.**

During the Term of Employment, Executive shall be entitled to participate in health, insurance, retirement, and other benefits provided generally to senior executives of the Company as subject to any applicable eligibility requirements (including such wait periods and other minimum service requirements as may be imposed by the terms of such benefit plans). Commencing on the Effective Date of this Agreement and continuing through the Term of Employment, the Executive shall be entitled to Twenty (20) days of vacation/paid time off ("PTO") during each calendar year, which shall be taken at a reasonable time or times, by the discretion of the Executive. The Executive may elect to defer taking the PTO, of which up to a maximum of fifteen (15) days may roll over. The maximum PTO Executive may accrue is twenty-five (25) days. Once such maximum accrual is reached, Executive shall not accrue any additional PTO days until the balance drops below 25 days. The Company will be obligated to pay out the aggregate unused balance of vacation/paid time off upon Termination subject to Section 7 to be paid on the payroll period immediately following the Executive's separation date. Executive shall be entitled to the same number of holidays and sick days, as well as any other benefits, in each case as are generally allowed to similarly situated senior executives of the Company in accordance with the Company policy as in effect from time to time. Nothing contained herein shall be construed to limit the Company's ability to amend, suspend, or terminate any employee benefit plan or policy at any time, and the right to do so is expressly reserved.

## Section 6. **Reimbursement of Business Expenses.**

Executive is authorized to incur reasonable business expenses in carrying out Executive's duties and responsibilities under this Agreement, and the Company shall promptly reimburse Executive for all such reasonable business expenses, subject to documentation in accordance with the Company's policy, as in effect from time to time. In addition, to the extent Executive primarily works remotely from Executive's personal residence, the Company shall reimburse Executive for reasonable travel expenses incurred by Executive in connection with Executive's travel to and from the Company's offices in connection with carrying out Executive's duties and responsibilities under this Agreement subject to documentation in accordance with the Company's policy, as in effect from time to time. Reimbursement or payment of an expense under this Section 4 will be made or reimbursed within thirty (30) consecutive days of the Company's receipt of the Executive's request for payment or reimbursement. The Company shall be entitled to impute income to Executive in connection with any reimbursements or other benefits provided under this Section 4, and withhold from any and all amounts payable under this Section 4 as may be required to be withheld pursuant to any applicable law or regulation.

## Section 7. **Termination of Employment.**

(a) General. The Term of Employment, and Executive's employment hereunder, shall terminate upon the earliest to occur of (i) Executive's death, (ii) a termination by reason of a Disability, (iii) a termination by the Company with or without Cause, and (iv) a termination by Executive with or without Good Reason. Any termination of the Executive's employment under this Agreement by the Company or the Executive shall be communicated by written "Notice of Termination" to the other party hereto in accordance with Section 19 hereof. For purposes of this Agreement, a "Notice of Termination" shall mean a notice which sets forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of the Term of Employment. Termination of the Term of Employment shall take effect on the Date of Termination. Except as otherwise expressly required by law (e.g., COBRA) or as specifically provided herein, all of Executive's rights to Base Salary, Annual Bonus, employee benefits and other compensatory amounts hereunder (if any) shall cease upon the termination of Executive's employment hereunder.

(b) Deemed Resignation. Upon any termination of Executive's employment for any reason, except as may otherwise be requested by the Company in writing and agreed upon in writing by Executive, Executive shall be deemed to have resigned from any and all directorships, committee memberships, and any other positions Executive holds with the Company or any other member of the Company Group.



(c) Termination Due to Death or Disability. Executive's employment shall terminate automatically upon Executive's death. The Company may terminate Executive's employment immediately upon the occurrence of a Disability, such termination to be effective upon Executive's receipt of written notice of such termination. Upon Executive's death or in the event that Executive's employment is terminated due to Executive's Disability, Executive or Executive's estate or Executive's beneficiaries, as the case may be, shall be entitled to:

(i) The Accrued Obligations;

(ii) Any unpaid Annual Bonus in respect of any completed fiscal year that has ended prior to the date of such termination, which amount shall be paid at such time annual bonuses are paid to other senior executives of the Company, but in no event later than the date that is 2½ months following the last day of the fiscal year in which such termination occurred;

(iii) An amount equal to (A) the Target Annual Bonus multiplied by (B) a fraction, the numerator of which is the number of days elapsed from the commencement of the fiscal year in which such termination occurs through the date of such termination and the denominator of which is 365 (or 366, as applicable), which amount shall be paid lump-sum within thirty (30) days of Executive's termination date; and

(iv) To the extent the Company maintains a group health plan subject to the continuation health coverage requirements of Sections 601 through 609 of the Employee Retirement Income Security Act of 1974, as amended ("COBRA"), Executive is enrolled for coverage under such group health plan and subject to an election of COBRA continuation coverage by Executive (or Executive's covered dependents in the case of Executive's death), on the first regularly scheduled payroll date of each month during the twelve (12) month period immediately following the date Executive's termination occurred, payment of an amount equal to the difference between the monthly COBRA premium cost and the monthly contribution paid by active employees for the same coverage.

Following Executive's death or a termination of Executive's employment by reason of a Disability, except as set forth in this Section 7(c), Executive shall have no further rights to any compensation or any other benefits under this Agreement.

(d) Termination by the Company for Cause.

(i) The Company may terminate Executive's employment at any time for Cause, effective upon delivery to Executive of written notice of such termination which shall include a detailed description of the facts constituting the Company's view of "Cause"; *provided, however*, that with respect to any Cause termination relying on clause (ii), (vi) or (vii) of the definition of Cause, to the extent that such act or acts or failure or failures to act are curable, Executive shall be given not less than ten (10) business days' written notice by the Board of the Company's intention to terminate Executive for Cause, such notice to state in detail the particular act or acts or failure or failures to act that constitute the grounds on which the proposed termination for Cause is based, and such termination shall be effective at the expiration of such ten (10) business day notice period unless Executive has fully cured such act or acts or failure or failures to act that give rise to Cause during such period.

(ii) In the event that the Company terminates Executive's employment for Cause, Executive shall be entitled only to the Accrued Obligations. Following such termination of Executive's employment for Cause, except as set forth in this Section 7(d)(ii), Executive shall have no further rights to any compensation or any other benefits under this Agreement.

(e) Termination by the Company without Cause. The Company may terminate Executive's employment at any time without Cause, effective upon delivery to Executive of written notice of such termination. In the event that Executive's employment is terminated by the Company without Cause (other than due to death or Disability), Executive shall be entitled to:

(i) The Accrued Obligations;

(ii) Any unpaid Annual Bonus in respect of any completed fiscal year that has ended prior to the date of such termination, which amount shall be paid at such time annual bonuses are paid to other senior executives of the Company, but in no event later than the date that is 2½ months following the last day of the fiscal year in which such termination occurred;

(iii) Subject to satisfaction of the applicable performance objectives applicable for the fiscal year in which such termination occurs, an amount equal to (A) the Target Annual Bonus otherwise payable to Executive for the fiscal year in which such termination occurred, assuming Executive had remained employed through the applicable payment date, multiplied by (B) a fraction, the numerator of which is the number of days elapsed from the commencement of such fiscal year through the date of such termination and the denominator of which is 365 (or 366, as applicable), which amount shall be paid at such time annual bonuses are paid to other senior executives of the Company, but in no event later than the date that is 2½ months following the last day of the fiscal year in which such termination occurred;

(iv) An amount equal to twelve (12) months of Base Salary, such amount to be paid in substantially equal payments over the 12-month period following Executive's termination of employment (such period, the "Severance Term"), and payable in accordance with the Company's regular payroll practices; *provided, however*, if such termination occurs on or following any Change in Control (as defined in the equity documents), such amount shall instead be payable in a single lump sum within five (5) days of such termination;

(v) Any equity or stock option grants shall be given the treatment accorded them by the Company's Equity Documents; and

(vi) To the extent the Company maintains a group health plan subject to the continuation health coverage requirements of Sections 601 through 609 of the Employee Retirement Income Security Act of 1974, as amended ("COBRA"), Executive is enrolled for coverage under such group health plan and subject to an election of COBRA continuation coverage by Executive (or Executive's covered dependents in the case of Executive's death), on the first regularly scheduled payroll date of each month during the Severance Term, payment of an amount equal to the difference between the monthly COBRA premium cost and the monthly contribution paid by active employees for the same coverage; *provided*, that the payments described in this clause (v) shall cease earlier than the expiration of the Severance Term in the event that Executive becomes eligible to receive any health benefits as a result of subsequent employment or service during the Severance Term;

Notwithstanding the foregoing, the payments and benefits described in clauses (ii) through (v) above shall immediately terminate, and the Company shall have no further obligations to Executive with respect thereto, in the event that Executive breaches any provision set forth in Section 9 hereof. Following such termination of Executive's employment by the Company without Cause, except as set forth in this Section 7(e), Executive shall have no further rights to any compensation or any other benefits under this Agreement.

(f) Termination by Executive with Good Reason. Executive may terminate Executive's employment with Good Reason by providing the Company thirty (30) days' written notice setting forth in reasonable specificity the event that constitutes Good Reason, which written notice, to be effective, must be provided to the Company within sixty (60) days of the occurrence of such event. During such thirty (30) day notice period, the Company shall have a cure right (if curable), and if not cured within such period, Executive's termination will be effective upon the expiration of such cure period, and Executive shall be entitled to the same payments and benefits as provided in Section 7(e) hereof for a termination by the Company without Cause, subject to the same conditions on payment and benefits as described in Section 7(e) hereof. Following such termination of Executive's employment by Executive with Good Reason, except as set forth in this Section 7(f), Executive shall have no further rights to any compensation or any other benefits under this Agreement.

(g) Termination by Executive without Good Reason. Executive may terminate Executive's employment without Good Reason by providing the Company sixty (60) days' written notice of such termination. In the event of a termination of employment by Executive under this Section 7(g), Executive shall be entitled only to the Accrued Obligations. In the event of termination of Executive's employment under this Section 7(g), the Company may, in its sole and absolute discretion, by written notice accelerate such date of termination without changing the characterization of such termination as a termination by Executive without Good Reason. Following such termination of Executive's employment by Executive without Good Reason, except as set forth in this Section 7(g), Executive shall have no further rights to any compensation or any other benefits under this Agreement.

(h) Release. Notwithstanding any provision herein to the contrary, the payment of any amount or provision of any benefit pursuant to subsection (e) or (f) of this Section 7 other than the Accrued Obligations (collectively, the "Severance Benefits") shall be conditioned upon Executive's execution, delivery to the Company, and non-revocation of the Release of Claims (and the expiration of any revocation period contained in such Release of Claims) within sixty (60) days following the date of Executive's termination of employment hereunder (the "Release Execution Period"). If Executive fails to execute the Release of Claims in such a timely manner so as to permit any revocation period to expire prior to the end of such sixty (60) day period, or timely revokes Executive's acceptance of such release following its execution, Executive shall not be entitled to any of the Severance Benefits. No portion of the Severance Benefits (other than Accrued Obligations) shall be paid until the Release of Claims has become effective and all such amounts shall commence to be paid on the first regular payroll date of the Company after the Release of Claims has become effective; *provided*, that, if the Release Execution Period overlaps two calendar years, the first payment shall not be made sooner than the first day of the second year, and shall include any missed payments.

#### **Section 8. Change of Control.**

(a) If, during the Term of Employment and during the period commencing three months prior to a Change in Control and ending on the one-year anniversary of the Change in Control (the "Change in Control Period"), Executive's employment is terminated by the Company without Cause or Executive resigns for Good Reason, then, in lieu of the payments and benefits described in Section 7(e)(ii) through (iv) above and subject to Executive's delivery to the Company of a Release that becomes effective and irrevocable in accordance with Section 7(h) hereof:

(i) Any unpaid Annual Bonus in respect of any completed fiscal year that has ended prior to the date of such termination, which amount shall be paid at such time annual bonuses are paid to other senior executives of the Company, but in no event later than the date that is 2½ months following the last day of the fiscal year in which such termination occurred;

(ii) Subject to satisfaction of the applicable performance objectives applicable for the fiscal year in which such termination occurs, an amount equal to (A) the Target Annual Bonus otherwise payable to Executive for the fiscal year in which such termination occurred, assuming Executive had remained employed through the applicable payment date, multiplied by (B) a fraction, the numerator of which is the number of days elapsed from the commencement of such fiscal year through the date of such termination and the denominator of which is 365 (or 366, as applicable), which amount shall be paid at such time annual bonuses are paid to other senior executives of the Company, but in no event later than the date that is 2½ months following the last day of the fiscal year in which such termination occurred;

(iii) An amount equal to 12 months of Base Salary, such amount to be paid in substantially equal payments over the 12-month period following Executive's termination of employment (such period, the "Severance Term"), and payable in accordance with the Company's regular payroll practices; provided, however, if such termination occurs on or following any Change in Control (as defined in the equity documents), such amount shall instead be payable in a single lump sum within five (5) days of such termination;

(iv) To the extent the Company maintains a group health plan subject to the continuation health coverage requirements of Sections 601 through 609 of the Employee Retirement Income Security Act of 1974, as amended ("COBRA"), Executive is enrolled for coverage under such group health plan and subject to an election of COBRA continuation coverage by Executive (or Executive's covered dependents in the case of Executive's death), on the first regularly scheduled payroll date of each month during the Severance Term, payment of an amount equal to the difference between the monthly COBRA premium cost and the monthly contribution paid by active employees for the same coverage; provided, that the payments described in this clause (v) shall cease earlier than the expiration of the Severance Term in the event that Executive becomes eligible to receive any health benefits as a result of subsequent employment or service during the Severance Term: and

(v) The Company shall cause any unvested equity awards (including any stock options and restricted stock awards) subject to time-based vesting held by Executive as of the date of termination, to become fully vested and, if applicable, exercisable with respect to all of the shares of the Company's Common Stock subject thereto

(b) In the event that (a) Executive is entitled to receive any payment, benefit or distribution of any type to or for the benefit of Executive, whether paid or payable, provided or to be provided, or distributed or distributable, pursuant to the terms of this Agreement or otherwise (collectively, the "Payments"), and (b) the net after-tax amount of such Payments, after Executive has paid all taxes due thereon (including, without limitation, taxes due under Section 4999 of the Code) is less than the net after-tax amount of all such Payments otherwise due to Executive in the aggregate, if such Payments were reduced to an amount equal to 2.99 times Executive's "base amount" (as defined in Section 280G(b)(3) of the Code), then the aggregate amount of such Payments payable to Executive shall be reduced to an amount that will equal 2.99 times Executive's base amount. To the extent such aggregate "parachute payment" (as defined in Section 280G(b)(2) of the Code) amounts are required to be so reduced, the parachute payment amounts due to Executive (but no non-parachute payment amounts) shall be reduced in the following order: (i) the parachute payments that are payable in cash shall be reduced (if necessary, to zero) with amounts that are payable last reduced first; (ii) payments and benefits due in respect of any equity, valued at full value (rather than accelerated value), with the highest values reduced first (as such values are determined under Treasury Regulation Section 1.280G-1, Q&A 24); and (iii) all other non-cash benefits not otherwise described in clause (ii) of this Section 8 reduced last.

## Section 9. Restrictive Covenants

(a) General. Executive acknowledges and recognizes the highly competitive nature of the business of the Company Group, that access to Confidential Information renders Executive special and unique within the industry of the Company Group, and that Executive will have the opportunity to develop substantial relationships with existing and prospective clients, accounts, customers, consultants, contractors, investors, and strategic partners of the Company Group during the course of and as a result of Executive's employment with the Company. In light of the foregoing, as a condition of Executive's employment by the Company, and in consideration of Executive's employment hereunder and the compensation and benefits provided herein, Executive acknowledges and agrees to the covenants contained in this Section 9. Executive further recognizes and acknowledges that the restrictions and limitations set forth in this Section 9 are reasonable and valid in geographical and temporal scope and in all other respects and are essential to protect the value of the business and assets of the Company Group.

### (b) Confidential Information.

(i) Executive acknowledges that, during the Term of Employment, Executive will have access to information about the Company Group and that Executive's employment with the Company shall bring Executive into close contact with confidential and proprietary information of the Company Group. In recognition of the foregoing, Executive agrees, at all times during the Term of Employment and thereafter, to hold in confidence, and not to use, except for the benefit of the Company Group, or to disclose to any Person without written authorization of the Company, any Confidential Information.

(ii) Nothing in this Agreement shall prohibit or impede Executive from communicating, cooperating or filing a complaint with any U.S. federal, state or local governmental or law enforcement branch, agency or entity (collectively, a "Governmental Entity") with respect to possible violations of any U.S. federal, state or local law or regulation, or otherwise making disclosures to any Governmental Entity, in each case, that are protected under the whistleblower provisions of any such law or regulation, provided that in each case such communications and disclosures are consistent with applicable law. Executive understands and acknowledges that an individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that is made (A) in confidence to a Federal, State, or local government official or to an attorney solely for the purpose of reporting or investigating a suspected violation of law, or (B) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. Executive understands and acknowledges further that an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual files any document containing the trade secret under seal; and does not disclose the trade secret, except pursuant to court order. Notwithstanding the foregoing, under no circumstance will Executive be authorized to disclose any information covered by attorney-client privilege or attorney work product of any member of the Company Group without prior written consent of Company's Board or other officer designated by the Board, unless otherwise permitted by the applicable whistleblower provisions of any law or regulation. Executive does not need the prior authorization of (or to give notice to) any member of the Company Group regarding any communication, disclosure, or activity permitted by this subsection.

(c) Assignment of Intellectual Property.

