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

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**FORM 8-K**

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**CURRENT REPORT**

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

**Date of Report (Date of earliest event reported): March 19, 2019**

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**XENON PHARMACEUTICALS INC.**

(Exact name of Registrant as Specified in Its Charter)

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**Canada**  
(State or Other Jurisdiction  
of Incorporation)

**001-36687**  
(Commission File Number)

**98-0661854**  
(IRS Employer  
Identification No.)

**200-3650 Gilmore Way**  
**Burnaby, British Columbia, Canada**  
(Address of Principal Executive Offices)

**V5G 4W8**  
(Zip Code)

**Registrant's Telephone Number, Including Area Code: (604) 484-3300**

**Not Applicable**  
(Former name or former address, if changed since last report)

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Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instructions A.2. below):

- 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))

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.

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

On March 19, 2019, the compensation committee (the “**Committee**”) of the board of directors (the “**Board**”) of Xenon Pharmaceuticals Inc. (the “**Company**”) approved 2018 non-equity incentive plan payments, 2019 base salaries for certain of the Company’s executive officers as set forth in the table below, including the Company’s named executive officers. For additional information regarding non-equity incentive compensation, please see “Executive Compensation—Non-Equity Incentive Plan Compensation & Bonuses” of the Company’s definitive proxy statement on Schedule 14A, filed with the Securities and Exchange Commission on April 27, 2018. All amounts are expressed in U.S. dollars unless otherwise noted.

Name	Title	2018 Non-Equity Incentive Plan Payment	2019 Base Salary (2)
Simon N. Pimstone	Chief Executive Officer	\$ 250,346 (1)\$	444,776
Ian C. Mortimer	President and Chief Financial Officer, Corporate Secretary	192,652 (1)	420,000
Ernesto Aycardi	Chief Medical Officer (3)	158,333	420,000

- (1) Non-equity incentive plan payments for Dr. Pimstone and Mr. Mortimer are denominated in Canadian dollars and have been converted to U.S. dollars for purposes of the table. The U.S. dollar per Canadian dollar exchange rate used for such conversion was 0.7721 which was the average Bank of Canada exchange rate for the 2018 fiscal year.
- (2) 2019 base salaries were determined by the Committee and based on a number of factors, including an analysis of the Company’s updated peer group which is benchmarked in U.S. dollars. For Dr. Pimstone and Mr. Mortimer, the U.S. dollar amount of their semi-monthly pay will be converted to Canadian dollars at the Bank of Canada exchange rate five (5) days prior to each pay date and paid to Dr. Pimstone and Mr. Mortimer in Canadian dollars. The 2019 base salary figures are retroactive to January 1, 2019.
- (3) Dr. Aycardi is employed by our wholly owned subsidiary, Xenon Pharmaceuticals USA Inc., since March 19, 2018.

Dr. Pimstone, Mr. Mortimer and Dr. Aycardi are eligible to receive payments under the Company’s 2019 non-equity incentive plan of up to 60%, 45%, and 40% respectively, of their base salary. The 2019 performance goals for these officers are related to various corporate objectives, including achievement of clinical stage goals: to be on track for XEN1101 Phase 2 top-line data readout by the end of 2020, to initiate a XEN496 Phase 3 clinical trial, to initiate a XEN901 Phase 2 clinical trial and to initiate a XEN007 Phase 2 clinical trial; discovery stage goals to achieve three of the following four objectives: deliver one development track candidate; deliver one lead identification project, identify and validate one new target to advance to hit identification and identify a new pipeline opportunity; execution against the Company’s capital markets plan; and managing to budget. The non-equity incentive payment for each of Dr. Pimstone, Mr. Mortimer and Dr. Aycardi is based solely on the achievement of corporate goals.

On March 19, 2019, in connection with its annual review of executive compensation, the Committee reviewed an analysis of current market practice with respect to executive employment agreements, including input from the Company's independent compensation consultant and advice from external legal counsel with respect to the terms included in the form of executive employment agreement previously approved by the Company in October 2014. As a result of this review, the Committee recommended that the Company enter into amended and restated employment agreements to (i) adjust foreign exchange currency terms for Canadian executives, including Dr. Pimstone and Mr. Mortimer, (ii) obtain a release in exchange for the severance payments and benefits in the event of a termination without cause, in connection with or not in connection with a change of control, or resignation for good reason in connection with a change of control and (iii) limit to three (3) months the period of time during which a termination without cause or a resignation for good reason can occur prior to a change of control.