(i) Executive agrees that Executive will, without additional compensation, promptly make full written disclosure to the Company, and will hold in trust for the sole right and benefit of the Company all developments, original works of authorship, inventions, concepts, know-how, improvements, trade secrets, and similar proprietary rights, whether or not patentable or registrable under copyright or similar laws that were conceived after the effective date of this Agreement and related to the business of the Company Group, which Executive may (or have previously) solely or jointly conceive or develop or reduce to practice, or cause to be conceived or developed or reduced to practice, during the Term of Employment, whether or not during regular working hours, provided they either (i) relate at the time of conception or reduction to practice of the invention to the business of any member of the Company Group, or actual research or development of any member of the Company Group; (ii) result from or relate to any work performed for any member of the Company Group; or (iii) are developed through the use of equipment, supplies, or facilities of any member of the Company Group, or any Confidential Information, or in consultation with personnel of any member of the Company Group (collectively referred to as “**Developments**”) that are related to the business of the Company Group. Executive further acknowledges that all Developments made by Executive (solely or jointly with others) within the scope of and during the Term of Employment are “works made for hire” (to the greatest extent permitted by applicable law) for which Executive is, in part, compensated by Executive’s Base Salary, unless regulated otherwise by law, but that, in the event any such Development is deemed not to be a work made for hire, Executive hereby assigns to the Company, or its designee, all Executive’s right, title, and interest throughout the world in and to any such Development. To clarify this Section 9(c)(i) pertains to all intellectual property that have been conceived by the Executive after the effective date of this Agreement and the intellectual property directly relates to the business of the Company Group.

(ii) Executive agrees to assist the Company, or its designee, at the Company’s expense, in every way to secure the rights of the Company Group in the Developments and any copyrights, patents, trademarks, service marks, database rights, domain names, mask work rights, moral rights, and other intellectual property rights relating thereto in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments, recordations, and all other instruments that the Company shall deem necessary in order to apply for, obtain, maintain, and transfer such rights and in order to assign and convey to the Company Group the sole and exclusive right, title, and interest in and to such Developments, and any intellectual property and other proprietary rights relating thereto. Executive further agrees that Executive’s obligation to execute or cause to be executed, when it is in Executive’s power to do so, any such instrument or papers shall continue after the termination of the Term of Employment until the expiration of the last such intellectual property right to expire in any country of the world; *provided, however*, that the Company shall reimburse Executive for Executive’s reasonable expenses incurred in connection with carrying out the foregoing obligation and, following termination of employment of the Term of Employment, shall compensate Executive for Executive’s time incurred in connection with carrying out Executive’s obligations under this Section 6(c)(ii) following such termination of at an hourly rate based upon Executive’s Base Salary as of immediately prior to Executive’s termination of employment. If the Company is unable because of Executive’s mental or physical incapacity or unavailability for any other reason to secure Executive’s signature to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering Developments or original works of authorship assigned to the Company as above, then Executive hereby irrevocably designates and appoints the Company and its duly authorized officers and agents as Executive’s agent and attorney in fact to act for and in Executive’s behalf and stead to execute and file any such applications or records and to do all other lawfully permitted acts to further the application for, prosecution, issuance, maintenance, and transfer of letters patent or registrations thereon with the same legal force and effect as if originally executed by me. Executive hereby waives and irrevocably quitclaims to the Company any and all claims, of any nature whatsoever, that Executive now or hereafter have for past, present, or future infringement of any and all proprietary rights assigned to the Company.

(d) Non-Solicitation. During the Term of Employment and the Post-Termination Restricted Period, Executive will not directly or indirectly (i) solicit from any Protected Customer any business that is comparable or similar to any products or services provided by the Company; (ii) request or advise any Protected Customer to curtail, cancel, or withdraw its business from the Company; (iii) aid in any way any other entity in obtaining business from Protected Customer that is comparable or similar to any products or services provided by the Company; or (iv) otherwise interfere with any transaction, agreement, business relationship, and/or business opportunity between the Company and any customer or potential customer of the Company. "Protected Customer" means any person or entity who was or is a customer or potential customer of the Company at any time during Executive's employment with the Company and (a) with whom Executive dealt on behalf of the Company or a Company affiliate; (b) whose dealings with the Company or a Company affiliate were coordinated or supervised by Executive; (c) about whom Executive obtained Proprietary Information as a result of Executive's association with the Company or a Company affiliate; (d) to whom Executive provided services or (e) who received products or services the sale or provision of which resulted in compensation, commissions or earnings for Executive.

(e) Non-Interference. During the Term of Employment and the Post-Termination Restricted Period, Executive shall not, directly or indirectly for Executive's own account or for the account of any other Person, engage in Interfering Activities.

(f) Return of Documents. In the event of Executive's termination of employment hereunder for any reason, Executive shall deliver to the Company (and will not keep in Executive's possession, recreate, or deliver to anyone else, unless required for any legal or governmental use) any and all Confidential Information and all other documents, materials, information, and property developed by Executive pursuant to Executive's employment hereunder or otherwise belonging to the Company Group.

(g) Independence; Severability; Blue Pencil. Each of the rights enumerated in this Section 9 shall be independent of the others and shall be in addition to and not in lieu of any other rights and remedies available to the Company Group at law or in equity. If any of the provisions of this Section 9 or any part of any of them is hereafter construed or adjudicated to be invalid or unenforceable, the same shall not affect the remainder of this Section 9, which shall be given full effect without regard to the invalid portions. If any of the covenants contained herein are held to be invalid or unenforceable because of the duration of such provisions or the area or scope covered thereby, each of the Company and Executive agree that the court making such determination shall have the power to reduce the duration, scope, and/or area of such provision to the maximum and/or broadest duration, scope, and/or area permissible by law, and in its reduced form said provision shall then be enforceable.

(h) Injunctive Relief. Executive expressly acknowledges that any breach or threatened breach of any of the terms and/or conditions set forth in this Section 9 may result in substantial, continuing, and irreparable injury to the members of the Company Group. Therefore, Executive hereby agrees that, in addition to any other remedy that may be available to the Company, any member of the Company Group shall be entitled to seek injunctive relief, specific performance, or other equitable relief by a court of appropriate jurisdiction in the event of any breach or threatened breach of the terms of this Section 9. Notwithstanding any other provision to the contrary, Executive acknowledges and agrees that the Post-Termination Restricted Period shall be tolled during any period of violation of any of the covenants in this Section 9 and during any other period required for litigation during which the Company or any other member of the Company Group seeks to enforce such covenants against Executive if it is ultimately determined that Executive was in breach of such covenants.

(i) Disclosure of Covenants. As long as it remains in effect, Executive will disclose the existence of the covenants contained in this Section 9 to any prospective employer, partner, co-venturer, investor, or lender prior to entering into an employment, partnership, or other business relationship with such Person or entity.

**Section 10. Representations and Warranties of Executive.**

Executive represents and warrants to the Company that:

(a) Executive is entering into this Agreement voluntarily and that Executive's employment hereunder and compliance with the terms and conditions hereof will not conflict with or result in the breach by Executive of any agreement to which Executive is a party or by which Executive may be bound;

(b) Executive has not violated, and in connection with Executive's employment with the Company will not violate, any non-solicitation, non-competition, or other similar covenant or agreement with any Person by which Executive is or may be bound;

(c) In connection with Executive's employment with the Company, Executive will not use any confidential or proprietary information Executive may have obtained in connection with employment or service with any prior service recipient; and

(d) Executive has not been terminated from any prior employer or service recipient, or otherwise disciplined in connection any such relationship, in connection with, or as a result of, any claim of workplace sexual harassment or sex or gender discrimination, and to Executive's knowledge, Executive has not been the subject of any investigation, formal allegation, civil or criminal complaint, charge, or settlement regarding workplace sexual harassment or sex or gender discrimination.

**Section 11. Indemnification.**

The Company agrees during and after Executive's employment to indemnify and hold harmless Executive to the fullest extent permitted by the organizational documents of the Company, or if greater, in accordance with applicable law regarding indemnification, for actions or inactions of Executive in accordance with Executive's performance of his duties under this Agreement, as an officer, director, employee or agent of the Company or any affiliate thereof or as a fiduciary of any benefit plan of any of the foregoing. The Company also agrees to provide Executive with directors' and officers' liability insurance coverage both during and after Executive's employment with regard to matters occurring during employment, or while serving on the governing body of the Company, or any affiliate thereof, which coverage will be at a level at least equal to the greatest level being maintained at such time for any current officer or director and shall continue until such time as suits can no longer be brought against Executive as a matter of law. Executive will be entitled to advancement of expenses from the Company or its applicable subsidiaries in connection with any claim in the same manner and to the same extent to which any other officer or director of the Company is entitled.

**Section 12. Taxes.**

The Company may withhold from any payments made under this Agreement or otherwise made in connection with Executive's employment hereunder, all applicable taxes, including but not limited to income, employment, and social insurance taxes, as shall be required by law. If any such taxes are paid or advanced by the Company on behalf of Executive, Executive shall remain responsible for, and shall repay, such amounts to the Company, promptly following notice thereof by the Company. Executive acknowledges and represents that the Company has not provided any tax advice to Executive in connection with this Agreement and that Executive has been advised by the Company to seek tax advice from Executive's own tax advisors regarding this Agreement and payments that may be made to Executive pursuant to this Agreement, including specifically, the application of the provisions of Section 409A of the Code to such payments.



**Section 13. Set Off; Mitigation.**

The Company's obligation to pay Executive the amounts provided and to make the arrangements provided hereunder shall not be subject to set-off, counterclaim, or recoupment of amounts owed by Executive to the Company or its affiliates. Executive shall not be required to mitigate the amount of any payment provided pursuant to this Agreement by seeking other employment or otherwise, and the amount of any payment provided for pursuant to this Agreement shall not be reduced by any compensation earned as a result of Executive's other employment or otherwise.

**Section 14. Additional Section 409A Provisions.**

Notwithstanding any provision in this Agreement to the contrary:

(a) Any payment otherwise required to be made hereunder to Executive at any date as a result of the termination of Executive's employment shall be delayed for such period of time as may be necessary to meet the requirements of Section 409A(a)(2)(B)(i) of the Code (the "Delay Period"). On the first business day following the expiration of the Delay Period, Executive shall be paid, in a single cash lump sum, an amount equal to the aggregate amount of all payments delayed pursuant to the preceding sentence, and any remaining payments not so delayed shall continue to be paid pursuant to the payment schedule set forth herein.

(b) Each payment in a series of payments hereunder shall be deemed to be a separate payment for purposes of Section 409A of the Code.

(c) Notwithstanding anything herein to the contrary, the payment (or commencement of a series of payments) hereunder of any nonqualified deferred compensation (within the meaning of Section 409A of the Code) upon a termination of employment shall be delayed until such time as Executive has also undergone a "separation from service" as defined in Treas. Reg. 1.409A-1(h), at which time such nonqualified deferred compensation (calculated as of the date of Executive's termination of employment hereunder) shall be paid (or commence to be paid) to Executive on the schedule set forth in Section 7 as if Executive had undergone such termination of employment (under the same circumstances) on the date of Executive's ultimate "separation from service."

(d) To the extent that any right to reimbursement of expenses or payment of any benefit in-kind under this Agreement constitutes nonqualified deferred compensation (within the meaning of Section 409A of the Code), (i) any such expense reimbursement shall be made by the Company no later than the last day of the taxable year following the taxable year in which such expense was incurred by Executive, (ii) the right to reimbursement or in-kind benefits shall not be subject to liquidation or exchange for another benefit, and (iii) the amount of expenses eligible for reimbursement or in-kind benefits provided during any taxable year shall not affect the expenses eligible for reimbursement or in-kind benefits to be provided in any other taxable year; *provided, however*, that the foregoing clause shall not be violated with regard to expenses reimbursed under any arrangement covered by Section 105(b) of the Code solely because such expenses are subject to a limit related to the period the arrangement is in effect.

(e) While the payments and benefits provided hereunder are intended to be structured in a manner to avoid the implication of any penalty taxes under Section 409A of the Code, and shall be interpreted in accordance therewith, in no event whatsoever shall any member of the Company Group be liable for any additional tax, interest, or penalties that may be imposed on Executive as a result of Section 409A of the Code or any damages for failing to comply with Section 409A of the Code (other than for withholding obligations or other obligations applicable to employers, if any, under Section 409A of the Code).

**Section 15. Successors and Assigns; No Third-Party Beneficiaries.**

(a) The Company. This Agreement shall inure to the benefit of the Company and its respective successors and assigns. Neither this Agreement nor any of the rights, obligations, or interests arising hereunder may be assigned by the Company to a Person (other than another member of the Company Group, or its or their respective successors) without Executive's prior written consent (which shall not be unreasonably withheld, delayed, or conditioned); *provided, however*, that in the event of a sale of all or substantially all of the assets of the Company or any direct or indirect division or subsidiary thereof to which Executive's employment primarily relates, the Company may provide that this Agreement will be assigned to, and assumed by, the acquiror of such assets, division or subsidiary, as applicable, without Executive's consent. Any successor to the Company (whether direct or indirect and whether by purchase, lease, merger, consolidation, liquidation or otherwise) to all or substantially all of the Company's business and/or assets or otherwise pursuant to a Change of Control shall assume the Company's obligations under this Agreement and shall agree expressly in writing to perform the Company's obligations under this Agreement in the same manner and to the same extent as the Company would be required to perform such obligations in the absence of a succession. For all purposes under this Agreement, the term "Company" shall include any successor to the Company's business and/or assets (including any parent company to the Company), whether or not in connection with a Change of Control, which becomes bound by the terms of this Agreement by operation of law or otherwise.

(b) Executive. Executive's rights and obligations under this Agreement shall not be transferable by Executive by assignment or otherwise, without the prior written consent of the Company; *provided, however*, that if Executive shall die, all amounts then payable to Executive hereunder shall be paid in accordance with the terms of this Agreement to Executive's devisee, legatee, or other designee, or if there be no such designee, to Executive's estate.

(c) No Third-Party Beneficiaries. Except as otherwise set forth in Section 7(c) or Section 15(b) hereof, nothing expressed or referred to in this Agreement will be construed to give any Person other than the Company, the other members of the Company Group, and Executive any legal or equitable right, remedy, or claim under or with respect to this Agreement or any provision of this Agreement.

**Section 16. Waiver and Amendments.**

Any waiver, alteration, amendment, or modification of any of the terms of this Agreement shall be valid only if made in writing and signed by each of the parties hereto; *provided, however*, that any such waiver, alteration, amendment, or modification must be consented to on the Company's behalf by the Board. No waiver by either of the parties hereto of their rights hereunder shall be deemed to constitute a waiver with respect to any subsequent occurrences or transactions hereunder unless such waiver specifically states that it is to be construed as a continuing waiver.

**Section 17. Severability.**

If any covenants or such other provisions of this Agreement are found to be invalid or unenforceable by a final determination of a court of competent jurisdiction, (a) the remaining terms and provisions hereof shall be unimpaired, and (b) the invalid or unenforceable term or provision hereof shall be deemed replaced by a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision hereof.

**Section 18. Governing Law; Waiver of Jury Trial; Arbitration.**

THIS AGREEMENT IS GOVERNED BY AND IS TO BE CONSTRUED UNDER THE LAWS OF THE STATE DELAWARE. EACH PARTY TO THIS AGREEMENT ALSO HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY IN CONNECTION WITH ANY SUIT, ACTION, OR PROCEEDING UNDER OR IN CONNECTION WITH THIS AGREEMENT. Except as permitted under Section 9 hereof, any controversy or claim arising out of or relating to this Agreement (or the breach thereof) shall be settled by final, binding and non-appealable arbitration in New Castle County, Delaware by as single arbitrator. The arbitration shall be conducted by JAMS pursuant to its Employment Arbitration Rules and Procedures and subject to JAMS Policy on Employment Arbitration in accordance with its Employment Arbitration Rules and Procedures then in effect. Judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. The arbitrators shall have the authority to award any remedy or relief that a court of competent jurisdiction could order or grant, including, without limitation, the issuance of an injunction. However, either party may, without inconsistency with this arbitration provision, apply to any court having jurisdiction over such dispute or controversy and seek interim provisional, injunctive or other equitable relief until the arbitration award is rendered or the controversy is otherwise resolved, or permanent injunctive relief. Except as necessary in court proceedings to enforce this arbitration provision or an award rendered hereunder, to obtain interim relief or as otherwise required by law, neither a party nor an arbitrator may disclose the content or results of any arbitration hereunder without the prior written consent of the Company and Executive, other than general statements. The fees charged by JAMS and any arbitrator shall be split equally between the parties to the arbitration.

**Section 19. Notices.**

All notices and other communications required or permitted under this Agreement which are addressed as provided in this Section 19, (A) if delivered personally against proper receipt shall be effective upon delivery and (B) if sent (x) by certified or registered mail with postage prepaid or (y) by Federal Express or similar courier service with courier fees paid by the sender, shall be effective upon receipt. The parties hereto may from time to time change their respective addresses for the purpose of notices to that party by a similar notice specifying a new address, but no such change shall be deemed to have been given unless it is sent and received in accordance with this Section 19.

If to the Company:

Blue Water Vaccines, Inc.  
201 E Fifth Street, Suite 1900  
Cincinnati, Ohio 45202  
Attn: Corporate Secretary

With copy, which will not constitute notice to:

Barry I. Grossman, Esq.  
Ellenoff Grossman & Schole LLP  
1345 Avenue of the Americas, 11<sup>th</sup> Floor  
New York, New York 10105

If to Executive:

To the most recent address of Executive set forth in the personnel records of the Company.

Section 20. **Section Headings.**

The headings of the sections and subsections of this Agreement are inserted for convenience only and shall not be deemed to constitute a part thereof or affect the meaning or interpretation of this Agreement or of any term or provision hereof.

Section 21. **Entire Agreement.**

This Agreement, together with any exhibits attached hereto, constitutes the entire understanding and agreement of the parties hereto regarding the employment of Executive. This Agreement supersedes all prior negotiations, discussions, correspondence, communications, understandings, and agreements between the parties relating to the subject matter of this Agreement, including, without limitation, the Prior Agreement.

Section 22. **Survival of Operative Sections.**

Upon any termination of Executive's employment, the provisions of Section 7 through Section 23 of this Agreement (together with any related definitions set forth on Appendix A) shall survive to the extent necessary to give effect to the provisions thereof.

Section 23. **Counterparts.**

This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The execution of this Agreement may be by actual or facsimile signature.

[Signatures to appear on the following page.]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first above written.

BLUE WATER BIOTECH, INC.

By: /s/ Erin Henderon

Print Name: Erin Henderon

Print Title: Chief Business Officer

EXECUTIVE

/s/ Dr. Neil J. Campbell

Dr. Neil J. Campbell

**EXHIBIT A**

**APPENDIX A**  
**Definitions**

(a) “Accrued Obligations” shall mean (i) all accrued but unpaid Base Salary through the date of termination of Executive’s employment, (ii) any unpaid or unreimbursed expenses incurred in accordance with Section 6 hereof, (iii) an amount equal to Executive’s accrued, but unused PTO days, multiplied by the quotient of Executive’s Annual Salary divided by 2,087 hours) in accordance with the Company’s PTO policies in effect from time to time, and (iv) any benefits provided under the Company’s employee benefit plans upon a termination of employment, including rights with respect to equity participation under the Equity Documents, in accordance with the terms contained therein.

(b) “Board” shall mean the Board of Directors of the Company.

(c) “Business” shall mean any business activities related to the Company Group’s research and development of transformational vaccines to address significant health challenges, including but not limited to a universal influenza vaccine, or any other current or demonstrably planned business activities of the Company Group.

(d) “Business Relation” shall mean any current or prospective client, customer, licensee, supplier, or other business relation of the Company Group, or any such relation that was a client, customer, licensee or other business relation within the prior six (6) month period, in each case, with whom Executive transacted business or whose identity became known to Executive in connection with Executive’s employment hereunder.

(e) “Cause” shall mean (i) Executive’s act(s) of gross negligence or willful misconduct in the course of Executive’s employment hereunder, (ii) willful failure or refusal by Executive to perform in any material respect Executive’s duties or responsibilities, (iii) misappropriation (or attempted misappropriation) by Executive of any assets or business opportunities of the Company or any other member of the Company Group, (iv) embezzlement or fraud committed (or attempted) by Executive, or at Executive’s direction, (v) Executive’s conviction of, indictment for, or pleading “guilty” or “no contest” to, (x) a felony or (y) any other criminal charge that has, or could be reasonably expected to have, an adverse impact on the performance of Executive’s duties to the Company or any other member of the Company Group or otherwise result in material injury to the reputation or business of the Company or any other member of the Company Group, (vi) any material violation by Executive of the policies of the Company, including but not limited to those relating to sexual harassment or business conduct, and those otherwise set forth in the manuals or statements of policy of the Company, or (vii) Executive’s material breach of this Agreement.

(f) “Change in Control” shall mean the occurrence, in a single transaction or in a series of related transactions, of any one of the following events; provided, however, to the extent necessary to avoid adverse personal income tax consequences to Executive also constitutes a “Change in Control Event” under Treasury Regulation 1.409A-3(i)(5)(i):

(i) any Person becomes the owner, directly or indirectly, of securities of the Company representing more than 50% of the combined voting power of the Company’s then outstanding securities other than by virtue of a merger, consolidation or similar transaction. Notwithstanding the foregoing, a Change in Control shall not be deemed to occur (A) on account of the acquisition of securities of the Company directly from the Company, (B) on account of the acquisition of securities of the Company by an investor, any affiliate thereof or any other Person that acquires the Company’s securities in a transaction or series of related transactions the primary purpose of which is to obtain financing for the Company through the issuance of equity securities, or (C) solely because the level of ownership held by any Person (the “Subject Person”) exceeds the designated percentage threshold of the outstanding voting securities as a result of a repurchase or other acquisition of voting securities by the Company reducing the number of shares outstanding, provided that if a Change in Control would occur (but for the operation of this sentence) as a result of the acquisition of voting securities by the Company, and after such share acquisition, the Subject Person becomes the Owner of any additional voting securities that, assuming the repurchase or other acquisition had not occurred, increases the percentage of the then outstanding voting securities Owned by the Subject Person over the designated percentage threshold, then a Change in Control shall be deemed to occur;

(ii) there is consummated a merger, consolidation or similar transaction involving (directly or indirectly) the Company and, immediately after the consummation of such merger, consolidation or similar transaction, the stockholders of the Company immediately prior thereto do not own, directly or indirectly, either (A) outstanding voting securities representing more than 50% of the combined outstanding voting power of the surviving Entity in such merger, consolidation or similar transaction or (B) more than 50% of the combined outstanding voting power of the parent of the surviving Entity in such merger, consolidation or similar transaction, in each case in substantially the same proportions as their ownership of the outstanding voting securities of the Company immediately prior to such transaction;

(iii) the stockholders of the Company approve or the Board approves a plan of complete dissolution or liquidation of the Company, or a complete dissolution or liquidation of the Company shall otherwise occur, except for a liquidation into a parent corporation;

(iv) there is consummated a sale, lease, exclusive license or other disposition of all or substantially all of the consolidated assets of the Company and its subsidiaries, other than a sale, lease, license or other disposition of all or substantially all of the consolidated assets of the Company and its subsidiaries to an Entity, more than 50% of the combined voting power of the voting securities of

(g) “Code” shall mean the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder.

(h) “Company Group” shall mean the Company together with any of its direct or indirect subsidiaries.

(i) “Compensation Committee” shall mean the Compensation Committee of the Board.

(j) “Confidential Information” means information that the Company Group has or will develop, acquire, create, compile, discover, or own, that has value in or to the business of the Company Group that is not generally known and that the Company wishes to maintain as confidential. Confidential Information includes, but is not limited to, any and all non-public information that relates to the actual or anticipated business and/or products, research, or development of the Company Group, or to the Company Group’s technical data, trade secrets, or know-how, including, but not limited to, research, plans, or other information regarding the Company Group’s products or services and markets, customer lists, and customers (including, but not limited to, customers of the Company on whom Executive called or with whom Executive may become acquainted during the Term of Employment), software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances, and other business information disclosed by the Company either directly or indirectly in writing, orally, or by drawings or inspection of premises, parts, equipment, or other Company Group property. Notwithstanding the foregoing, Confidential Information shall not include any of the foregoing items that have become publicly and widely known through no unauthorized disclosure by Executive or others who were under confidentiality obligations as to the item or items involved.

(k) “Disability” shall mean any physical or mental disability or infirmity of Executive that prevents the performance of Executive’s duties for a period of (i) ninety (90) consecutive days or (ii) one hundred eighty (180) non-consecutive days during any twelve (12) month period. Any question as to the existence, extent, or potentiality of Executive’s Disability upon which Executive and the Company cannot agree shall be determined by a qualified, independent physician selected by the Company and approved by Executive (which approval shall not be unreasonably withheld, delayed or conditioned). The determination of any such physician shall be final and conclusive for all purposes of this Agreement.

(l) “Good Reason” shall mean, without Executive’s consent, (i) a material demotion in Executive’s title, duties, or responsibilities as set forth in Section 3 hereof, (ii) a material reduction in Base Salary set forth in Section 4(a) hereof or Target Annual Bonus opportunity set forth in Section 4(b) hereof (other than pursuant to an across-the-board reduction applicable to all similarly situated executives), or (iii) any other material breach of a provision of this Agreement by the Company (other than a provision that is covered by clause (i) or (ii) above). Executive acknowledges and agrees that Executive’s exclusive remedy in the event of any breach of this Agreement shall be to assert Good Reason pursuant to the terms and conditions of Section 7(f) hereof. Notwithstanding the foregoing, during the Term of Employment, in the event that the Board reasonably believes that Executive may have engaged in conduct that could constitute Cause hereunder, the Board may, in its sole and absolute discretion, suspend Executive from performing Executive’s duties hereunder, and in no event shall any such suspension constitute an event pursuant to which Executive may terminate employment with Good Reason or otherwise constitute a breach hereunder; *provided*, that no such suspension shall alter the Company’s obligations under this Agreement during such period of suspension.

(m) “Interfering Activities” shall mean (A) recruiting, encouraging, soliciting, or inducing, or in any manner attempting to recruit, encourage, solicit, or induce, any Person employed by, or providing consulting services to, any member of the Company Group to terminate such Person’s employment or services (or in the case of a consultant, materially reducing such services) with the Company Group, (B) hiring, or engaging any individual who was employed by or providing services to the Company Group within the six (6) month period prior to the date of such hiring or engagement, or (C) encouraging, soliciting, or inducing, or in any manner attempting to encourage, solicit, or induce, any Business Relation to cease doing business with or reduce the amount of business conducted with the Company Group, or in any way interfering with the relationship between any such Business Relation and the Company Group.

(n) “Person” shall mean any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust (charitable or non-charitable), unincorporated organization, or other form of business entity.

(o) “Post-Termination Restricted Period” shall mean the period commencing on the date of the termination of the Employment Period for any reason and ending on the six (6) month anniversary of such date of termination.

(p) “Release of Claims” shall mean the Release of Claims in substantially the same form attached hereto as Exhibit A (as the same may be revised from time to time by the Company upon the advice of counsel).



## **Appendix B**

### **Permitted Activities**

The Company acknowledges and agrees that Executive has notified the Company that he serves as an officer, director, member or manager of the following business entities, and agrees that Executive may continue to do so during the Term of this Agreement, notwithstanding anything in Section 3(b) or other provisions of the Agreement to the contrary:

1. Chairman – Mosaigen, a private commercial development consulting company.
2. Chairman – Patriax Industries, a private personal protective device company.
3. Advisory Board, Adjunct Professor Duquesne University School of Science, Engineering and Biotechnology.

Executive shall not make use of any personnel or other resources of the Company in performing his duties for, any such non-competing business or other organization.

The Company acknowledges that Executive has personal investments in a variety of other real estate and business entities, will be permitted to make additional similar investments in other non-competing entities in the future, and may devote reasonable time to management of such personal investments, provided that Executive shall not serve as an employee, officer or manager of such other business entities and further provided that the time and effort Executive devotes to managing personal investments does not materially interfere, individually or in the aggregate, with the performance of Executive's duties and responsibilities to the Company under this Agreement.

**EXHIBIT A**

**RELEASE OF CLAIMS**

As used in this Release of Claims (this “Release”), the term “claims” will include all claims, covenants, warranties, promises, undertakings, actions, suits, causes of action, obligations, debts, accounts, attorneys’ fees, judgments, losses, and liabilities, of whatsoever kind or nature, in law, in equity, or otherwise.

For and in consideration of the Severance Benefits, and other good and valuable consideration, I, [Executive] for and on behalf of myself and my heirs, administrators, executors, and assigns, effective the date on which this release becomes effective pursuant to its terms, do fully and forever release, remise, and discharge each of the Company and each of its direct and indirect subsidiaries and affiliates, together with their respective officers, directors, partners, shareholders, employees, and agents (collectively, the “Group”) from any and all claims whatsoever up to the date hereof that I had, may have had, or now have against the Group, for or by reason of any matter, cause, or thing whatsoever, including any claim arising out of or attributable to my employment or the termination of my employment with the Company, whether for tort, breach of express or implied employment contract, intentional infliction of emotional distress, wrongful termination, unjust dismissal, defamation, libel, or slander, or under any federal, state, or local law dealing with discrimination based on age, race, sex, national origin, handicap, religion, disability, or sexual orientation. This release of claims includes, but is not limited to, all claims arising under the Age Discrimination in Employment Act (“ADEA”), Title VII of the Civil Rights Act, the Americans with Disabilities Act, the Civil Rights Act of 1991, the Family Medical Leave Act, and the Equal Pay Act, each as may be amended from time to time, and all other federal, state, and local laws, the common law, and any other purported restriction on an employer’s right to terminate the employment of employees. The release contained herein is intended to be a general release of any and all claims to the fullest extent permissible by law.

I acknowledge and agree that as of the date I execute this Release, I have no knowledge of any facts or circumstances that give rise or could give rise to any claims under any of the laws listed in the preceding paragraph.

By executing this Release, I specifically release all claims relating to my employment and its termination under ADEA, a United States federal statute that, among other things, prohibits discrimination on the basis of age in employment and employee benefit plans.

Notwithstanding any provision of this Release to the contrary, by executing this Release, I am not releasing (i) any claims relating to my rights under Section 7 of the Employment Agreement, (ii) any claims that cannot be waived by law, or (iii) my right of indemnification as provided by, and in accordance with the terms of, the Company’s by-laws or a Company insurance policy providing such coverage, as any of such may be amended from time to time.

I expressly acknowledge and agree that I –

- Am able to read the language, and understand the meaning and effect, of this Release;
- Have no physical or mental impairment of any kind that has interfered with my ability to read and understand the meaning of this Release or its terms, and that I am not acting under the influence of any medication, drug, or chemical of any type in entering into this Release;

- Am specifically agreeing to the terms of the release contained in this Release because the Company has agreed to pay me the Severance Benefits in consideration for my agreement to accept it in full settlement of all possible claims I might have or ever had, and because of my execution of this Release;
- Acknowledge that, but for my execution of this Release, I would not be entitled to the Severance Benefits;
- Understand that, by entering into this Release, I do not waive rights or claims under ADEA that may arise after the date I execute this Release;
- Had or could have [twenty-one (21)][forty-five (45)]<sup>1</sup> days from the date of my termination of employment (the “Release Expiration Date”) in which to review and consider this Release, and that if I execute this Release prior to the Release Expiration Date, I have voluntarily and knowingly waived the remainder of the review period;
- Have not relied upon any representation or statement not set forth in this Release or my Employment Agreement made by the Company or any of its representatives;
- Was advised to consult with my attorney regarding the terms and effect of this Release; and
- Have signed this Release knowingly and voluntarily.

I represent and warrant that I have not previously filed, and to the maximum extent permitted by law agree that I will not file, a complaint, charge, or lawsuit against any member of the Group regarding any of the claims released herein. If, notwithstanding this representation and warranty, I have filed or file such a complaint, charge, or lawsuit, I agree that I shall cause such complaint, charge, or lawsuit to be dismissed with prejudice and shall pay any and all costs required in obtaining dismissal of such complaint, charge, or lawsuit, including without limitation the attorneys’ fees of any member of the Group against whom I have filed such a complaint, charge, or lawsuit. This paragraph shall not apply, however, to a claim of age discrimination under ADEA or to any non-waivable right to file a charge with the United States Equal Employment Opportunity Commission (the “EEOC”); *provided, however*, that if the EEOC were to pursue any claims relating to my employment with Company, I agree that I shall not be entitled to recover any monetary damages or any other remedies or benefits as a result and that this Release and the Severance Benefits will control as the exclusive remedy and full settlement of all such claims by me.

Nothing in this Release shall prohibit or impede me from communicating, cooperating or filing a complaint with any Governmental Entity with respect to possible violations of any U.S. federal, state or local law or regulation, or otherwise making disclosures to any Governmental Entity, in each case, that are protected under the whistleblower provisions of any such law or regulation; provided, that in each case such communications and disclosures are consistent with applicable law. I understand and acknowledge that an individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made (1) in confidence to a federal, state, or local government official or to an attorney solely for the purpose of reporting or investigating a suspected violation of law, or (2) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. I understand and acknowledge further that an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual files any document containing the trade secret under seal; and does not disclose the trade secret, except pursuant to court order. Except as otherwise provided in this paragraph or under applicable law, under no circumstance am I authorized to disclose any information covered by the Company’s attorney-client privilege or attorney work product, or the Company’s trade secrets, without the prior written consent of the Company’s Board or another executive officer designated by the Board. I do not need the prior authorization of (or to give notice to) any member of the Company Group regarding any communication, disclosure, or activity permitted by this paragraph.

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<sup>1</sup> To be selected based on whether applicable termination was “in connection with an exit incentive or other employment termination program” (as such phrase is defined in the Age Discrimination in Employment Act of 1967).

I hereby agree to waive any and all claims to re-employment with the Company or any other member of the Company Group (as defined in my Employment Agreement) and affirmatively agree not to seek further employment with the Company or any other member of the Company Group.

Notwithstanding anything contained herein to the contrary, this Release will not become effective or enforceable prior to the expiration of the period of seven (7) calendar days following the date of its execution by me (the "Revocation Period"), during which time I may revoke my acceptance of this Release by notifying the Company and the Board of Directors of the Company, in writing, delivered to the Company at its principal executive office, marked for the attention of its Chair. To be effective, such revocation must be received by the Company no later than 11:59 p.m. on the seventh (7<sup>th</sup>) calendar day following the execution of this Release. Provided that the Release is executed and I do not revoke it during the Revocation Period, the eighth (8<sup>th</sup>) day following the date on which this Release is executed shall be its effective date. I acknowledge and agree that if I revoke this Release during the Revocation Period, this Release will be null and void and of no effect, and neither the Company nor any other member of the Company will have any obligations to pay me the Severance Benefits.

The provisions of this Release shall be binding upon my heirs, executors, administrators, legal personal representatives, and assigns. If any provision of this Release shall be held by any court of competent jurisdiction to be illegal, void, or unenforceable, such provision shall be of no force or effect. The illegality or unenforceability of such provision, however, shall have no effect upon and shall not impair the enforceability of any other provision of this Release.

EXCEPT WHERE PREEMPTED BY FEDERAL LAW, THIS RELEASE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH FEDERAL LAW AND THE LAWS OF THE STATE OF DELAWARE, APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED IN THAT STATE WITHOUT GIVING EFFECT TO THE PRINCIPLES OF CONFLICTS OF LAWS. I HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN CONNECTION WITH ANY SUIT, ACTION, OR PROCEEDING UNDER OR IN CONNECTION WITH THIS RELEASE.

Capitalized terms used, but not defined herein, shall have the meanings ascribed to such terms in my Employment Agreement between the Company and the Executive (the "Employment Agreement").

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[Executive]  
Date:

EXHIBIT B  
**INDEMNIFICATION AGREEMENT**

**EMPLOYMENT AGREEMENT**

This EMPLOYMENT AGREEMENT (the “Agreement”) is made and entered into as of October 4, 2023 (the “Effective Date”) by and between Blue Water Biotech, Inc., a Delaware corporation (the “Company”) and Bruce Harmon (“Executive”).

WHEREAS, the Company desires to employ Executive and to enter into this Agreement embodying the terms of such employment, and Executive desires to enter into this Agreement and to accept such employment, subject to the terms and provisions of this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the Company and Executive hereby agree as follows:

Section 1. **Definitions.** Capitalized terms not otherwise defined in this Agreement shall have the meaning set forth on Appendix A, attached hereto.