On March 19, 2019, following approval by the Committee, each of our executive officers, including Dr. Pimstone, our Chief Executive Officer, Mr. Mortimer, our President and Chief Financial Officer and Dr. Aycardi, our Chief Medical Officer, entered into an amended and restated employment agreement. In consideration for the above-mentioned changes, and to align the Company's practices more closely with the Company's compensation peer group, each of the amended and restated employment agreements provides that, upon termination without cause or resignation for good reason, in each case, within three (3) months prior to or 12 months after a change in control transaction, such impacted executive will be entitled to receive the following severance benefits, less applicable tax withholdings:

- (i) pay the executive an amount equal to 12 months base salary, plus one additional month for every one year of consecutive service with us, up to a combined maximum of 18 months (or, in the case of the Company's Chief Executive Officer, Dr. Pimstone, and the Company's President and Chief Financial Officer, Mr. Mortimer, 24 months base salary) (the "**Payment Period**");
- (ii) 100% of the executive's applicable target annual bonus;
- (iii) arrange for continued coverage for the executive under our group benefits insurance until the Payment Period ends or the executive commences full-time employment, subject to the applicable insurer's terms of coverage (and if the insurer does not continue coverage, pay the executive an amount equal to what the monthly premiums for such continued coverage would have cost);
- (iv) pay the executive any unpaid contributions equivalent to 5% of base salary intended for retirement savings for the period leading up to the termination of employment and the contributions equivalent to 5% of base salary intended for retirement savings that we would have paid during the Payment Period;
- (v) fully accelerate the vesting of all of the executive's unvested stock options and other deferred compensation awards; and
- (vi) provide for the continued exercisability of the executive's stock options and other deferred compensation awards for (A) 90 days from the end of the Payment Period for such stock options and awards granted under our stock option plan or (B) the longer of the period stipulated in the applicable plan or grant and six months from the termination of the executive's employment for such stock options and awards granted under our 2014 equity incentive plan or any subsequent deferred compensation plan.

To receive the severance benefits upon a qualifying termination, either in connection with or not in connection with a change of control, an executive must sign and not revoke the release of claims now included as a schedule to each amended and restated employment agreement.

All other material terms of each executive's amended and restated employment agreement remain as previously disclosed, including the severance benefits under a termination without cause.

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The foregoing description of the new form of executive employment agreement and the amended and restated employment agreements is a summary of the material changes made to the prior form of executive employment agreement previously adopted in October 2014 and does not purport to be complete and is qualified in its entirety by reference to each of the agreements. Copies of such agreements for Dr. Pimstone, Mr. Mortimer and Dr. Aycardi are filed herewith as exhibits 10.1, 10.2 and 10.3, respectively, and are incorporated herein by reference. Copies of the form of executive employment agreement and the form of amended and restated employment agreement for Canadian executives are filed herewith as exhibits 10.4 and 10.5, respectively, and are incorporated herein by reference. Copies of the form of executive employment agreement and the form of amended and restated employment agreement for U.S. executives are filed herewith as exhibits 10.6 and 10.7 and are incorporated herein by reference.

**Item 9.01 Financial Statements and Exhibits.**

**(d) Exhibits.**

<b>Exhibit Number</b>	<b>Description</b>
10.1	<a href="#"><u>Amended and Restated Employment Agreement, dated March 19, 2019, by and between the Company and Simon Pimstone.</u></a>
10.2	<a href="#"><u>Amended and Restated Employment Agreement, dated March 19, 2019, by and between the Company and Ian Mortimer.</u></a>
10.3	<a href="#"><u>Amended and Restated Employment Agreement, dated March 19, 2019, by and between the Company and Ernesto Aycardi.</u></a>
10.4	<a href="#"><u>Form of Offer of Employment (CDN Executive).</u></a>
10.5	<a href="#"><u>Form of Amended and Restated Employment Agreement (CDN Executive).</u></a>
10.6	<a href="#"><u>Form of Offer of Employment (U.S. Executive).</u></a>
10.7	<a href="#"><u>Form of Amended and Restated Employment Agreement (U.S. Executive).</u></a>

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## SIGNATURES

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.

Xenon Pharmaceuticals Inc.

Date: March 25, 2019

By: \_\_\_\_\_ */s/ Ian Mortimer*

**Ian Mortimer**  
**President & Chief Financial Officer**

March 19, 2019

**Confidential**

**Via Electronic Mail**

Simon Pimstone

Dear Simon,

**Re: Amended and Restated Employment Agreement**

We are pleased to offer you this Amended and Restated Employment Agreement which replaces and supersedes your earlier Employment Agreement. You will be credited for all purposes with your service to the Company back to your start date of July 1, 2000. As of March 19, 2019 (the "**Effective Date**"), you will continue to be engaged by the Company in the full-time position of CEO.

**A. Base Salary.** Retroactive to January 1, 2019, you will earn a base salary of \$444,776 USD per year, less statutory and other applicable deductions as required, for all work and services you perform for the Company (the "**Base Salary**"). The Base Salary is payable semi-monthly in arrears in accordance with the Company's applicable payroll policies. The US dollar amount of your semi-monthly pay will be converted to Canadian dollars at the Bank of Canada exchange rate approximately five (5) days prior to each pay date and paid in Canadian dollars. You hereby agree and understand that the exchange rate between US and Canadian dollars may vary either in your favour or in Xenon's favour (the "**Exchange Rate Variance**"), and you accept that such Exchange Rate Variance is an accepted term and condition of your employment.