Section 2. **Acceptance and Term of Employment.**

The Company agrees to employ Executive, and Executive agrees to serve the Company, on the terms and conditions set forth herein. Executive’s employment under the terms of this Agreement shall commence on the Effective Date and continue until terminated as provided in Section 7 hereof (the “Term of Employment”).

Section 3. **Position, Duties, and Responsibilities; Place of Performance.**

(a) Position, Duties, and Responsibilities. During the Term of Employment, Executive shall be employed and serve as the Chief Financial Officer of the Company, reporting directly to the Chief Executive Officer and the Board of Directors of the Company, and having such duties and responsibilities commensurate with such position as may be assigned by the Chief Executive Officer and the Board of Directors of the Company. Executive also agrees to serve as an officer and/or director, if appointed, of any member of the Company Group, in each case without additional compensation.

(b) Performance. Executive shall be employed with the Company on a full-time basis and shall devote an appropriate portion of his business time, attention, skill, and best efforts sufficient to assure the satisfactory performance of Executive’s duties under this Agreement (excluding periods of vacation and sick leave). Except as provided below, Executive shall not engage in any other business or occupation during the Term of Employment, including, without limitation, any activity that (x) conflicts with the interests of the Company or any other member of the Company Group, (y) interferes with the proper and efficient performance of Executive’s duties for the Company, or (z) interferes with Executive’s exercise of judgment in the Company’s best interests. Notwithstanding the foregoing, nothing herein shall preclude Executive from (i) serving, with the prior written consent of the Board, as a member of the board of directors or advisory board (or the equivalent in the case of a non-corporate entity) of non-competing for-profit and non-profit businesses and charitable organizations, (ii) serving as an officer or managing member of the of the non-competing for-profit businesses listed on Appendix B to this Agreement, (iii) engaging in charitable activities, industry, and community affairs, and (iv) managing Executive’s personal investments, assets, and affairs; *provided, however*, that the activities set out in clauses (i), (ii), and (iii) shall be limited by Executive so as not to materially interfere, individually or in the aggregate, with the performance of Executive’s duties and responsibilities hereunder.

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(c) Principal Place of Employment. The Company will permit Executive to work remotely from Executive's personal residence, although Executive understands and agrees that Executive may be required to work from, or travel to, the Company's offices from time to time as needed in connection with the performance of Executive's duties and responsibilities hereunder. Executive understands and agrees that Executive may be required to travel from time to time for business reasons.

#### Section 4. **Compensation.**

During the Term of Employment, Executive shall be entitled to the following compensation:

(a) Base Salary. Executive shall be paid an annualized Base Salary (the "Base Salary"), payable in accordance with the regular payroll practices of the Company, of Three Hundred Twenty-Five Thousand Dollars (\$325,000.00) per year, with such increases, if any, as may be approved in writing by the Compensation Committee. The Compensation Committee will review Executive's Base Salary for increases not less than annually.

(b) Annual Bonus. Executive shall be eligible for an annual incentive bonus award determined by the Compensation Committee in respect of each fiscal year during the Term of Employment (the "Annual Bonus"). The target Annual Bonus for each fiscal year shall be thirty percent (30%) of then current year Base Salary (the "Target Annual Bonus"), with the actual Annual Bonus payable being based upon the level of achievement of annual Company and individual performance objectives for such fiscal year, as determined by the Compensation Committee and communicated to Executive. The Annual Bonus shall otherwise be subject to the terms and conditions of the annual bonus plan adopted by the Board or the Compensation Committee under which bonuses are generally payable to senior executives of the Company, as in effect from time to time. The Annual Bonus shall be paid to Executive at the same time as annual bonuses are generally payable to other senior executives of the Company subject to Executive's continuous employment through the applicable payment date, but the Annual Bonus will be paid no later than ninety (90) days following the end of the year, whether fiscal or calendar, in which the Annual Bonus is awarded, *provided, however*, that such time period may be extended until fourteen days after the Company's Form 10K Annual Report of the Company is completed and filed.

(c) Equity Participation. In connection with Executive's employment hereunder, Executive shall be entitled to participate in the Blue Water Biotech, Inc. Second Amended And Restated 2022 Equity Incentive Plan, as in effect from time to time, pursuant to the terms of such plan, any award agreement and such other documents Executive is required to execute pursuant to the terms of such plan (the plan, the award agreement, and such other documents collectively, the "Equity Documents"). Executive's equity participation shall be exclusively governed by the terms of the Equity Documents. Executive will receive a grant of an option to the purchase one percent (1%) of the total Company shares outstanding and issued at the Effective Date. The strike price of the option shall be the fair market value of the Company's stock on the Effective Date. Such grant shall vest at the rate quarterly over three years commencing three months after the Effective Date and ending on the third anniversary of the Effective Date.

**Section 5. Employee Benefits.**

During the Term of Employment, Executive shall be entitled to participate in health insurance and other benefits provided generally to senior executives of the Company as subject to any applicable eligibility requirements (including such wait periods and other minimum service requirements as may be imposed by the terms of such benefit plans). During the Term of Employment, Executive shall be entitled to participate in health, insurance, retirement, and other benefits provided generally to senior executives of the Company as subject to any applicable eligibility requirements (including such wait periods and other minimum service requirements as may be imposed by the terms of such benefit plans). Commencing on the Effective Date of this Agreement and continuing through the Term of Employment, the Executive shall be entitled to twenty (20) days of vacation/paid time off (“PTO”) during each calendar year, which shall be taken at a reasonable time or times, by the discretion of the Executive. The Executive may elect to defer taking the PTO, of which up to a maximum of ten (10) days may roll over. The maximum PTO Executive may accrue is twenty-five (25) days. Once such maximum accrual is reached, Executive shall not accrue any additional PTO days until the balance drops below 25 days. The Company will be obligated to pay out the aggregate unused balance of vacation/paid time off upon Termination subject to Section 7 to be paid on the payroll period immediately following the Executive’s separation date. Executive shall be entitled to the same number of holidays and sick days, as well as any other benefits, in each case as are generally allowed to similarly-situated senior executives of the Company in accordance with the Company policy as in effect from time to time. Nothing contained herein shall be construed to limit the Company’s ability to amend, suspend, or terminate any employee benefit plan or policy at any time, and the right to do so is expressly reserved.

**Section 6. Reimbursement of Business Expenses.**

Executive is authorized to incur reasonable business expenses in carrying out Executive’s duties and responsibilities under this Agreement, and the Company shall promptly reimburse Executive for all such reasonable business expenses, subject to documentation in accordance with the Company’s policy, as in effect from time to time. Reimbursement or payment of an expense under this Section 4 will be made or reimbursed within thirty (30) consecutive days of the Company’s receipt of the Executive’s request for payment or reimbursement. In addition, to the extent Executive primarily works remotely from Executive’s personal residence, the Company shall reimburse Executive for reasonable travel expenses incurred by Executive in connection with Executive’s travel to and from the Company’s offices in connection with carrying out Executive’s duties and responsibilities under this Agreement subject to documentation in accordance with the Company’s policy, as in effect from time to time. The Company shall be entitled to impute income to Executive in connection with any reimbursements or other benefits provided under this Section 4, and withhold from any and all amounts payable under this Section 4 as may be required to be withheld pursuant to any applicable law or regulation.



Section 7. **Termination of Employment.**

(a) General. The Term of Employment, and Executive's employment hereunder, shall terminate upon the earliest to occur of (i) Executive's death, (ii) a termination by reason of a Disability, (iii) a termination by the Company with or without Cause, and (iv) a termination by Executive with or without Good Reason. Except as otherwise expressly required by law (e.g., COBRA) or as specifically provided herein, all of Executive's rights to Base Salary, Annual Bonus, employee benefits and other compensatory amounts hereunder (if any) shall cease upon the termination of Executive's employment hereunder.

(b) Deemed Resignation. Upon any termination of Executive's employment for any reason, except as may otherwise be requested by the Company in writing and agreed upon in writing by Executive, Executive shall be deemed to have resigned from any and all directorships, committee memberships, and any other positions Executive holds with the Company or any other member of the Company Group.

(c) Termination Due to Death or Disability. Executive's employment shall terminate automatically upon Executive's death. The Company may terminate Executive's employment immediately upon the occurrence of a Disability, such termination to be effective upon Executive's receipt of written notice of such termination. Upon Executive's death or in the event that Executive's employment is terminated due to Executive's Disability, Executive or Executive's estate or Executive's beneficiaries, as the case may be, shall be entitled to:

(i) The Accrued Obligations;

(ii) Any unpaid Annual Bonus in respect of any completed fiscal year that has ended prior to the date of such termination, which amount shall be paid at such time annual bonuses are paid to other senior executives of the Company, but in no event later than the date that is 2½ months following the last day of the fiscal year in which such termination occurred;

(iii) An amount equal to (A) the Target Annual Bonus multiplied by (B) a fraction, the numerator of which is the number of days elapsed from the commencement of the fiscal year in which such termination occurs through the date of such termination and the denominator of which is 365 (or 366, as applicable), which amount shall be paid within thirty (30) days of Executive's termination date; and

(iv) To the extent the Company maintains a group health plan subject to the continuation health coverage requirements of Sections 601 through 609 of the Employee Retirement Income Security Act of 1974, as amended ("COBRA"), Executive is enrolled for coverage under such group health plan and subject to an election of COBRA continuation coverage by Executive (or Executive's covered dependents in the case of Executive's death), on the first regularly scheduled payroll date of each month during the twelve (12) month period immediately following Executive's termination occurred, payment of an amount equal to the difference between the monthly COBRA premium cost and the monthly contribution paid by active employees for the same coverage.

Following Executive's death or a termination of Executive's employment by reason of a Disability, except as set forth in this Section 7(c), Executive shall have no further rights to any compensation or any other benefits under this Agreement.

(d) Termination by the Company for Cause.

(i) The Company may terminate Executive's employment at any time for Cause, effective upon delivery to Executive of written notice of such termination; *provided, however*, that with respect to any Cause termination relying on clause (ii), (vi) or (vii) of the definition of Cause, to the extent that such act or acts or failure or failures to act are curable, Executive shall be given not less than ten (10) business days' written notice by the Board of the Company's intention to terminate Executive for Cause, such notice to state in detail the particular act or acts or failure or failures to act that constitute the grounds on which the proposed termination for Cause is based, and such termination shall be effective at the expiration of such ten (10) business day notice period unless Executive has fully cured such act or acts or failure or failures to act that give rise to Cause during such period.

(ii) In the event that the Company terminates Executive's employment for Cause, Executive shall be entitled only to the Accrued Obligations. Following such termination of Executive's employment for Cause, except as set forth in this Section 7(d)(ii), Executive shall have no further rights to any compensation or any other benefits under this Agreement.

(e) Termination by the Company without Cause. The Company may terminate Executive's employment at any time without Cause, effective upon delivery to Executive of written notice of such termination. In the event that Executive's employment is terminated by the Company without Cause (other than due to death or Disability), Executive shall be entitled to:

(i) The Accrued Obligations;

(ii) Any unpaid Annual Bonus in respect of any completed fiscal year that has ended prior to the date of such termination, which amount shall be paid at such time annual bonuses are paid to other senior executives of the Company, but in no event later than the date that is two and one-half (2½) months following the last day of the fiscal year in which such termination occurred;

(iii) Subject to satisfaction of the applicable performance objectives applicable for the fiscal year in which such termination occurs, an amount equal to (A) the Target Annual Bonus otherwise payable to Executive for the fiscal year in which such termination occurred, assuming Executive had remained employed through the applicable payment date, multiplied by (B) a fraction, the numerator of which is the number of days elapsed from the commencement of such fiscal year through the date of such termination and the denominator of which is 365 (or 366, as applicable), which amount shall be paid at such time annual bonuses are paid to other senior executives of the Company, but in no event later than the date that is two and one-half (2½) months following the last day of the fiscal year in which such termination occurred;

(iv) An amount equal to six (6) months of Base Salary, such amount to be paid in substantially equal payments over the [6]-month period following Executive's termination of employment (such period, the "Severance Term"), and payable in accordance with the Company's regular payroll practices; *provided, however*, if such termination occurs on or following any Change in Control (as defined in the equity documents), such amount shall instead be payable in a single lump sum within five (5) days of such termination; Any equity or stock option grants shall be given the treatment accorded them by the Company's Equity Documents; and

(v) To the extent the Company maintains a group health plan subject to the continuation health coverage requirements of Sections 601 through 609 of the Employee Retirement Income Security Act of 1974, as amended ("COBRA"), Executive is enrolled for coverage under such group health plan and subject to an election of COBRA continuation coverage by Executive (or Executive's covered dependents in the case of Executive's death), on the first regularly scheduled payroll date of each month during the Severance Term, payment of an amount equal to the difference between the monthly COBRA premium cost and the monthly contribution paid by active employees for the same coverage; *provided*, that the payments described in this clause (v) shall cease earlier than the expiration of the Severance Term in the event that Executive becomes eligible to receive any health benefits as a result of subsequent employment or service during the Severance Term;

Notwithstanding the foregoing, the payments and benefits described in clauses (ii) through (v) above shall immediately terminate, and the Company shall have no further obligations to Executive with respect thereto, in the event that Executive breaches any provision set forth in Section 9 hereof. Following such termination of Executive's employment by the Company without Cause, except as set forth in this Section 7(e), Executive shall have no further rights to any compensation or any other benefits under this Agreement.

(f) Termination by Executive with Good Reason. Executive may terminate Executive's employment with Good Reason by providing the Company thirty (30) days' written notice setting forth in reasonable specificity the event that constitutes Good Reason, which written notice, to be effective, must be provided to the Company within sixty (60) days of the occurrence of such event. During such thirty (30) day notice period, the Company shall have a cure right (if curable), and if not cured within such period, Executive's termination will be effective upon the expiration of such cure period, and Executive shall be entitled to the same payments and benefits as provided in Section 7(e) hereof for a termination by the Company without Cause, subject to the same conditions on payment and benefits as described in Section 7(e) hereof. Following such termination of Executive's employment by Executive with Good Reason, except as set forth in this Section 7(f), Executive shall have no further rights to any compensation or any other benefits under this Agreement.

(g) Termination by Executive without Good Reason. Executive may terminate Executive's employment without Good Reason by providing the Company sixty (60) days' written notice of such termination. In the event of a termination of employment by Executive under this Section 7(g), Executive shall be entitled only to the Accrued Obligations. In the event of termination of Executive's employment under this Section 7(g), the Company may, in its sole and absolute discretion, by written notice accelerate such date of termination without changing the characterization of such termination as a termination by Executive without Good Reason. Following such termination of Executive's employment by Executive without Good Reason, except as set forth in this Section 7(g), Executive shall have no further rights to any compensation or any other benefits under this Agreement.

(h) Release. Notwithstanding any provision herein to the contrary, the payment of any amount or provision of any benefit pursuant to subsection (e) or (f) of this Section 7 other than the Accrued Obligations (collectively, the "Severance Benefits") shall be conditioned upon Executive's execution, delivery to the Company, and non-revocation of the Release of Claims (and the expiration of any revocation period contained in such Release of Claims) within sixty (60) days following the date of Executive's termination of employment hereunder (the "Release Execution Period"). If Executive fails to execute the Release of Claims in such a timely manner so as to permit any revocation period to expire prior to the end of such sixty (60) day period, or timely revokes Executive's acceptance of such release following its execution, Executive shall not be entitled to any of the Severance Benefits. No portion of the Severance Benefits (other than Accrued Obligations) shall be paid until the Release of Claims has become effective and all such amounts shall commence to be paid on the first regular payroll date of the Company after the Release of Claims has become effective; *provided*, that, if the Release Execution Period overlaps two calendar years, the first payment shall not be made sooner than the first day of the second year, and shall include any missed payments.

#### Section 8. **Change of Control.**

(a) If, during the Term of Employment and during the period commencing three months prior to a Change in Control and ending on the eighteen (18)-month anniversary of the Change in Control (the "Change in Control Period"), Executive's employment is terminated by the Company without Cause or Executive resigns for Good Reason, then, in lieu of the payments and benefits described in Section 7(e)(ii) through (v) above and subject to Executive's delivery to the Company of a Release that becomes effective and irrevocable in accordance with Section 7(h) hereof:

(i) Any unpaid Annual Bonus in respect of any completed fiscal year that has ended prior to the date of such termination, which amount shall be paid at such time annual bonuses are paid to other senior executives of the Company, but in no event later than the date that is two and one-half (2½) months following the last day of the fiscal year in which such termination occurred;

(ii) Subject to satisfaction of the applicable performance objectives applicable for the fiscal year in which such termination occurs, an amount equal to (A) the Target Annual Bonus otherwise payable to Executive for the fiscal year in which such termination occurred, assuming Executive had remained employed through the applicable payment date, multiplied by (B) 1.0, multiplied by (C) a fraction, the numerator of which is the number of days elapsed from the commencement of such fiscal year through the date of such termination and the denominator of which is 365 (or 366, as applicable), which amount shall be paid at such time annual bonuses are paid to other senior executives of the Company, but in no event later than the date that is two and one-half (2½) months following the last day of the fiscal year in which such termination occurred;

(iii) An amount equal to six (6) months of Base Salary, such amount to be paid in substantially equal payments over the 6-month period following Executive's termination of employment (such period, the "Severance Term"), and payable in accordance with the Company's regular payroll practices; provided, however, if such termination occurs on or following any Change in Control (as defined in the equity documents), such amount shall instead be payable in a single lump sum within five (5) days of such termination;

(iv) To the extent the Company maintains a group health plan subject to the continuation health coverage requirements of Sections 601 through 609 of the Employee Retirement Income Security Act of 1974, as amended ("COBRA"), Executive is enrolled for coverage under such group health plan and subject to an election of COBRA continuation coverage by Executive (or Executive's covered dependents in the case of Executive's death), on the first regularly scheduled payroll date of each month during the Severance Term, payment of an amount equal to the difference between the monthly COBRA premium cost and the monthly contribution paid by active employees for the same coverage; provided, that the payments described in this clause (v) shall cease earlier than the expiration of the Severance Term in the event that Executive becomes eligible to receive any health benefits as a result of subsequent employment or service during the Severance Term: and

(v) The Company shall cause any unvested equity awards (including any stock options and restricted stock awards) subject to time-based vesting held by Executive as of the date of termination, to become fully vested and, if applicable, exercisable with respect to all of the shares of the Company's Common Stock subject thereto

(b) In the event that (a) Executive is entitled to receive any payment, benefit or distribution of any type to or for the benefit of Executive, whether paid or payable, provided or to be provided, or distributed or distributable, pursuant to the terms of this Agreement or otherwise (collectively, the "Payments"), and (b) the net after-tax amount of such Payments, after Executive has paid all taxes due thereon (including, without limitation, taxes due under Section 4999 of the Code) is less than the net after-tax amount of all such Payments otherwise due to Executive in the aggregate, if such Payments were reduced to an amount equal to 2.99 times Executive's "base amount" (as defined in Section 280G(b)(3) of the Code), then the aggregate amount of such Payments payable to Executive shall be reduced to an amount that will equal 2.99 times Executive's base amount. To the extent such aggregate "parachute payment" (as defined in Section 280G(b)(2) of the Code) amounts are required to be so reduced, the parachute payment amounts due to Executive (but no non-parachute payment amounts) shall be reduced in the following order: (i) the parachute payments that are payable in cash shall be reduced (if necessary, to zero) with amounts that are payable last reduced first; (ii) payments and benefits due in respect of any equity, valued at full value (rather than accelerated value), with the highest values reduced first (as such values are determined under Treasury Regulation Section 1.280G-1, Q&A 24); and (iii) all other non-cash benefits not otherwise described in clause (ii) of this Section 8 reduced last.