**B. Annual Discretionary Bonus.** In addition to your Base Salary, you are eligible to earn an annual discretionary bonus, less statutory and other applicable deductions as required, of up to sixty percent (60%) of your base salary earnings actually earned in the applicable calendar year of service, in Canadian dollars. Any bonus payable will be paid in Canadian dollars. The payment and amount of the annual bonus is within the sole discretion of the Board of Directors (the "**Board**") and will be evaluated in the first quarter of each year in relation to the achievement of corporate objectives for the previous year. Such objectives will be established annually by the Board in its sole discretion. Bonuses are not earned until paid.

**C. Annual Review.** The Company will conduct an annual review of your compensation package, including your salary and bonus percentage, in accordance with its policies. Any adjustment to the same is at the sole discretion of the Company provided that the Base Salary benchmarked in US dollars will not be reduced without your consent and subject to Sections L and M of this Agreement. You will be paid in Canadian dollars, but the Company may, at its sole discretion, benchmark your compensation in US dollars based on the peer group that is identified from time to time. You hereby agree and acknowledge that the Company has no control over the applicable foreign currency exchange rate and that your compensation in Canadian dollars may be reduced compared to the previous year because of such applicable exchange rate. You further agree and acknowledge that such lower compensation will not constitute constructive dismissal if solely due to the then applicable foreign currency exchange rate.

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**D. Expense Reimbursement.** In accordance with its expense policy, as amended from time to time, the Company will reimburse any authorized expenses actually and reasonably incurred in the course of performing your employment duties. The Company will also provide to you, for the duration of your employment, any necessary work tools, such as a laptop computer and mobile phone. Subject to approval by the Company, you will also be reimbursed for out-of-pocket expenses incurred for attending courses or workshops related to your employment duties.

**E. Reporting Structure/Responsibilities.** You will report to the Board of Directors. You agree that the Company may change the reporting structure, including the person and position to whom you report, and the people and positions who report to you. You will perform the responsibilities and duties of your position, as described in Schedule A, and subject to Sections L and M, such other responsibilities and duties as may be reasonably requested by the Company from time to time. You will at all times: (i) conform to the reasonable and lawful directions of the Company and the Board; (ii) adhere to all applicable Company policies; (iii) give the Company the full benefit of your knowledge, expertise, skill and ingenuity; (iv) well and faithfully serve the Company; (v) devote your best efforts to furthering the interests of the Company; and (vi) exercise the degree of care, diligence and skill that a prudent executive would exercise in comparable circumstances.

You will not during your employment with the Company, be employed by, or provide products or services of any nature whatsoever to, any other person, company, organization or other entity without prior written permission from the Company. This does not restrict you from performing reasonable volunteer activities; however, you must obtain the consent of the Company if you wish to serve on a board of directors or advisory board, or if you perform any paid work or services for other organizations. Schedule B contains a description of all such appointments and positions that you currently occupy, and all paid work and services you currently provide to outside organizations, to which the Company confirms that it provides its permission.

**F. Vacation and Sick Days.** In accordance with the Company's policies, you will earn twenty (20) days of paid vacation per calendar year on a pro rata basis. You may also be entitled to other leaves, including without limitation, an additional allotment of paid sick days and statutory holidays, as provided in the Company's policies during the applicable period. Accrued but unused paid time off and sick days will expire in accordance with the Company's policies, as amended from time to time.

**G. Non-Disclosure, Non-Solicitation & Non-Competition Agreement.** The Employee Non-Disclosure, Non-Solicitation and Non-Competition Agreement that you signed dated October 3, 2014 continues to be in full force and effect. Please note that this agreement also deals with confidentiality and the ownership of intellectual property developments. You continue to agree that compliance with its provisions is reasonable and a necessary requirement in our highly competitive industry, and may be required by our agreements with our suppliers, customers, and distributors.

**H. Stock Options.** You will continue to be eligible to participate in Xenon's 2014 Equity Incentive Plan, a copy of which is attached. Nothing in this Agreement will affect in any way the stock options granted to you by the Company to date, all of which will, except as expressly provided in this Agreement, continue to vest and be exercisable in accordance with their terms while you are employed by the Company.

**I. Benefits.** You will continue to be eligible to participate in the Company's employee group benefit plans, as amended from time to time, subject to the Company's policies, eligibility rules, and terms established by the service providers, as amended from time to time. You will continue to be eligible to participate in the Company's current Group RRSP Plan, under which the Company will match your contributions up to a maximum of 5% of your Base Salary, in the same currency in which your Base Salary is paid.

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**J. Taxes.** Any taxes applicable to your employment compensation package with the Company will be deducted and remitted to the appropriate authorities in accordance with the Company's standard policies and the law.

If you work in a second tax jurisdiction at the Company's request, the Company will cover the reasonable costs for you to use the services of the Company's tax adviser or another adviser mutually agreed upon by the Parties to prepare your home and host country tax returns for any year during which you are required to file tax returns in more than one country as a result of your employment with the Company.

**K. Insurance and Indemnification.** As a corporate and/or executive officer of the Company, during your employment with the Company, you will be covered by its Directors' and Officers' Liability Insurance Policy and such other indemnity policy, agreement or commitment established by the Company, subject to the terms of the Insurance Policy and other policy, agreement or commitment and any amendments made from time to time at the Board's discretion provided that no amendment will substantially reduce your entitlements. Your coverage under such Insurance Policy and any other policy, agreement, or commitment, will continue after your employment ends in respect of your employment. The Indemnification Agreement that you signed dated November 4, 2014 continues to be in full force and effect.

**L. Change of Control.** In this Agreement:

- a. **"Average Bonus"** means an amount that is (i) the sum of the annual bonus awards (expressed as a percentage of the applicable year's Base Salary) that you earned in each of the three (3) completed calendar years preceding the date your employment with the Company terminates, divided by (ii) three (3), multiplied by (iii) your Base Salary at the time your employment with the Company terminates [for example:  $(15\%+5\%+10\%)/3 = 10\%$  of Base Salary]. If you have been employed for more than one (1) but fewer than three (3) completed calendar years of service, then your "Average Bonus" will be the average of the annual bonus awards (as expressed as a percentage of the applicable year's Base Salary) that you have received for the completed calendar year(s) preceding the date of your employment with the Company terminates.
- b. **"Change of Control"** means:
- (i) the acquisition by any person or persons acting jointly or in concert (as determined by the Securities Act) ("**Person**"), whether directly or indirectly, of voting securities of the Company that, together with all other voting securities of the Company held by such Person, constitute in the aggregate more than 50% of all outstanding voting securities of the Company; provided, however, that for purposes of this subsection, the acquisition of additional securities by any one Person, who owns more than 50% of all outstanding voting securities of the Company will not be a Change of Control;
  - (ii) an amalgamation, arrangement or other form of business combination of the Company with another corporation that results in the holders of voting securities of that other corporation holding, in the aggregate, more than 50% of all outstanding voting securities of the corporation resulting from the business combination; provided, however, that for purposes of this subsection, the acquisition of additional securities by any one Person, who owns more than 50% of all outstanding voting securities of the Company will not be a Change of Control; or
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(iii) a change in the ownership of a substantial portion of the Company's assets, including the sale, lease, transfer or exchange of a substantial portion of the Company's assets, to another Person, other than in the ordinary course of business of the Company, which occurs on the date that such Person acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by such person or persons) assets from the Company that have a total gross fair market value equal to or more than fifty percent (50%) of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions; provided, however, that for purposes of this subsection (iii), the following will not constitute a change in the ownership of a substantial portion of the Company's assets: (A) a transfer to a Related Entity, or (B) a transfer of assets by the Company to: (1) a stockholder of the Company (immediately before the asset transfer) in exchange for or with respect to the Company's stock, (2) an entity of which the Company has Control, (3) a Person, that owns, directly or indirectly, fifty percent (50%) or more of the all outstanding voting securities of the Company, or (4) an entity of which a Person described in this subsection (iii)(B)(3) has Control. For purposes of this subsection (iii), gross fair market value means the value of the assets of the Company, or the value of the assets being disposed of, determined without regard to any liabilities associated with such assets;

provided, however, that a Change in Control will not be deemed to have occurred if such Change in Control results solely from the issuance, in connection with a *bona fide* public offering, financing or series of financings by the Company, of voting securities of the Company or any rights to acquire voting securities of the Company which are convertible into voting securities.

Further and for the avoidance of doubt, a transaction will not constitute a Change of Control if: (x) its sole purpose is to change the state or jurisdiction of the Company's incorporation, or (y) its sole purpose is to create a holding company the voting securities of which will be owned in substantially the same proportions by the persons who held the Company's voting securities immediately before such transaction.

c. **"Good Reason"** means any of the following:

- (i) any unilateral change or series of changes to your employment responsibilities, reporting relationship, or status within the Company, such that immediately after such a change or series of changes to your responsibilities, reporting relationship, and status, taken as a whole, and taking into account the size and complexity of the business of the Company at that time, are substantially less than those assigned to you immediately prior to such change or series of changes; or
  - (ii) a material reduction by the Company in your Base Salary or other compensation as in effect prior to the Change of Control that would constitute a constructive dismissal at common law; or
  - (iii) the taking of any action by the Company, or the failure by the Company to take any action, that would materially and adversely affect your participation in, or materially reduce your aggregate benefits under, the total package of long-term incentive, bonus, compensation, RRSP, life insurance, health, accidental disability and other similar plans in which you are participating prior to the action by the Company or the failure by the Company to take any action; or
  - (iv) the unilateral requirement that you relocate to a new location that is both (a) more than 60 kilometers from your previous work location and (b) more than 60 kilometers from your primary residence; or
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- (v) failure or refusal of the Successor Company to offer you terms and conditions of employment, including the provisions of Section M of this Agreement, that are substantially the same as the provisions of this Agreement; or
- (vi) subject to the terms of this Agreement, any reason which would be considered to amount to constructive dismissal by an arbitrator under the laws applicable in British Columbia;

provided that any change or series of changes in reporting relationships alone will not constitute good reason.