## Section 9. Restrictive Covenants

(a) General. Executive acknowledges and recognizes the highly competitive nature of the business of the Company Group, that access to Confidential Information renders Executive special and unique within the industry of the Company Group, and that Executive will have the opportunity to develop substantial relationships with existing and prospective clients, accounts, customers, consultants, contractors, investors, and strategic partners of the Company Group during the course of and as a result of Executive's employment with the Company. In light of the foregoing, as a condition of Executive's employment by the Company, and in consideration of Executive's employment hereunder and the compensation and benefits provided herein, Executive acknowledges and agrees to the covenants contained in this Section 9. Executive further recognizes and acknowledges that the restrictions and limitations set forth in this Section 9 are reasonable and valid in geographical and temporal scope and in all other respects and are essential to protect the value of the business and assets of the Company Group.

### (b) Confidential Information.

(i) Executive acknowledges that, during the Term of Employment, Executive will have access to information about the Company Group and that Executive's employment with the Company shall bring Executive into close contact with confidential and proprietary information of the Company Group. In recognition of the foregoing, Executive agrees, at all times during the Term of Employment and thereafter, to hold in confidence, and not to use, except for the benefit of the Company Group, or to disclose to any Person without written authorization of the Company, any Confidential Information.

(ii) Nothing in this Agreement shall prohibit or impede Executive from communicating, cooperating or filing a complaint with any U.S. federal, state or local governmental or law enforcement branch, agency or entity (collectively, a "Governmental Entity") with respect to possible violations of any U.S. federal, state or local law or regulation, or otherwise making disclosures to any Governmental Entity, in each case, that are protected under the whistleblower provisions of any such law or regulation, provided that in each case such communications and disclosures are consistent with applicable law. Executive understands and acknowledges that an individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that is made (A) in confidence to a Federal, State, or local government official or to an attorney solely for the purpose of reporting or investigating a suspected violation of law, or (B) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. Executive understands and acknowledges further that an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual files any document containing the trade secret under seal; and does not disclose the trade secret, except pursuant to court order. Notwithstanding the foregoing, under no circumstance will Executive be authorized to disclose any information covered by attorney-client privilege or attorney work product of any member of the Company Group without prior written consent of Company's Board or other officer designated by the Board, unless otherwise permitted by the applicable whistleblower provisions of any law or regulation. Executive does not need the prior authorization of (or to give notice to) any member of the Company Group regarding any communication, disclosure, or activity permitted by this subsection.

(c) Assignment of Intellectual Property.

(i) Executive agrees that Executive will, without additional compensation, promptly make full written disclosure to the Company, and will hold in trust for the sole right and benefit of the Company all developments, original works of authorship, inventions, concepts, know-how, improvements, trade secrets, and similar proprietary rights, whether or not patentable or registrable under copyright or similar laws that were conceived after the effective date of this Agreement and related to the business of the Company, which Executive may (or have previously) solely or jointly conceive or develop or reduce to practice, or cause to be conceived or developed or reduced to practice, during the Term of Employment, whether or not during regular working hours, provided they either (i) relate at the time of conception or reduction to practice of the invention to the business of any member of the Company Group, or actual research or development of any member of the Company Group; (ii) result from or relate to any work performed for any member of the Company Group; or (iii) are developed through the use of equipment, supplies, or facilities of any member of the Company Group, or any Confidential Information, or in consultation with personnel of any member of the Company Group (collectively referred to as “Developments”) that are related to the business of the Company Group. Executive further acknowledges that all Developments made by Executive (solely or jointly with others) within the scope of and during the Term of Employment are “works made for hire” (to the greatest extent permitted by applicable law) for which Executive is, in part, compensated by Executive’s Base Salary, unless regulated otherwise by law, but that, in the event any such Development is deemed not to be a work made for hire, Executive hereby assigns to the Company, or its designee, all Executive’s right, title, and interest throughout the world in and to any such Development. To clarify this Section 9(c)(i) pertains to all intellectual property that have been conceived by the Executive after the effective date of this Agreement and the intellectual property directly relates to the business of the Company Group.

(ii) Executive agrees to assist the Company, or its designee, at the Company’s expense, in every way to secure the rights of the Company Group in the Developments and any copyrights, patents, trademarks, service marks, database rights, domain names, mask work rights, moral rights, and other intellectual property rights relating thereto in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments, recordations, and all other instruments that the Company shall deem necessary in order to apply for, obtain, maintain, and transfer such rights and in order to assign and convey to the Company Group the sole and exclusive right, title, and interest in and to such Developments, and any intellectual property and other proprietary rights relating thereto. Executive further agrees that Executive’s obligation to execute or cause to be executed, when it is in Executive’s power to do so, any such instrument or papers shall continue after the termination of the Term of Employment until the expiration of the last such intellectual property right to expire in any country of the world; *provided, however*, that the Company shall reimburse Executive for Executive’s reasonable expenses incurred in connection with carrying out the foregoing obligation and, following termination of employment of the Term of Employment, shall compensate Executive for Executive’s time incurred in connection with carrying out Executive’s obligations under this Section 6(c)(ii) following such termination of at an hourly rate based upon Executive’s Base Salary as of immediately prior to Executive’s termination of employment. If the Company is unable because of Executive’s mental or physical incapacity or unavailability for any other reason to secure Executive’s signature to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering Developments or original works of authorship assigned to the Company as above, then Executive hereby irrevocably designates and appoints the Company and its duly authorized officers and agents as Executive’s agent and attorney in fact to act for and in Executive’s behalf and stead to execute and file any such applications or records and to do all other lawfully permitted acts to further the application for, prosecution, issuance, maintenance, and transfer of letters patent or registrations thereon with the same legal force and effect as if originally executed by me. Executive hereby waives and irrevocably quitclaims to the Company any and all claims, of any nature whatsoever, that Executive now or hereafter have for past, present, or future infringement of any and all proprietary rights assigned to the Company.

(d) Non-Solicitation. During the Term of Employment and the Post-Termination Restricted Period, Executive will not directly or indirectly (i) solicit from any Protected Customer any business that is comparable or similar to any products or services provided by the Company; (ii) request or advise any Protected Customer to curtail, cancel, or withdraw its business from the Company; (iii) aid in any way any other entity in obtaining business from Protected Customer that is comparable or similar to any products or services provided by the Company; or (iv) otherwise interfere with any transaction, agreement, business relationship, and/or business opportunity between the Company and any customer or potential customer of the Company. "Protected Customer" means any person or entity who was or is a customer or potential customer of the Company at any time during Executive's employment with the Company and (a) with whom Executive dealt on behalf of the Company or a Company affiliate; (b) whose dealings with the Company or a Company affiliate were coordinated or supervised by Executive; (c) about whom Executive obtained Proprietary Information as a result of Executive's association with the Company or a Company affiliate; (d) to whom Executive provided services or (e) who received products or services the sale or provision of which resulted in compensation, commissions or earnings for Executive.

(e) Non-Interference. During the Term of Employment and the Post-Termination Restricted Period, Executive shall not, directly or indirectly for Executive's own account or for the account of any other Person, engage in Interfering Activities.

(f) Return of Documents. In the event of Executive's termination of employment hereunder for any reason, Executive shall deliver to the Company (and will not keep in Executive's possession, recreate, or deliver to anyone else) any and all Confidential Information and all other documents, materials, information, and property developed by Executive pursuant to Executive's employment hereunder or otherwise belonging to the Company Group.

(g) Independence; Severability; Blue Pencil. Each of the rights enumerated in this Section 9 shall be independent of the others and shall be in addition to and not in lieu of any other rights and remedies available to the Company Group at law or in equity. If any of the provisions of this Section 9 or any part of any of them is hereafter construed or adjudicated to be invalid or unenforceable, the same shall not affect the remainder of this Section 9, which shall be given full effect without regard to the invalid portions. If any of the covenants contained herein are held to be invalid or unenforceable because of the duration of such provisions or the area or scope covered thereby, each of the Company and Executive agree that the court making such determination shall have the power to reduce the duration, scope, and/or area of such provision to the maximum and/or broadest duration, scope, and/or area permissible by law, and in its reduced form said provision shall then be enforceable.



(h) Injunctive Relief. Executive expressly acknowledges that any breach or threatened breach of any of the terms and/or conditions set forth in this Section 9 may result in substantial, continuing, and irreparable injury to the members of the Company Group. Therefore, Executive hereby agrees that, in addition to any other remedy that may be available to the Company, any member of the Company Group shall be entitled to seek injunctive relief, specific performance, or other equitable relief by a court of appropriate jurisdiction in the event of any breach or threatened breach of the terms of this Section 9. Notwithstanding any other provision to the contrary, Executive acknowledges and agrees that the Post-Termination Restricted Period shall be tolled during any period of violation of any of the covenants in this Section 9 and during any other period required for litigation during which the Company or any other member of the Company Group seeks to enforce such covenants against Executive if it is ultimately determined that Executive was in breach of such covenants.

(i) Disclosure of Covenants. As long as it remains in effect, Executive will disclose the existence of the covenants contained in this Section 9 to any prospective employer, partner, co-venturer, investor, or lender prior to entering into an employment, partnership, or other business relationship with such Person or entity.

#### Section 10. **Representations and Warranties of Executive.**

Executive represents and warrants to the Company that:

(a) Executive is entering into this Agreement voluntarily and that Executive's employment hereunder and compliance with the terms and conditions hereof will not conflict with or result in the breach by Executive of any agreement to which Executive is a party or by which Executive may be bound;

(b) Executive has not violated, and in connection with Executive's employment with the Company will not violate, any non-solicitation, non-competition, or other similar covenant or agreement with any Person by which Executive is or may be bound;

(c) In connection with Executive's employment with the Company, Executive will not use any confidential or proprietary information Executive may have obtained in connection with employment or service with any prior service recipient; and

(d) Executive has not been terminated from any prior employer or service recipient, or otherwise disciplined in connection any such relationship, in connection with, or as a result of, any claim of workplace sexual harassment or sex or gender discrimination, and to Executive's knowledge, Executive has not been the subject of any investigation, formal allegation, civil or criminal complaint, charge, or settlement regarding workplace sexual harassment or sex or gender discrimination.

**Section 11. Indemnification.**

The Company agrees during and after Executive's employment to indemnify and hold harmless Executive to the fullest extent permitted by the organizational documents of the Company, or if greater, in accordance with applicable law regarding indemnification, for actions or inactions of Executive in accordance with Executive's performance of his duties under this Agreement, as an officer, director, employee or agent of the Company or any affiliate thereof or as a fiduciary of any benefit plan of any of the foregoing. The Company also agrees to provide Executive with directors' and officers' liability insurance coverage both during and after Executive's employment with regard to matters occurring during employment, or while serving on the governing body of the Company, or any affiliate thereof, which coverage will be at a level at least equal to the greatest level being maintained at such time for any current officer or director and shall continue until such time as suits can no longer be brought against Executive as a matter of law. Executive will be entitled to advancement of expenses from the Company or its applicable subsidiaries in connection with any claim in the same manner and to the same extent to which any other officer or director of the Company is entitled.

**Section 12. Taxes.**

The Company may withhold from any payments made under this Agreement or otherwise made in connection with Executive's employment hereunder, all applicable taxes, including but not limited to income, employment, and social insurance taxes, as shall be required by law. If any such taxes are paid or advanced by the Company on behalf of Executive, Executive shall remain responsible for, and shall repay, such amounts to the Company, promptly following notice thereof by the Company. Executive acknowledges and represents that the Company has not provided any tax advice to Executive in connection with this Agreement and that Executive has been advised by the Company to seek tax advice from Executive's own tax advisors regarding this Agreement and payments that may be made to Executive pursuant to this Agreement, including specifically, the application of the provisions of Section 409A of the Code to such payments.

**Section 13. Set Off; Mitigation.**

The Company's obligation to pay Executive the amounts provided and to make the arrangements provided hereunder shall not be subject to set-off, counterclaim, or recoupment of amounts owed by Executive to the Company or its affiliates Executive shall not be required to mitigate the amount of any payment provided pursuant to this Agreement by seeking other employment or otherwise, and the amount of any payment provided for pursuant to this Agreement shall not be reduced by any compensation earned as a result of Executive's other employment or otherwise.

Section 14. **Additional Section 409A Provisions.**

Notwithstanding any provision in this Agreement to the contrary:

(a) Any payment otherwise required to be made hereunder to Executive at any date as a result of the termination of Executive's employment shall be delayed for such period of time as may be necessary to meet the requirements of Section 409A(a)(2)(B)(i) of the Code (the "Delay Period"). On the first business day following the expiration of the Delay Period, Executive shall be paid, in a single cash lump sum, an amount equal to the aggregate amount of all payments delayed pursuant to the preceding sentence, and any remaining payments not so delayed shall continue to be paid pursuant to the payment schedule set forth herein.

(b) Each payment in a series of payments hereunder shall be deemed to be a separate payment for purposes of Section 409A of the Code.

(c) Notwithstanding anything herein to the contrary, the payment (or commencement of a series of payments) hereunder of any nonqualified deferred compensation (within the meaning of Section 409A of the Code) upon a termination of employment shall be delayed until such time as Executive has also undergone a "separation from service" as defined in Treas. Reg. 1.409A-1(h), at which time such nonqualified deferred compensation (calculated as of the date of Executive's termination of employment hereunder) shall be paid (or commence to be paid) to Executive on the schedule set forth in Section 7 as if Executive had undergone such termination of employment (under the same circumstances) on the date of Executive's ultimate "separation from service."

(d) To the extent that any right to reimbursement of expenses or payment of any benefit in-kind under this Agreement constitutes nonqualified deferred compensation (within the meaning of Section 409A of the Code), (i) any such expense reimbursement shall be made by the Company no later than the last day of the taxable year following the taxable year in which such expense was incurred by Executive, (ii) the right to reimbursement or in-kind benefits shall not be subject to liquidation or exchange for another benefit, and (iii) the amount of expenses eligible for reimbursement or in-kind benefits provided during any taxable year shall not affect the expenses eligible for reimbursement or in-kind benefits to be provided in any other taxable year; *provided, however*, that the foregoing clause shall not be violated with regard to expenses reimbursed under any arrangement covered by Section 105(b) of the Code solely because such expenses are subject to a limit related to the period the arrangement is in effect.

(e) While the payments and benefits provided hereunder are intended to be structured in a manner to avoid the implication of any penalty taxes under Section 409A of the Code, and shall be interpreted in accordance therewith, in no event whatsoever shall any member of the Company Group be liable for any additional tax, interest, or penalties that may be imposed on Executive as a result of Section 409A of the Code or any damages for failing to comply with Section 409A of the Code (other than for withholding obligations or other obligations applicable to employers, if any, under Section 409A of the Code).

#### Section 15. **Successors and Assigns; No Third-Party Beneficiaries.**

(a) The Company. This Agreement shall inure to the benefit of the Company and its respective successors and assigns. Neither this Agreement nor any of the rights, obligations, or interests arising hereunder may be assigned by the Company to a Person (other than another member of the Company Group, or its or their respective successors) without Executive's prior written consent (which shall not be unreasonably withheld, delayed, or conditioned); *provided, however*, that in the event of a sale of all or substantially all of the assets of the Company or any direct or indirect division or subsidiary thereof to which Executive's employment primarily relates, the Company may provide that this Agreement will be assigned to, and assumed by, the acquiror of such assets, division or subsidiary, as applicable, without Executive's consent. Any successor to the Company (whether direct or indirect and whether by purchase, lease, merger, consolidation, liquidation or otherwise) to all or substantially all of the Company's business and/or assets or otherwise pursuant to a Change of Control shall assume the Company's obligations under this Agreement and shall agree expressly in writing to perform the Company's obligations under this Agreement in the same manner and to the same extent as the Company would be required to perform such obligations in the absence of a succession. For all purposes under this Agreement, the term "Company" shall include any successor to the Company's business and/or assets (including any parent company to the Company), whether or not in connection with a Change of Control, which becomes bound by the terms of this Agreement by operation of law or otherwise.

(b) Executive. Executive's rights and obligations under this Agreement shall not be transferable by Executive by assignment or otherwise, without the prior written consent of the Company; *provided, however*, that if Executive shall die, all amounts then payable to Executive hereunder shall be paid in accordance with the terms of this Agreement to Executive's devisee, legatee, or other designee, or if there be no such designee, to Executive's estate.

(c) No Third-Party Beneficiaries. Except as otherwise set forth in Section 7(c) or Section 15(b) hereof, nothing expressed or referred to in this Agreement will be construed to give any Person other than the Company, the other members of the Company Group, and Executive any legal or equitable right, remedy, or claim under or with respect to this Agreement or any provision of this Agreement.

#### Section 16. **Waiver and Amendments.**

Any waiver, alteration, amendment, or modification of any of the terms of this Agreement shall be valid only if made in writing and signed by each of the parties hereto; *provided, however*, that any such waiver, alteration, amendment, or modification must be consented to on the Company's behalf by the Board. No waiver by either of the parties hereto of their rights hereunder shall be deemed to constitute a waiver with respect to any subsequent occurrences or transactions hereunder unless such waiver specifically states that it is to be construed as a continuing waiver.

#### Section 17. **Severability.**

If any covenants or such other provisions of this Agreement are found to be invalid or unenforceable by a final determination of a court of competent jurisdiction, (a) the remaining terms and provisions hereof shall be unimpaired, and (b) the invalid or unenforceable term or provision hereof shall be deemed replaced by a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision hereof.

**Section 18. Governing Law; Waiver of Jury Trial; Arbitration.**

THIS AGREEMENT IS GOVERNED BY AND IS TO BE CONSTRUED UNDER THE LAWS OF THE STATE OF DELAWARE. EACH PARTY TO THIS AGREEMENT ALSO HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY IN CONNECTION WITH ANY SUIT, ACTION, OR PROCEEDING UNDER OR IN CONNECTION WITH THIS AGREEMENT. Except as permitted under Section 9 hereof, any controversy or claim arising out of or relating to this Agreement (or the breach thereof) shall be settled by final, binding and non-appealable arbitration in New Castle County, Delaware by a single arbitrator. The arbitration shall be conducted by JAMS pursuant to its Employment Arbitration Rules and Procedures and subject to JAMS Policy on Employment Arbitration in accordance with its Employment Arbitration Rules and Procedures then in effect. Judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. The arbitrators shall have the authority to award any remedy or relief that a court of competent jurisdiction could order or grant, including, without limitation, the issuance of an injunction. However, either party may, without inconsistency with this arbitration provision, apply to any court having jurisdiction over such dispute or controversy and seek interim provisional, injunctive or other equitable relief until the arbitration award is rendered or the controversy is otherwise resolved, or permanent injunctive relief. Except as necessary in court proceedings to enforce this arbitration provision or an award rendered hereunder, to obtain interim relief or as otherwise required by law, neither a party nor an arbitrator may disclose the content or results of any arbitration hereunder without the prior written consent of the Company and Executive, other than general statements. The fees charged by JAMS and any arbitrator shall be split equally between the parties to the arbitration.

**Section 19. Notices.**

All notices and other communications required or permitted under this Agreement which are addressed as provided in this Section 19, (A) if delivered personally against proper receipt shall be effective upon delivery and (B) if sent (x) by certified or registered mail with postage prepaid or (y) by Federal Express or similar courier service with courier fees paid by the sender, shall be effective upon receipt. The parties hereto may from time to time change their respective addresses for the purpose of notices to that party by a similar notice specifying a new address, but no such change shall be deemed to have been given unless it is sent and received in accordance with this Section 19.

If to the Company:

Blue Water Biotech, Inc.  
201 E. Fifth Street, Suite 1900

Cincinnati, Ohio 45202  
Attn: Chief Executive Officer

With copy to:

Barry I. Grossman, Esq.  
Ellenoff Grossman & Schole LLP  
1345 Avenue of the Americas, 11<sup>th</sup> Floor  
New York, New York 10105

If to Executive:

To the most recent address of Executive set forth in the personnel records of the Company.

**Section 20. Section Headings.**

The headings of the sections and subsections of this Agreement are inserted for convenience only and shall not be deemed to constitute a part thereof or affect the meaning or interpretation of this Agreement or of any term or provision hereof.

**Section 21. Entire Agreement.**

This Agreement, together with any exhibits attached hereto, constitutes the entire understanding and agreement of the parties hereto regarding the employment of Executive. This Agreement supersedes all prior negotiations, discussions, correspondence, communications, understandings, and agreements between the parties relating to the subject matter of this Agreement, including, without limitation, the Prior Agreement.

**Section 22. Survival of Operative Sections.**

Upon any termination of Executive's employment, the provisions of Section 7 through Section 23 of this Agreement (together with any related definitions set forth on Appendix A) shall survive to the extent necessary to give effect to the provisions thereof.

**Section 23. Counterparts.**

This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The execution of this Agreement may be by actual or facsimile signature.

[Signatures to appear on the following page.]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first above written.

BLUE WATER BIOTECH, INC.

/s/ Erin Henderson

By: Erin Henderson

Title: Chief Business Officer

EXECUTIVE

/s/ Bruce Harmon

Bruce Harmon

## APPENDIX A

### Definitions

(a) “Accrued Obligations” shall mean (i) all accrued but unpaid Base Salary through the date of termination of Executive’s employment, (ii) any unpaid or unreimbursed expenses incurred in accordance with Section 6 hereof, (iii) an amount equal to Executive’s accrued, but unused vacation days, multiplied by the quotient of Executive’s Annual Salary divided by 2,080 hours) in accordance with the Company’s vacation policies in effect from time to time, and (iv) any benefits provided under the Company’s employee benefit plans upon a termination of employment, including rights with respect to equity participation under the Equity Documents, in accordance with the terms contained therein.

(b) “Board” shall mean the Board of Directors of the Company.

(c) “Business” shall mean any business activities related to the Company Group’s commercial products and transformational vaccines to address significant health challenges, including but not limited to a universal influenza vaccine, or any other current or demonstrably planned business activities of the Company Group.

(d) “Business Relation” shall mean any current or prospective client, customer, licensee, supplier, or other business relation of the Company Group, or any such relation that was a client, customer, licensee or other business relation within the prior six (6) month period, in each case, with whom Executive transacted business or whose identity became known to Executive in connection with Executive’s employment hereunder.

(e) “Cause” shall mean (i) Executive’s act(s) of gross negligence or willful misconduct in the course of Executive’s employment hereunder, (ii) willful failure or refusal by Executive to perform in any material respect Executive’s duties or responsibilities, (iii) misappropriation (or attempted misappropriation) by Executive of any assets or business opportunities of the Company or any other member of the Company Group, (iv) embezzlement or fraud committed (or attempted) by Executive, or at Executive’s direction, (v) Executive’s conviction of, indictment for, or pleading “guilty” or “no contest” to, (x) a felony or (y) any other criminal charge that has, or could be reasonably expected to have, an adverse impact on the performance of Executive’s duties to the Company or any other member of the Company Group or otherwise result in material injury to the reputation or business of the Company or any other member of the Company Group, (vi) any material violation by Executive of the policies of the Company, including but not limited to those relating to sexual harassment or business conduct, and those otherwise set forth in the manuals or statements of policy of the Company, or (vii) Executive’s material breach of this Agreement.

(f) “Code” shall mean the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder.

(g) “Company Group” shall mean the Company together with any of its direct or indirect subsidiaries.

(h) “Compensation Committee” shall mean the Compensation Committee of the Board.



(i) “Confidential Information” means information that the Company Group has or will develop, acquire, create, compile, discover, or own, that has value in or to the business of the Company Group that is not generally known and that the Company wishes to maintain as confidential. Confidential Information includes, but is not limited to, any and all non-public information that relates to the actual or anticipated business and/or products, research, or development of the Company Group, or to the Company Group’s technical data, trade secrets, or know-how, including, but not limited to, research, plans, or other information regarding the Company Group’s products or services and markets, customer lists, and customers (including, but not limited to, customers of the Company on whom Executive called or with whom Executive may become acquainted during the Term of Employment), software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances, and other business information disclosed by the Company either directly or indirectly in writing, orally, or by drawings or inspection of premises, parts, equipment, or other Company Group property. Notwithstanding the foregoing, Confidential Information shall not include any of the foregoing items that have become publicly and widely known through no unauthorized disclosure by Executive or others who were under confidentiality obligations as to the item or items involved.

(j) “Disability” shall mean any physical or mental disability or infirmity of Executive that prevents the performance of Executive’s duties for a period of (i) ninety (90) consecutive days or (ii) one hundred eighty (180) non-consecutive days during any twelve (12) month period. Any question as to the existence, extent, or potentiality of Executive’s Disability upon which Executive and the Company cannot agree shall be determined by a qualified, independent physician selected by the Company and approved by Executive (which approval shall not be unreasonably withheld, delayed or conditioned). The determination of any such physician shall be final and conclusive for all purposes of this Agreement

(k) “Good Reason” shall mean, without Executive’s consent, (i) a material demotion in Executive’s title, duties, or responsibilities as set forth in Section 3 hereof, (ii) a material reduction in Base Salary set forth in Section 4(a) hereof or Target Annual Bonus opportunity set forth in Section 4(b) hereof (other than pursuant to an across-the-board reduction applicable to all similarly situated executives), or (iii) any other material breach of a provision of this Agreement by the Company (other than a provision that is covered by clause (i) or (ii) above). Executive acknowledges and agrees that Executive’s exclusive remedy in the event of any breach of this Agreement shall be to assert Good Reason pursuant to the terms and conditions of Section 7(f) hereof. Notwithstanding the foregoing, during the Term of Employment, in the event that the Board reasonably believes that Executive may have engaged in conduct that could constitute Cause hereunder, the Board may, in its sole and absolute discretion, suspend Executive from performing Executive’s duties hereunder, and in no event shall any such suspension constitute an event pursuant to which Executive may terminate employment with Good Reason or otherwise constitute a breach hereunder; *provided*, that no such suspension shall alter the Company’s obligations under this Agreement during such period of suspension.

(l) “Interfering Activities” shall mean (A) recruiting, encouraging, soliciting, or inducing, or in any manner attempting to recruit, encourage, solicit, or induce, any Person employed by, or providing consulting services to, any member of the Company Group to terminate such Person’s employment or services (or in the case of a consultant, materially reducing such services) with the Company Group, (B) hiring, or engaging any individual who was employed by or providing services to the Company Group within the six (6) month period prior to the date of such hiring or engagement, or (C) encouraging, soliciting, or inducing, or in any manner attempting to encourage, solicit, or induce, any Business Relation to cease doing business with or reduce the amount of business conducted with the Company Group, or in any way interfering with the relationship between any such Business Relation and the Company Group.

(m) “Person” shall mean any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust (charitable or non-charitable), unincorporated organization, or other form of business entity.

(n) “Post-Termination Restricted Period” shall mean the period commencing on the date of the termination of the Employment Period for any reason and ending on the [•] month anniversary of such date of termination.

(o) “Release of Claims” shall mean the Release of Claims in substantially the same form attached hereto as Exhibit A (as the same may be revised from time to time by the Company upon the advice of counsel).

## **Appendix B**

### **Permitted Activities**

The Company acknowledges and agrees that Executive has notified the Company that he serves as an officer, director, member or manager of the following business entities, and agrees that Executive may continue to do so during the Term of this Agreement, notwithstanding anything in Section 3(b) or other provisions of the Agreement to the contrary:

Lakeport Business Services, Inc., President and Owner

Dale Biotech LLC, Director

Patriax Industries, Director

Executive shall not make use of any personnel or other resources of the Company in performing his duties for, any such non-competing business or other organization.

The Company acknowledges that Executive has personal investments in a variety of other real estate and business entities, will be permitted to make additional similar investments in other non-competing entities in the future, and may devote reasonable time to management of such personal investments, provided that Executive shall not serve as an employee, officer or manager of such other business entities and further provided that the time and effort Executive devotes to managing personal investments does not materially interfere, individually or in the aggregate, with the performance of Executive's duties and responsibilities to the Company under this Agreement.

## EXHIBIT A

### RELEASE OF CLAIMS

As used in this Release of Claims (this “Release”), the term “claims” will include all claims, covenants, warranties, promises, undertakings, actions, suits, causes of action, obligations, debts, accounts, attorneys’ fees, judgments, losses, and liabilities, of whatsoever kind or nature, in law, in equity, or otherwise.

For and in consideration of the Severance Benefits, and other good and valuable consideration, I, Bruce Harmon for and on behalf of myself and my heirs, administrators, executors, and assigns, effective the date on which this release becomes effective pursuant to its terms, do fully and forever release, remise, and discharge each of the Company and each of its direct and indirect subsidiaries and affiliates, together with their respective officers, directors, partners, shareholders, employees, and agents (collectively, the “Group”) from any and all claims whatsoever up to the date hereof that I had, may have had, or now have against the Group, for or by reason of any matter, cause, or thing whatsoever, including any claim arising out of or attributable to my employment or the termination of my employment with the Company, whether for tort, breach of express or implied employment contract, intentional infliction of emotional distress, wrongful termination, unjust dismissal, defamation, libel, or slander, or under any federal, state, or local law dealing with discrimination based on age, race, sex, national origin, handicap, religion, disability, or sexual orientation. This release of claims includes, but is not limited to, all claims arising under the Age Discrimination in Employment Act (“ADEA”), Title VII of the Civil Rights Act, the Americans with Disabilities Act, the Civil Rights Act of 1991, the Family Medical Leave Act, and the Equal Pay Act, each as may be amended from time to time, and all other federal, state, and local laws, the common law, and any other purported restriction on an employer’s right to terminate the employment of employees. The release contained herein is intended to be a general release of any and all claims to the fullest extent permissible by law.

I acknowledge and agree that as of the date I execute this Release, I have no knowledge of any facts or circumstances that give rise or could give rise to any claims under any of the laws listed in the preceding paragraph.

By executing this Release, I specifically release all claims relating to my employment and its termination under ADEA, a United States federal statute that, among other things, prohibits discrimination on the basis of age in employment and employee benefit plans.

Notwithstanding any provision of this Release to the contrary, by executing this Release, I am not releasing (i) any claims relating to my rights under Section 7 of the Employment Agreement, (ii) any claims that cannot be waived by law, or (iii) my right of indemnification as provided by, and in accordance with the terms of, the Company’s by-laws or a Company insurance policy providing such coverage, as any of such may be amended from time to time.

I expressly acknowledge and agree that I –

- Am able to read the language, and understand the meaning and effect, of this Release;
- Have no physical or mental impairment of any kind that has interfered with my ability to read and understand the meaning of this Release or its terms, and that I am not acting under the influence of any medication, drug, or chemical of any type in entering into this Release;

- Am specifically agreeing to the terms of the release contained in this Release because the Company has agreed to pay me the Severance Benefits in consideration for my agreement to accept it in full settlement of all possible claims I might have or ever had, and because of my execution of this Release;
- Acknowledge that, but for my execution of this Release, I would not be entitled to the Severance Benefits;
- Understand that, by entering into this Release, I do not waive rights or claims under ADEA that may arise after the date I execute this Release;
- Had or could have [twenty-one (21)][forty-five (45)]<sup>1</sup> days from the date of my termination of employment (the “Release Expiration Date”) in which to review and consider this Release, and that if I execute this Release prior to the Release Expiration Date, I have voluntarily and knowingly waived the remainder of the review period;
- Have not relied upon any representation or statement not set forth in this Release or my Employment Agreement made by the Company or any of its representatives;
- Was advised to consult with my attorney regarding the terms and effect of this Release; and
- Have signed this Release knowingly and voluntarily.

I represent and warrant that I have not previously filed, and to the maximum extent permitted by law agree that I will not file, a complaint, charge, or lawsuit against any member of the Group regarding any of the claims released herein. If, notwithstanding this representation and warranty, I have filed or file such a complaint, charge, or lawsuit, I agree that I shall cause such complaint, charge, or lawsuit to be dismissed with prejudice and shall pay any and all costs required in obtaining dismissal of such complaint, charge, or lawsuit, including without limitation the attorneys’ fees of any member of the Group against whom I have filed such a complaint, charge, or lawsuit. This paragraph shall not apply, however, to a claim of age discrimination under ADEA or to any non-waivable right to file a charge with the United States Equal Employment Opportunity Commission (the “EEOC”); *provided, however*, that if the EEOC were to pursue any claims relating to my employment with Company, I agree that I shall not be entitled to recover any monetary damages or any other remedies or benefits as a result and that this Release and the Severance Benefits will control as the exclusive remedy and full settlement of all such claims by me.

Nothing in this Release shall prohibit or impede me from communicating, cooperating or filing a complaint with any Governmental Entity with respect to possible violations of any U.S. federal, state or local law or regulation, or otherwise making disclosures to any Governmental Entity, in each case, that are protected under the whistleblower provisions of any such law or regulation; provided, that in each case such communications and disclosures are consistent with applicable law. I understand and acknowledge that an individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made (1) in confidence to a federal, state, or local government official or to an attorney solely for the purpose of reporting or investigating a suspected violation of law, or (2) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. I understand and acknowledge further that an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual files any document containing the trade secret under seal; and does not disclose the trade secret, except pursuant to court order. Except as otherwise provided in this paragraph or under applicable law, under no circumstance am I authorized to disclose any information covered by the Company’s attorney-client privilege or attorney work product, or the Company’s trade secrets, without the prior written consent of the Company’s Chief Executive Officer or another executive officer designated by the Board. I do not need the prior authorization of (or to give notice to) any member of the Company Group regarding any communication, disclosure, or activity permitted by this paragraph.

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<sup>1</sup> To be selected based on whether applicable termination was “in connection with an exit incentive or other employment termination program” (as such phrase is defined in the Age Discrimination in Employment Act of 1967).

I hereby agree to waive any and all claims to re-employment with the Company or any other member of the Company Group (as defined in my Employment Agreement) and affirmatively agree not to seek further employment with the Company or any other member of the Company Group.

Notwithstanding anything contained herein to the contrary, this Release will not become effective or enforceable prior to the expiration of the period of seven (7) calendar days following the date of its execution by me (the "Revocation Period"), during which time I may revoke my acceptance of this Release by notifying the Company and the Board of Directors of the Company, in writing, delivered to the Company at its principal executive office, marked for the attention of its Chief Executive Officer. To be effective, such revocation must be received by the Company no later than 11:59 p.m. on the seventh (7<sup>th</sup>) calendar day following the execution of this Release. Provided that the Release is executed and I do not revoke it during the Revocation Period, the eighth (8<sup>th</sup>) day following the date on which this Release is executed shall be its effective date. I acknowledge and agree that if I revoke this Release during the Revocation Period, this Release will be null and void and of no effect, and neither the Company nor any other member of the Company will have any obligations to pay me the Severance Benefits.