- d. **“Successor Company”** means, in connection with a Change of Control, the surviving or acquiring company or entity.

**M. Termination Without Cause or Resignation for Good Reason in Connection With or Following A Change of Control.**

In the event of (i) a termination without cause or (ii) resignation for Good Reason, in either case, occurring within three (3) months prior to a Change of Control and related or connected to that Change of Control or occurring within twelve (12) months after a Change of Control, your employment will end on the date it is terminated without cause by the Company or Successor Company or the date terminated by you for Good Reason, in which case the Company or Successor Company will provide you with the notice or pay in lieu of notice to which you are entitled under the British Columbia Employment Standards Act (the **“Statutory Notice”**). In exchange for and conditional upon you signing and returning a full and final Release of all claims in the form attached hereto as Schedule C, the Company or Successor Company will provide you with the following:

- a. payment equal to twenty-four (24) months Base Salary (the **“COC Payment Period”**). The COC Payment Period is inclusive of, and not in addition to, the Statutory Notice;
  - b. payment of 100% of your then-applicable bonus eligibility calculated on your then-applicable annual Base Salary (i.e. not prorated for the partial year worked), less statutory and other applicable deductions as required.
  - c. the contributions to your retirement savings plan the Company would have paid on your behalf during the COC Payment Period;
  - d. notwithstanding any provision in the Company’s Amended and Restated Stock Option Plan (the **“Pre-IPO Equity Plan”**), the Equity Incentive Plan and any subsequent deferred compensation plan to the contrary:
    - (i) immediate vesting of all unvested stock options and other deferred compensation awards granted to you by the Company or the Successor Company; and
    - (ii) with respect to stock options granted pursuant to the Pre-IPO Equity Plan and any prior stock option plan, continued exercise rights up to ninety (90) days after the end of the Payment Period, at which time, such rights will be null and void; and
    - (iii) continued exercise rights for the longer of the period stipulated in the applicable plan or grant and six (6) months after the date your employment actually terminates (i.e. the last day you are actually at work); and
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- e. subject to the applicable insurer's terms of coverage, at the Company's discretion, the Company will arrange for you to continue to receive group benefits insurance coverage up to the earlier of (i) the end of the COC Payment Period, or (ii) the date you commence new work or employment with comparable coverage. In the event the insurer does not continue coverage, the Company will pay you an amount equivalent to the cost of the monthly premiums the Company would have paid on your behalf for the group benefits insurance coverage that are terminated.

In the case of Good Reason, you must within three (3) months after the occurrence of Good Reason provide the Company or Successor Company with thirty (30) days' written notice of Good Reason during which you will continue to provide services to the Company or Successor Company. Where the Good Reason is based in whole or in part on a series of changes, the notice period will commence on the occurrence of the last change in the series. Within your thirty (30) day working notice, the Company or the Successor Company may correct, reverse, rectify or otherwise resolve the change or series of changes that constitute Good Reason, in which case your employment with the Company or Successor Company will continue.

The payments described above are inclusive of any termination or severance pay owing to you under applicable employment standards legislation. You further agree that you will not be eligible for any additional payment pursuant to the termination sections below (e.g. you will **not** be entitled to receive both the payments described in this Section M and the Termination Without Cause payments or notice described below in Section P).

#### **Termination:**

**N. Resignation.** If for any reason you should wish to leave the Company, you will provide the Company with three (3) months' prior written notice of your intention (the "**Resignation Period**"). You agree that the Company may, in its sole and unfettered discretion, waive the Resignation Period in whole or in part and end your employment immediately by delivering to you a written notice promptly followed by payment of the Base Salary due to you during the remainder of the Resignation Period and any pay accrued and owing under this Agreement up to the date of such notice. It is further expressly agreed that you will not be entitled to any bonus or pro rata bonus after you give notice of resignation. For example, if you give notice of resignation partway during the calendar year, or any time prior to the bonus payment date following that calendar year, you will not be entitled to any bonus for that calendar year.

**O. Termination for Cause.** The Company may terminate your employment at any time for cause, effective upon delivery by the Company to you of a written notice of termination of your employment for cause. You will not be entitled to receive any further pay or compensation (except for pay, if any, accrued and owing under this Agreement up to the date of termination of your employment), severance pay, notice, payment in lieu of notice, benefits or damages of any kind, and for clarity, without limiting the foregoing, you will not be entitled to any bonus or pro rata bonus payment that has not already been awarded by the Company.