The provisions of this Release shall be binding upon my heirs, executors, administrators, legal personal representatives, and assigns. If any provision of this Release shall be held by any court of competent jurisdiction to be illegal, void, or unenforceable, such provision shall be of no force or effect. The illegality or unenforceability of such provision, however, shall have no effect upon and shall not impair the enforceability of any other provision of this Release.

EXCEPT WHERE PREEMPTED BY FEDERAL LAW, THIS RELEASE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH FEDERAL LAW AND THE LAWS OF THE STATE OF DELAWARE, APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED IN THAT STATE WITHOUT GIVING EFFECT TO THE PRINCIPLES OF CONFLICTS OF LAWS. I HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN CONNECTION WITH ANY SUIT, ACTION, OR PROCEEDING UNDER OR IN CONNECTION WITH THIS RELEASE.

Capitalized terms used, but not defined herein, shall have the meanings ascribed to such terms in my Employment Agreement, dated October 4, 2023, with the Company (the "Employment Agreement").

/s/ Bruce Harmon  
\_\_\_\_\_

Bruce Harmon

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

**EXHIBIT B**  
**INDEMNIFICATION AGREEMENT**

## INDEMNIFICATION AGREEMENT

This Indemnification Agreement (“**Agreement**”) is entered into as of the [ ] day of [ ] by and between Blue Water Biotech, Inc., (the “**Company**”), and [ ] (“**Indemnitee**”).

RECITALS

A. The Company and Indemnitee recognize the challenges in obtaining liability insurance at the necessary level required for coverage of a NASDAQ Company for the Company’s directors and officers, the significant increases in cost of such insurance and the general reductions in the coverage of such insurance.

B. The Company and Indemnitee further recognize, currently, the substantial increase in corporate litigation in general, subjecting directors and officers to expensive litigation risks at the same time as the availability and coverage of liability insurance has been severely limited.

C. The Company desires to attract and retain the services of highly qualified individuals, such as Indemnitee, to serve the Company and, in part, in order to induce Indemnitee to continue to provide services to the Company, wishes to provide for the indemnification and advancing of expenses to Indemnitee to the maximum extent permitted by law.

D. In view of the considerations set forth above, the Company desires that Indemnitee be indemnified by the Company as set forth herein.

NOW, THEREFORE, the Company and Indemnitee hereby agree as follows:

AGREEMENT1. Indemnification.

(a) Indemnification of Expenses. The Company shall indemnify Indemnitee to the fullest extent permitted by law if Indemnitee was or is or becomes a party to or witness or other participant in, or is threatened to be made a party to or witness or other participant in, any threatened, pending or completed action, suit, proceeding or alternative dispute resolution mechanism, or any hearing, inquiry or investigation that Indemnitee in good faith believes might lead to the institution of any such action, suit, proceeding or alternative dispute resolution mechanism, whether civil, criminal, administrative, investigative or other (hereinafter a “**Claim**”) by reason of (or arising in part out of) any event or occurrence related to the fact that Indemnitee is or was a director or officer of the Company, or any subsidiary of the Company, or is or was serving at the request of the Company as a director, officer, employee, agent or fiduciary of another corporation, partnership, joint venture, trust or other enterprise, or by reason of any action or inaction on the part of Indemnitee while serving in such capacity (hereinafter an “**Indemnifiable Event**”) against any and all expenses (including reasonable attorneys’ fees and all other costs, expenses and obligations incurred in connection with investigating, defending, being a witness in or participating in (including on appeal), or preparing to defend, be a witness in or participate in, any such action, suit, proceeding, alternative dispute resolution mechanism, hearing, inquiry or investigation), losses, claims, damages, liabilities, judgments, fines, penalties and amounts paid in settlement (if such settlement is approved in advance by the Company, which approval shall not be unreasonably withheld) of such Claim and any federal, state, local or foreign taxes imposed on Indemnitee as a result of the actual or deemed receipt of any payments under this Agreement, including all interest, assessments and other charges paid or payable in connection with or in respect of such Expenses (collectively, hereinafter “**Expenses**”) if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action, suit or proceeding, Indemnitee had no reasonable cause to believe Indemnitee’s conduct was unlawful.

(b) Mandatory Payment of Expenses. Notwithstanding any other provision of this Agreement other than Section 7 hereof, to the extent that Indemnitee has been successful on the merits or otherwise, including, without limitation, the dismissal of a Claim without prejudice, in defense of any Claim referred to in Section (1)(a) hereof or in the defense of any Claim, issue or matter therein, Indemnitee shall be indemnified against all Expenses incurred by Indemnitee in connection therewith.

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## 2. Expenses; Indemnification Procedure.

(a) Advancement of Expenses. The Company shall pay all Expenses incurred by Indemnitee in connection with the investigation, defense, settlement or appeal of any civil or criminal Claim referenced in Section 1(a) hereof in advance of the final disposition of such Claim. Indemnitee shall deliver to the Company an Undertaking, substantially in the form of Exhibit A hereto, whereby Indemnitee undertakes to repay such amounts advanced only if, and to the extent that, it shall ultimately be determined that Indemnitee is not entitled to be indemnified by the Company as authorized hereby. The advances to be made hereunder shall be paid by the Company to Indemnitee following a request therefor, but in any event no later than forty-five days after receipt by the Company of written demand from Indemnitee for such advances.

(b) Notice/Cooperation by Indemnitee. Indemnitee shall, as a condition precedent to Indemnitee's right to be indemnified under this Agreement, give the Company notice in writing as soon as practicable of any Claim made against Indemnitee for which indemnification or advancement will or could be sought under this Agreement. Notice to the Company shall be directed to the General Counsel of the Company at the address shown on the signature page of this Agreement (or such other address as the Company shall designate in writing to Indemnitee). The failure to promptly notify the Company of the commencement of the action, suit or proceeding, or of Indemnitee's request for indemnification, will not relieve the Company from any liability that it may have to Indemnitee hereunder or otherwise, except to the extent the Company is actually and materially prejudiced in its defense of such action, suit or proceeding as a result of such failure or delay, and any such failure or delay shall not constitute a waiver by Indemnitee of any rights under this Agreement or otherwise. To obtain indemnification under this Agreement, Indemnitee shall submit to the Company a written request therefor including such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to enable the Company to determine whether and to what extent Indemnitee is entitled to indemnification.

(c) Procedure. Any indemnification and advances of Expenses provided for in Section 1 and Section 2 of this Agreement shall be paid by the Company to Indemnitee within thirty (30) days after receipt of written request from Indemnitee for such indemnification or advances along with appropriate written documentation verifying such Expenses, but in any event no later than forty-five days after receipt of such request. Upon written request by Indemnitee for indemnification pursuant to Section 2(b) hereof, a determination (a "**Determination**") with respect to Indemnitee's entitlement thereto shall be made in the specific case by one of the following four methods, which shall be at the election of the Board: (1) by a majority vote of the disinterested directors, even though less than a quorum, (2) by a committee of disinterested directors designated by a majority vote of the disinterested directors, even though less than a quorum, (3) if there are no disinterested directors or if the disinterested directors so direct, by Independent Counsel (as hereinafter defined) in a written opinion to the Board, a copy of which shall be delivered to the Indemnitee, or (4) if so directed by the Board, by the stockholders of the Company. For purposes hereof, disinterested directors are those members of the Board who are not parties to the action, suit or proceeding in respect of which indemnification is sought by Indemnitee.

For purposes of this Agreement, "**Independent Counsel**" means a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the past five years has been, retained to represent: (i) the Company or Indemnitee in any matter material to either such party (other than with respect to matters concerning Indemnitee under this Agreement, or of other indemnitees under similar indemnification agreements), or (ii) any other party to the proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term "Independent Counsel" shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee's rights under this Agreement. The Company agrees to pay the reasonable fees of the Independent Counsel referred to above and to fully indemnify such counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

(d) If the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 2(c) hereof, the Independent Counsel shall be selected as provided in this Section 2(d). The Independent Counsel shall be selected by the Board and written notice of such selection shall be given to Indemnitee. Indemnitee may, within ten (10) days after such written notice of selection shall have been given, deliver to the Company, a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "Independent Counsel" as defined in Section 2(c) of this Agreement, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If a written objection is made and substantiated, the Independent Counsel selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court has determined that such objection is without merit. If, within twenty (20) days after submission by Indemnitee of a written request for indemnification pursuant to Section 2(b) hereof, no Independent Counsel shall have been selected and not objected to, either the Company or Indemnitee may petition the Court of Chancery of the State of Delaware or other court of competent jurisdiction for resolution of any objection which shall have been made by the Indemnitee to the Company's selection of Independent Counsel and/or for the appointment as Independent Counsel of a person selected by the court or by such other person as the court shall designate, and the person with respect to whom all objections are so resolved or the person so appointed shall act as Independent Counsel under Section 2(c) hereof. The Company shall pay any and all reasonable fees and expenses of Independent Counsel incurred by such Independent Counsel in connection with acting pursuant to Section 2(c) hereof, and the Company shall pay all reasonable fees and expenses incident to the procedures of this Section 2(d), regardless of the manner in which such Independent Counsel was selected or appointed.



(e) If the person, persons or entity empowered or selected under Section 2 to determine whether Indemnitee is entitled to indemnification shall not have made a determination within sixty (60) days after receipt by the Company of the request therefor, the requisite determination of entitlement to indemnification shall be deemed to have been made and Indemnitee shall be entitled to such indemnification absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law; provided, however, that such sixty (60)-day period may be extended for a reasonable time, not to exceed an additional thirty (30) days, if the person, persons or entity making such determination with respect to entitlement to indemnification in good faith requires such additional time to obtain or evaluate documentation and/or information relating thereto; and provided, further, that the foregoing provisions of this Section 2(e) shall not apply if the determination of entitlement to indemnification is to be made by the stockholders pursuant to Section 2(c) of this Agreement and if (A) within fifteen (15) days after receipt by the Company of the request for such determination, the Board or the disinterested directors, if appropriate, resolve to submit such determination to the stockholders for their consideration at an annual meeting thereof to be held within seventy-five (75) days after such receipt and such determination is made thereat, or (B) a special meeting of stockholders is called within fifteen (15) days after such receipt for the purpose of making such determination, such meeting is held for such purpose within sixty (60) days after having been so called and such determination is made thereat.

(f) Indemnitee shall cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination. Any Independent Counsel, member of the Board or stockholder of the Company shall act reasonably and in good faith in making a determination regarding the Indemnitee's entitlement to indemnification under this Agreement. Any costs or expenses (including attorneys' fees and disbursements) incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company hereby indemnifies and agrees to hold Indemnitee harmless therefrom.

(g) No Presumptions. For purposes of this Agreement, the termination of any Claim by judgment, order, settlement (whether with or without court approval) or conviction, or upon a plea of nolo contendere, or its equivalent, shall not create a presumption that Indemnitee did not meet any particular standard of conduct or have any particular belief or that a court has determined that indemnification is not permitted by applicable law. In addition, neither the failure of the Company (including its Board of Directors, any committee or subgroup of the Board of Directors, independent legal counsel, or its stockholders) to have made a determination that indemnification of Indemnitee is proper in the circumstances because Indemnitee has met the applicable standard of conduct required by applicable law, nor an actual determination by the Company (including its Board of Directors, any committee or subgroup of the Board of Directors, independent legal counsel, or its stockholders) that Indemnitee has not met such applicable standard of conduct, shall create a presumption that Indemnitee has or has not met the applicable standard of conduct.

(h) Burden of Proof. In a Determination, the burden of proof shall be on the Company to establish that Indemnitee is not entitled to indemnification or advances.

(i) Notice to Insurers. If, at the time of the receipt by the Company of a notice of a Claim pursuant to Section 2(b) hereof, the Company has liability insurance in effect which may cover such Claim, the Company shall give prompt notice of the commencement of such Claim to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such Claim in accordance with the terms of such policies.

(j) Selection of Counsel. In the event the Company shall be obligated hereunder to pay the Expenses of any Claim, the Company shall be entitled to assume the defense of such Claim with counsel approved by Indemnitee, which approval shall not be unreasonably withheld, upon the delivery to Indemnitee of written notice of its election so to do. After delivery of such notice, approval of such counsel by Indemnitee and the retention of such counsel by the Company, the Company will not be liable to Indemnitee under this Agreement for any fees of counsel subsequently incurred by Indemnitee with respect to the same Claim. Notwithstanding the Company's assumption of the defense of any Claim, the Company shall be obligated to pay the Expenses of any Claim if (A) the employment of counsel by Indemnitee has been previously authorized by the Company, (B) the Company shall have reasonably concluded that there is a conflict of interest between the Company and Indemnitee in the conduct of any such defense such that Indemnitee needs to be separately represented, or (C) the Company shall not continue to retain counsel to defend such Claim, then the fees and expenses of counsel retained by Indemnitee shall be at the expense of the Company. The Company shall have the right to conduct such defense as it sees fit in its sole discretion, including the right to settle any Claim against Indemnitee without the consent of the Indemnitee; provided, that in no event shall the Company have the right to settle any Claim that imposes non-monetary penalties on Indemnitee without the prior written consent of Indemnitee which may be granted or withheld in Indemnitee's sole discretion.

3. Additional Indemnification Rights; Nonexclusivity.

(a) Scope. The Company hereby agrees to indemnify Indemnitee to the fullest extent permitted by law, notwithstanding that such indemnification is not specifically authorized by the other provisions of this Agreement, the Company's Certificate of Incorporation, the Company's Bylaws or by statute. In the event of any change after the date of this Agreement in any applicable law, statute or rule which expands the right of a Delaware corporation to indemnify a member of its Board of Directors or an officer, employee, agent or fiduciary, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits afforded by such change. In the event of any change in any applicable law, statute or rule which narrows the right of a Delaware corporation to indemnify a member of its Board of Directors or an officer, employee, agent or fiduciary, such change, to the extent not otherwise required by such law, statute or rule to be applied to this Agreement, shall have no effect on this Agreement or the parties' rights and obligations hereunder except as set forth in Section 7(a) hereof.

(b) Nonexclusivity. The indemnification provided by this Agreement shall be in addition to any rights to which Indemnitee may be entitled under the Company's Certificate of Incorporation, its Bylaws, any agreement, any vote of stockholders or disinterested directors, the General Corporation Law of the State of Delaware, or otherwise. The indemnification provided under this Agreement shall continue as to Indemnitee for any action Indemnitee took or did not take while serving in an indemnified capacity even though Indemnitee may have ceased to serve in such capacity.

4. No Duplication of Payments. The Company shall not be liable under this Agreement to make any payment in connection with any Claim made against Indemnitee to the extent Indemnitee has otherwise actually received payment (under any insurance policy, Certificate of Incorporation, Bylaw or otherwise) of the amounts otherwise indemnifiable hereunder.

5. Partial Indemnification. If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for a portion of Expenses incurred in connection with any Claim, but not, however, for the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion of such Expenses to which Indemnitee is entitled.

6. Mutual Acknowledgement. Both the Company and Indemnitee acknowledge that in certain instances, Federal law or applicable public policy may prohibit the Company from indemnifying its directors, officers, employees, agents or fiduciaries under this Agreement or otherwise. Indemnitee understands and acknowledges that the Company has undertaken or may be required in the future to undertake with the Securities and Exchange Commission to submit the question of indemnification to a court in certain circumstances for a determination of the Company's right under public policy to indemnify Indemnitee.

7. Exceptions. Any other provision herein to the contrary notwithstanding, the Company shall not be obligated pursuant to the terms of this Agreement:

(a) Excluded Action or Omissions. To indemnify (i) any Claim by or in the right of the Company as to which Indemnitee shall have been adjudged to be liable to the Company unless and to the extent that the Court of Chancery of the State of Delaware or such other court in which such Claim was brought, shall determine upon application that despite the adjudication of liability, in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnity for such Expenses such court shall deem proper, or (ii) any other acts, omissions or transactions from which Indemnitee may not be relieved of liability under applicable law;

(b) Claims Initiated by Indemnitee. To indemnify or advance expenses to Indemnitee with respect to Claims initiated or brought voluntarily by Indemnitee and not by way of defense, except (i) with respect to Claims brought to establish or enforce a right to indemnification or advancement under this Agreement or any other agreement or insurance policy or under the Company's Certificate of Incorporation or Bylaws, as now or hereafter in effect relating to Claims for Indemnifiable Events, (ii) in specific cases if the Board of Directors has approved the initiation or bringing of such Claim, or (iii) as otherwise required under Section 145 of the Delaware General Corporation Law, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, advance expense payment or insurance recovery, as the case may be;

(c) Claims Under Section 16(b). To indemnify Indemnitee for Expenses and the payment of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 16(b) of the Securities Exchange Act of 1934, as amended, or any similar successor statute.

(d) Disgorgement of Profits and Bonuses Pursuant to Section 304. To indemnify Indemnitee for (i) any bonus or other incentive-based or equity-based compensation received by Indemnitee or (ii) any profits arising from the sale of securities made by Indemnitee that Indemnitee is required pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 to reimburse to the Company.

8. Period of Limitations. No legal action shall be brought and no cause of action shall be asserted by or in the right of the Company against Indemnitee, Indemnitee's estate, spouse, heirs, executors or personal or legal representatives after the expiration of five (5) years from the date of accrual of such cause of action, and any claim or cause of action of the Company shall be extinguished and deemed released unless asserted by the timely filing of a legal action within such five-year period; provided , however , that if any shorter period of limitations is otherwise applicable to any such cause of action, such shorter period shall govern.

9. Construction of Certain Phrases.

(a) For purposes of this Agreement, references to the "Company" shall include, in addition to the resulting corporation, any affiliate, subsidiary, constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees, agents or fiduciaries, so that if Indemnitee is or was a director, officer, employee, agent or fiduciary of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee, agent or fiduciary of another corporation, partnership, joint venture, employee benefit plan, trust or other enterprise, Indemnitee shall stand in the same position under the provisions of this Agreement with respect to the resulting or surviving corporation as Indemnitee would have with respect to such constituent corporation if its separate existence had continued.