**P. Termination Without Cause.**

(This Section P does not apply to a termination without cause that occurs within three (3) months prior to a Change of Control and in relation or connection to that Change of Control or within twelve (12) months after a Change of Control – such terminations are covered by Section M).

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The Company may terminate your employment without cause at any time upon providing you with the notice or pay in lieu of notice to which you are entitled under the Statutory Notice. In exchange for and conditional upon you signing and returning a full and final Release of all claims in the form attached hereto as Schedule C, the Company will provide you with notice or pay in lieu of notice beyond that required by the Statutory Notice – in particular, the Company will provide you with working notice of termination (in which case all of your terms and conditions of employment including compensation and benefits, subject to the applicable insurer's terms of coverage, will continue during the working notice period, or Base Salary continuance, or a lump sum payment of Base Salary, or an equivalent combination of any of the foregoing, in the amount of twelve (12) months plus one (1) additional month for every one (1) year of consecutive service with the Company, up to a combined maximum of eighteen (18) months (the "**Notice Period**").

It is within the Company's sole discretion to decide whether to provide working notice, Base Salary Continuance, or a lump sum payment of Base Salary, or a combination of the foregoing, for the Notice Period.

The Notice Period is inclusive of, and not in addition to, the Statutory Notice. If the Company elects to provide Base Salary Continuance or a lump sum payment of Base Salary for all or part of the Notice Period, the portion of the Notice Period covered by such payment(s) shall be defined as the "**Payment Period**".

The parties further agree as follows, also conditional upon you signing and returning a full and final Release of all claims in the form attached hereto as Schedule C:

- (i) subject to the applicable insurer's terms of coverage, the Company will arrange for you to continue to receive group benefits insurance coverage up to the earlier of (i) the end of the Notice Period, or (ii) the date you commence full-time employment. In the event the insurer does not continue coverage, the Company will pay you an amount equivalent to the cost of the monthly premiums the Company would have paid on your behalf for the group benefits insurance coverage that are terminated;
  - (ii) you will receive an Average Bonus pro-rated for the period of the calendar year that you actually worked, up to your last day at work, less statutory and other applicable deductions as required. For example, if your last day of work is March 31, you will receive 3 months of your Average Bonus. Payment of your pro-rated Average Bonus will be within four (4) weeks of the termination date provided that if a bonus has not yet been determined for the preceding completed calendar year, the Company will first make that determination in the ordinary course using relevant criteria in a manner consistent with prior practice so that the Average Bonus can then be determined and paid. For clarity, it is expressly agreed that you will not be entitled to any bonus whatsoever for any period of time after your last actual day at work, including during the Payment Period;
  - (iii) the Company will pay the contributions to your retirement savings plan the Company would have paid on your behalf during the Notice Period; and
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(iv) notwithstanding any provision in this Agreement or in the Pre-IPO Equity Plan, the Equity Incentive Plan and any subsequent incentive compensation plan to the contrary, the Company will extend the vesting and exercise rights of your vested and unvested options and other deferred compensation as follows:

- a. for stock options granted under the Pre-IPO Equity Plan and any prior stock option plan, the stock options will continue vesting until the end of the Notice Period, at which time all unvested options will be null and void, and all vested stock options will be exercisable until the earlier of the original expiry date of the options and the date that is three (3) months following the end of the Notice Period; and
- b. for stock options and other deferred compensation granted under the 2014 Equity Incentive Plan and any subsequent incentive compensation plan, the stock options and other deferred compensation will continue to vest for a period of three (3) months after the date your employment terminates and all vested stock options and other deferred compensation will be exercisable until the earlier of the original expiry date of the stock options and deferred compensation and the date that is six (6) months after the date your employment terminates.

Any payment in lieu of notice provided to you will be inclusive of any termination or severance pay owing to you under applicable employment standards legislation and subject to statutory withholdings and other regular payroll deductions. You will not be entitled to receive any further pay or compensation except (i) as expressly set out in this Agreement, and (ii) the pay, if any, accrued and owing under this Agreement up to the date of termination of your employment.

**Q. Work Permit.** As a condition of your employment, you may become required to work in other jurisdictions where the Company or the Company's affiliates maintain an office. In that event, the continuance of your employment with the Company will become contingent upon your signing and complying with an Employee Secondment Agreement Letter, receiving authorization to work in that or those other jurisdiction(s), and to your maintaining such status. The Company will support your application for any such authorization(s).

**R. FDA Debarment.** As a condition of your employment, you must certify that you are not under investigation by the FDA for debarment action, have not been debarred under the Generic Drug Enforcement Act of 1992 (21 U.S.C. 301 et seq.), and are not otherwise being investigated, restricted or disqualified from performing services relating to clinical trials by the FDA or any other regulatory authority or professional body in any other jurisdiction. If, during the course of your employment with Xenon, you become subject to such investigation or otherwise are restricted or disqualified, you will promptly inform Xenon's Legal Department of such event.

#### **S. Miscellaneous**

**No Implied Entitlement.** Other than as expressly provided herein or in any of the Company's policies, as amended from time to time at the Company's sole discretion, you will not be entitled to receive any further pay or compensation, severance pay, notice, payment in lieu of notice, incentives, bonuses, benefits or damages of any kind.

**Continued Effect.** Notwithstanding any changes in the terms and conditions of your employment which may occur in the future, including any changes in position, duties or compensation, the termination provisions in this Agreement will continue to be in effect for the duration of your employment with the Company unless otherwise amended in writing and signed by the Company.

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**Authorization to Deduct Debts.** If, on the date you leave employment, you owe the Company any money, you hereby authorize the Company to deduct any such debt from your final pay or any other payment due to you to the extent permitted by the *BC Employment Standards Act* if applicable. Any remaining debt will be immediately payable to the Company and you agree to satisfy such debt within fourteen (14) days after any demand for repayment.

**Dispute Resolution.** In the event of a dispute arising out of or in connection with this Agreement, or in respect of any legal relationship associated with it or from it, which does not involve the Company seeking a court injunction or other injunctive or equitable relief to protect its business, confidential information or intellectual property, or enforce the covenants hereunder, that dispute will be resolved confidentially as follows:

- a. *Amicable Negotiation* – The parties agree that, both during and after the performance of their responsibilities under this Agreement, each of them will make *bona fide* efforts to resolve any disputes arising between them by amicable and expeditious negotiations.
- b. *Mediation* – If the parties are unable to negotiate resolution of a dispute, either party may with the agreement of the other party refer the dispute to mediation by providing written notice to the other party. If the parties cannot agree on a mediator within fifteen (15) days after receipt of the notice to mediate, then either party may make application to the British Columbia Arbitration and Mediation Society to have one appointed. The mediation will be held in Vancouver, BC, in accordance with the British Columbia International Commercial Arbitration Centre's (the "**BCICAC**") Commercial Mediation Rules, and each party will bear its own costs, including one-half share of the mediator's fees.
- c. *Arbitration* – If, after mediation, the parties have been unable to resolve a dispute or at any time if mediation is not undertaken, either party may refer the dispute for final and binding arbitration by providing written notice to the other party. If the parties cannot agree on an arbitrator within fifteen (15) days after receipt of the notice to arbitrate, then either party may make application to the British Columbia Arbitration and Mediation Society to appoint one. The arbitration will be held in Vancouver, BC, in accordance with the BCICAC's Shorter Rules for Domestic Commercial Arbitration. Each party will bear its own costs, including one-half share of the arbitrator's fees, provided that the arbitrator will have discretion to award costs against either party.

**Legal Counsel.** You have been advised by the Company to retain independent legal advice with respect to this Employment Agreement.

**Employment Standards Act.** The parties hereby agree that if any provision in this Employment Agreement, in any circumstance, provides for less than what is required by the *BC Employment Standards Act*, such provision shall be replaced with the minimum provision(s) of the *BC Employment Standards Act*.

**Currency.** Except as otherwise specifically indicated, all monetary amounts referenced herein are in Canadian dollars.

**Severability.** If any part, article, section, clause, paragraph or subparagraph of this Agreement is held to be indefinite, invalid, illegal or otherwise voidable or unenforceable for any reason, the entire Agreement will not fail on the account thereof and the validity, legality and enforceability of the remaining provisions will in no way be affected or impaired thereby.

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**Entire Understanding.** We also confirm that this Agreement and the other agreements, documents, and plans that are referred to in this Agreement (including the Non-Disclosure, Non-Solicitation and Non-Competition Agreement) set forth our entire understanding of the terms of your employment with the Company, and cancels and supersedes all previous invitations, proposals, letters, correspondence, negotiations, promises, agreements (including your former employment agreement), covenants, conditions, representations and warranties with respect to the subject matter of this Agreement. Any modifications to these employment terms must be made in writing and signed by both you and the Company.

**Fresh Consideration.** The Company is hereby providing you with one hundred dollars (\$100) as fresh consideration for you entering into this Employment Agreement. You hereby accept the receipt and sufficiency of this fresh consideration.

**Governing Law.** This Agreement and all matters arising hereunder will be governed by and construed in accordance with the laws of the Province of British Columbia.

If you have any questions or concerns regarding the above, please do not hesitate to contact me.

To accept this Agreement on the terms set out herein, please sign where indicated below, and return a signed copy of this Agreement to me before March 21, 2019.