(b) For purposes of this Agreement, references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on Indemnitee with respect to an employee benefit plan; and references to "serving at the request of the Company" shall include any service as a director, officer, employee, agent or fiduciary of the Company which imposes duties on, or involves services by, such director, officer, employee, agent or fiduciary with respect to an employee benefit plan, its participants or its beneficiaries; and if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan, Indemnitee shall be deemed to have acted in a manner "not opposed to the best interests of the Company" as referred to in this Agreement.

10. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original.

11. Binding Effect; Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors, assigns, including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business and/or assets of the Company, spouses, heirs, and personal and legal representatives. The Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all, substantially all, or a substantial part, of the business and/or assets of the Company, by written agreement in form and substance satisfactory to Indemnitee, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place. This Agreement shall continue in effect with respect to Claims relating to Indemnifiable Events regardless of whether Indemnitee continues to serve as a director, officer, employee, agent or fiduciary of the Company or of any other enterprise at the Company's request.

12. Notice. All notices and other communications required or permitted hereunder shall be in writing, shall be effective when given, and shall in any event be deemed to be given (a) five (5) days after deposit with the U.S. Postal Service or other applicable postal service, if delivered by first class mail, postage prepaid, (b) upon delivery, if delivered by hand, (c) one business day after the business day of deposit with Federal Express or similar overnight courier, freight prepaid, or (d) one day after the business day of delivery by facsimile transmission with confirmation of receipt, if delivered by facsimile transmission, with copy by first class mail, postage prepaid, and shall be addressed if to Indemnitee, at the Indemnitee address as set forth beneath Indemnitee signatures to this Agreement and if to the Company at the address of its principal corporate offices (attention: Secretary) or at such other address as such party may designate by ten days' advance written notice to the other party hereto.

13. Consent to Jurisdiction. The Company and Indemnitee each hereby irrevocably consent to the jurisdiction of the courts of the State of Delaware for all purposes in connection with any action which arises out of or relates to this Agreement and agree that any action instituted under this Agreement shall be commenced, prosecuted and continued only in the Court of Chancery of the State of Delaware in and for New Castle County, which shall be the exclusive and only proper forum for adjudicating such a claim.

14. Severability. The provisions of this Agreement shall be severable in the event that any of the provisions hereof (including any provision within a single section, paragraph or sentence) are held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, and the remaining provisions shall remain enforceable to the fullest extent permitted by law. Furthermore, to the fullest extent possible, the provisions of this Agreement (including, without limitations, each portion of this Agreement containing any provision held to be invalid, void or otherwise unenforceable, that is not itself invalid, void or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

15. Choice of Law. This Agreement shall be governed by and its provisions construed and enforced in accordance with the laws of the State of Delaware, as applied to contracts between Delaware residents, entered into and to be performed entirely within the State of Delaware, without regard to the conflict of laws principles thereof.

16. Subrogation. In the event of payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee who shall execute all documents required and shall do all acts that may be necessary to secure such rights and to enable the Company effectively to bring suit to enforce such rights.

17. Amendment and Termination. No amendment, modification, termination or cancellation of this Agreement shall be effective unless it is in writing signed by both the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

18. Integration and Entire Agreement. This Agreement sets forth the entire understanding between the parties hereto and supersedes and merges all previous written and oral negotiations, commitments, understandings and agreements relating to the subject matter hereof between the parties hereto.

19. No Construction as Employment Agreement. Nothing contained in this Agreement shall be construed as giving Indemnitee any right to be retained in the employ of the Company or any of its subsidiaries.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

**COMPANY:** Blue Water Biotech, Inc.

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By: Erin Henderson  
Title: Chief Business Officer

AGREED TO AND ACCEPTED BY:

Signature: \_\_\_\_\_  
[ ]

**EXHIBIT A**

**GENERAL FORM OF UNDERTAKING FOR ADVANCEMENT OF EXPENSES**

1. This instrument (this “Undertaking”) is being executed by the undersigned in favor of Blue Water Biotech, Inc. (the “Corporation”), pursuant to that certain Indemnification Agreement, made as of October 4, 2023 (the “Indemnification Agreement”), by and between the Company and the undersigned.

2. I am requesting advancement of expenses which have been or will be actually and reasonably incurred by me or on my behalf in connection with a proceeding to which I am a party or am threatened to be made a party, or in which I am or may be participating, by reason of my status as a director, officer or fiduciary of the Company.

3. With respect to all matters related to such proceeding, I believe I acted in good faith and in a manner I reasonably believed to be in or not opposed to the best interests of the Corporation or its affiliates, and, with respect to any criminal proceeding, I had no reasonable cause to believe that my conduct was unlawful.

4. I hereby undertake to repay any advancement of expenses if it shall ultimately be determined by final judicial decision from which there is no further right to appeal or otherwise in accordance with Delaware law that I am not entitled to be so indemnified for such Expenses.

5. I am requesting advancement of Expenses in connection with the following matter: **[PROVIDE DETAILS]**

\_\_\_\_\_  
Name of Indemnitee: [ ]

Dated:

**GENERAL RELEASE OF CLAIMS**

I, Jon Garfield, hereby grant this General Release of Claims (“Release”) to Blue Water Biotech, Inc. (the “Company”) and each of its direct and indirect subsidiaries and affiliates (collectively, the “Group”) together with their respective officers, directors, partners, shareholders, employees, agents, attorneys, insurers, and their respective successors (with the Company and the Group, the “Releasees”).

1. As used in this Release, the term “claims” will include all claims, covenants, warranties, promises, undertakings, actions, suits, causes of action, obligations, debts, accounts, attorneys’ fees, judgments, losses, and liabilities, of whatsoever kind or nature, in law, in equity, or otherwise. Capitalized terms used, but not defined herein, shall have the meanings ascribed to such terms in my Employment Agreement, dated February 23, 2022, with the Company (the “Employment Agreement”).

2. For and in consideration of the Severance Benefits (defined below), and other good and valuable consideration, I, for and on behalf of myself and my heirs, administrators, executors, and assigns, effective the date on which this release becomes effective pursuant to its terms (the “Effective Date”), do fully and forever release, remise, and discharge, the Releasees, from any and all claims whatsoever up to the date hereof, that I had, may have had, or now have against the Releasees, for or by reason of any matter, cause, or thing whatsoever, including any claim arising out of or attributable to my employment or the termination of my employment with the Company, whether for tort, breach of express or implied employment contract, intentional infliction of emotional distress, wrongful termination, unjust dismissal, defamation, libel, or slander, or under any federal, state, or local law dealing with discrimination based on age, race, sex, national origin, handicap, religion, disability, or sexual orientation. This Release includes, but is not limited to, all claims arising under the Title VII of the Civil Rights Act, the Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, the Family Medical Leave Act, the Employee Retirement Income Security Act, the Sarbanes-Oxley Act of 2002, federal and state securities laws, and rules promulgated thereunder, the California Fair Employment and Housing Act, the California Unfair Practices Act, the California Family Rights Act, the California Labor Code (including, but not limited to Labor Code sections 132a, 2699 *et seq* and 4554), all as they have or may be amended, and any other applicable laws, each as may be amended from time to time, and all other federal, state, and local laws, the common law, and any other purported restriction on an employer’s right to terminate the employment of employees. This Release is intended to be a general release of any and all claims to the fullest extent permissible by law. By executing this Release, I specifically release all claims relating to my employment and its termination under ADEA, a United States federal statute that, among other things, prohibits discrimination on the basis of age in employment and employee benefit plans.

3. For the avoidance of doubt, I expressly release the Releasees from, and waive, any claim to payment of any severance benefits under my Employment Agreement. I further agree that the end of my employment shall be considered a “Termination by Executive Without Good Reason” under Section 7(g) of my Employment Agreement for all purposes, including the determination of my rights under the Blue Water Biotech, Inc. Second Amended and Restated 2022 Equity Incentive Plan.

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4. I agree that, in exchange for my resigning my employment with the Company effective October 4, 2023, and my agreement to this Release, the Company shall pay me the gross sum of \$72,500.00 (Seventy-Two Thousand Five Hundred Dollars, less deductions applicable to wages within seven (7) days after the Effective Date (“Severance Benefits”).

5. I acknowledge and agree that as of the date I execute this Release, I have no knowledge of any facts or circumstances that give rise or could give rise to any claims under any of the laws listed in the paragraph “2” of this Release.

6. Notwithstanding any provision of this Release to the contrary, by executing this Release, I am not releasing (i) any claims that cannot be waived by law, or (ii) my right of indemnification as provided by, and in accordance with the terms of, the Company’s by-laws or a Company insurance policy providing such coverage, as any of such may be amended from time to time.

7. I expressly acknowledge and agree that I –

- Am able to read the language, and understand the meaning and effect, of this Release;
- Have no physical or mental impairment of any kind that has interfered with my ability to read and understand the meaning of this Release or its terms, and that I am not acting under the influence of any medication, drug, or chemical of any type in entering into this Release;
- Am specifically agreeing to the terms of the release contained in this Release because the Company has agreed to pay me the Severance Benefits in consideration for my agreement to accept it in full settlement of all possible claims I might have or ever had, and because of my execution of this Release;
- Acknowledge that, but for my execution of this Release, I would not be entitled to the Severance Benefits;
- Have not relied upon any representation or statement not set forth in this Release or my Employment Agreement made by the Company or any of its representatives;
- Was advised to consult with my attorney regarding the terms and effect of this Release; and
- Have signed this Release knowingly and voluntarily.



8. I represent and warrant that I will not file, a complaint, charge, or lawsuit against any Releasee regarding any of the claims released herein. If, notwithstanding this representation and warranty, I have filed or file such a complaint, charge, or lawsuit, I agree that I shall cause such complaint, charge, or lawsuit to be dismissed with prejudice and shall pay any and all costs required in obtaining dismissal of such complaint, charge, or lawsuit, including without limitation the attorneys' fees of any Releasee against whom I have filed such a complaint, charge, or lawsuit. This paragraph shall not apply, however, to a claim of age discrimination under Age Discrimination in Employment Act or to any non-waivable right to file a charge with the United States Equal Employment Opportunity Commission (the "EEOC"), the United States Department of Labor, any state employment practices agency, any state labor regulator, the U.S. Securities & Exchange Commission, or the United States Department of Justice (each a "Governmental Entity"); *provided, however*, that if the EEOC were to pursue any claims relating to my employment with Company, I agree that I shall not be entitled to recover any monetary damages or any other remedies or benefits as a result and that this Release and the Severance Benefits will control as the exclusive remedy and full settlement of all such claims by me.

9. I agree to refrain from making any statement or taking any action, directly or indirectly, that harms, impairs, impugns, interferes with, undermines or criticizes the Company, the Group, and/or their business interests, reputation, or goodwill.

10. Nothing in this Release, or in Sections "8" or "9" of this Release, shall prohibit or impede me from communicating, cooperating or filing a complaint with any Governmental Entity with respect to possible violations of any federal, state, or local law or regulation, or otherwise making disclosures to any Governmental Entity, in each case, that are protected under the whistleblower provisions of any such law or regulation; provided, that in each case, such communications and disclosures are consistent with applicable law.

11. I understand and acknowledge that an individual shall not be held criminally or civilly liable under the Federal Defend Trade Secrets Act, or any federal or state trade secret law, for the disclosure of a trade secret that is made (a) in confidence to a federal, state, or local government official or to an attorney solely for the purpose of reporting or investigating a suspected violation of law, or (b) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. I understand and acknowledge further that an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual files any document containing the trade secret under seal; and does not disclose the trade secret, except pursuant to court order. Except as otherwise provided in this paragraph or under applicable law, under no circumstance am I authorized to disclose any information covered by the Company's attorney-client privilege or attorney work product, or the Company's trade secrets, without the prior written consent of the Company's Chief Executive Officer or another executive officer designated by the Board. I do not need the prior authorization of (or to give notice to) any member of the Company Group regarding any communication, disclosure, or activity permitted by this paragraph.

12. The provisions of this Release shall be binding upon my heirs, executors, administrators, legal personal representatives, and assigns. If any provision of this Release shall be held by any court of competent jurisdiction to be illegal, void, or unenforceable, such provision shall be of no force or effect. The illegality or unenforceability of such provision, however, shall have no effect upon and shall not impair the enforceability of any other provision of this Release.

13. EXCEPT WHERE PREEMPTED BY FEDERAL LAW, THIS RELEASE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH FEDERAL LAW AND THE LAWS OF THE STATE OF DELAWARE APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED IN THAT STATE WITHOUT GIVING EFFECT TO THE PRINCIPLES OF CONFLICTS OF LAWS. I HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN CONNECTION WITH ANY SUIT, ACTION, OR PROCEEDING UNDER OR IN CONNECTION WITH THIS RELEASE.

14. This Release contains the entire agreement among me, the Company, and the Group with respect to its subject matter. This Release may not be orally modified. A facsimile, electronic or .pdf signature shall be considered an original for purposes of this Release.

IN WITNESS WHEREOF, I have executed this General Release of Claims on the respective date set forth below.

/s/ Jon Garfield

Jon Garfield

Date: October 5, 2023

**Blue Water Biotech Appoints Dr. Neil J. Campbell as President and CEO and Bruce Harmon as CFO*****Veteran Life Sciences Executives Bring Extensive Public Company Operating Experience to Leadership Team***

CINCINNATI, Oct. 10, 2023 – Blue Water Biotech Inc. (Nasdaq: BWV), which is focused on developing and commercializing transformational therapies to address significant global health challenges, today announced the appointments of Dr. Neil J. Campbell as President and CEO and Bruce Harmon as CFO, effective immediately. Dr. Campbell has also joined the Company’s board of directors.

Dr. Campbell has more than 35 years of experience with public and private companies focused on biopharmaceuticals, health technologies, nanotechnologies, artificial intelligence and super-computing. He has held leadership positions with IGEN International, now Roche; Celera Genomics; and Abbott Laboratories. In addition, he has worked as a venture capital partner and private equity advisor. He currently serves as chairman of Mosaigen®, a commercial development company, and Patriax Industries™, a protective device company.

James Sapirstein, Blue Water Biotech’s Lead Independent Director, said, “Neil is an exceptional businessman and leader who is well-suited for Blue Water Biotech. He has the proven ability to help us continue the Company’s transformation to maximize shareholder value. This involves the evaluation of our current programs as well as the identification of new opportunities. We are fortunate to have him at the helm of the Company.”

Dr. Campbell, added, “I am energized by this opportunity that involves market-ready commercial assets. My priority is to work with the team to build a company that brings important medicines to market and, at the same time, increase shareholder value. Furthermore, I am pleased with the addition of Bruce as our CFO. He has worked with me many times over the years. Bruce will be a key member of our team, and his appointment reflects our commitment to put forth the strongest, most experienced leadership group to drive the Company forward.

Prior to joining Blue Water Biotech, Dr. Campbell was president, CEO and a director of Marizyme Inc. He also founded and served as chairman and CEO of Celios®, a respiratory device company that was acquired by a private investment group. Prior to this, Dr. Campbell was the co-founder, president and CEO of Helomics, a personalized healthcare company focused on next-generation oncology and immune therapeutics and diagnostics. This company was acquired by a private equity investor. Dr. Campbell also held senior executive positions with SuperNova Diagnostics, EntreMed Pharmaceuticals and Life Technologies.

Dr. Campbell has been a faculty member at Johns Hopkins University and Medical Institutes, Hong Kong University of Science and Tech, University of Liverpool, University of Baltimore and Duquesne University. He earned a bachelor of science degree from Norwich University, a master’s degree and MBA from Webster University, and a doctorate from the University of Liverpool.

Mr. Harmon has more than 40 years of experience in financial positions with life sciences companies and various other industries. He replaces Jon Garfield, who has left the company. Mr. Harmon has served in a variety of roles, including chief financial officer, controller, chief executive officer and audit committee chairman.

Immediately prior to joining Blue Water Biotech, he was an independent consultant who served in the outsourced CFO capacity for multiple publicly traded companies since 2008.

During this time, Mr. Harmon was CFO of Marizyme Inc., the CFO of bioAffinity Technologies Inc. and a director of Dale Biotech LLC. Through his consulting business, Lakeport Business Services Inc., he worked with numerous companies. He has extensive experience with fundraising, public offerings, mergers and acquisitions, and turnarounds. Earlier in his career, he was a member of a team that, at the invitation of the Environmental Programmé, presented a green building product to delegates at the United Nations. He earned a bachelor of science degree in accounting from Missouri State University.

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## Forward-Looking Statements

Certain statements in this press release are forward-looking within the meaning of the Private Securities Litigation Reform Act of 1995. These statements may be identified by the use of forward-looking words such as “anticipate,” “believe,” “forecast,” “estimate,” “expect,” and “intend,” among others. These forward-looking statements There are a number of factors that could cause actual events to differ materially from those indicated by such forward-looking statements. These factors include, but are not limited to, market and other conditions, risks related to Blue Water’s ability to realize the benefits of its products, risks related to Blue Water’s ability to expand its business scope, commercialize and integrate the assets and commercial operations being acquired, into Blue Water’s business; risks related to Blue Water’s ability to attract, hire and retain skilled personnel and establish an effective sales team; risks related to Blue Water’s ability to establish, maintain and optimize key third party commercial collaboration); risks related to the Company’s present need for capital to close its asset acquisitions, commercially launch the Company’s acquired products and have adequate working capital; risks related to the development of Blue Water’s vaccine candidates; the failure to obtain FDA clearances or approvals and noncompliance with FDA regulations; risks related to the timing and progress of clinical development of our product candidates; uncertainties of patent protection and litigation; uncertainties of government or third party payor reimbursement; limited research and development efforts and dependence upon third parties; and substantial competition. As with any commercial-stage pharmaceutical product or any product candidate under clinical development, there are significant risks in the development, regulatory approval, and commercialization of pharmaceutical products. Blue Water does not undertake an obligation to update or revise any forward-looking statement. Investors should read the risk factors set forth in Blue Water’s Annual Report on Form 10-K, filed with the SEC on March 9, 2023, and periodic reports filed with the SEC on or after the date thereof. All of Blue Water’s forward-looking statements are expressly qualified by all such risk factors and other cautionary statements. The information set forth herein speaks only as of the date thereof.

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For more information about Blue Water, visit [www.bwbioinc.com](http://www.bwbioinc.com)

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