Yours sincerely,

**XENON PHARMACEUTICALS INC.**

*/s/ Ian Mortimer*  
Ian Mortimer  
President & CFO

Attachments:

- 1) Xenon Employee Non-Disclosure, Non-Solicitation and Non-Competition Agreement

I hereby confirm that I have read, understand and voluntarily accept the terms of this Agreement:

*/s/ Simon Pimstone*      19/03/2019  
**Simon Pimstone**      **DD/MM/YYYY**

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## SCHEDULE A

### Duties and Responsibilities

Your duties and responsibilities in this position will include those listed below:

1. Reporting to the Board of Directors, the Chief Executive Officer ("CEO") is responsible for overseeing all aspects of the business, include directing the organization to ensure the attainment of strategic and financial goals, maximizing return on invested capital.
  2. The CEO provides corporate leadership and vision, overseeing the Company's scientific and technology research; product and clinical development; commercialization; in-licensing, out-licensing and partnering plans; and financial and organizational matters with and through the Senior Executive team.
  3. The CEO is a key Company spokesperson, regularly interacting with the Company's Board of Directors, investors, bankers and others in the financial community, partners and potential partners, scientific and medical key opinion leaders, and all levels of internal staff.
  4. At all times, act in the best interest of the Company and its shareholders.
  5. Travel for meetings, conferences, and other applicable business.
  6. Other duties as required from time to time.
  7. Strictly adhere to all Xenon corporate policies, particularly those concerning confidentiality, intellectual property, and safety.
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**SCHEDULE B****Disclosure of Volunteer, Board and Other External Commitments**

Position	Organization	Length of Engagement	Appointment/
Founder and Co-PI	SAVE BC	2015 - present	
Clinical Associate Professor	UBC	2014 - present	
Consultant Physician	UBC Hospital	2012 - present	
Director, Chair	Eupraxia Pharmaceuticals Inc.	2012 - present	
Director, Chair	Accuro Technologies Inc.	2012 - present	
Advisory Board Member	BC Health Research Strategy Advisory Board, Michael Smith Foundation for Health Research	2012 - present	

**SCHEDULE C**

**Form of Release**

**IN CONSIDERATION OF** the terms and conditions set out in the [DATE] letter from **Xenon Pharmaceuticals Inc.** (hereinafter called "**Xenon**") to me, [NAME], and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledge, I do hereby remise, release and forever discharge Xenon, its officers, directors, servants, employees and agents, and their heirs, executors, administrators, successors and assigns, as the case may be (defined collectively as the "Releasees"), of and from any and all manner of actions, causes of action, suits, contracts, claims, damages, costs and expenses of any nature or kind whatsoever, whether in law or in equity, which as against Xenon or such persons as aforesaid or any of them, I have ever had, now have, or at any time hereafter I or my personal representatives can, shall or may have, by reason of or arising out of the termination of my employment with Xenon on or about [DATE], without limiting the generality of the foregoing, any and all claims for damages for termination of my employment, constructive termination of my employment, loss of position, loss of status, loss of future job opportunity, loss of opportunity to enhance my reputation, the timing of the termination and the manner in which it was effected, loss of bonuses, loss of shares and/or share options, loss of benefits, including life insurance and short and long-term disability benefit coverage, and any other type of damages arising from the above.

**IT IS UNDERSTOOD AND AGREED** that this Release includes any and all claims arising under the *Employment Standards Act*, *Human Rights Code*, or other applicable legislation as it relates to the termination of my employment and that the consideration provided includes any amount that I may be entitled to under such legislation.

**IT IS FURTHER UNDERSTOOD AND AGREED** that this Release is subject to compliance by Xenon with the said conditions as stipulated in the aforementioned employment agreement entered into between the undersigned and Xenon.

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**IT IS FURTHER UNDERSTOOD AND AGREED THAT XENON** will withhold and remit income tax and other statutory deductions from the aforesaid consideration and I agree to indemnify and hold harmless Xenon from any further assessments for income tax, repayment of any employment insurance benefits received by me, or other statutory deductions which may be made under statutory authority.

**IT IS FURTHER UNDERSTOOD AND AGREED** that this is a compromise and is not to be construed as an admission of liability on the part of Xenon. The terms of this Release set out the entire agreement between Xenon and me with respect to the matters described herein and are intended to be contractual and not a mere recital. If the facts on which this Release is made prove to be other than or different from the facts in that connection now known or believed to be true by the parties or either of them, the parties and each of them expressly accept and assume the risk of the facts being different and agree that all the terms of this Release shall be in all respects effective and not subject to termination, variation, or rescission by any discovery of any difference in the facts. If any part or provision of this Release or its application to any circumstance is restricted, prohibited or unenforceable, such part or provision will be ineffective only to the extent of such restriction, prohibition or unenforceability, and the remainder of the Release will remain in full force and effect.

**IT IS FURTHER UNDERSTOOD AND AGREED** that I will keep the contents of this settlement and all communication relating thereto confidential except to Revenue Canada or as is required to obtain legal and tax advice, or to enforce my rights hereunder in a court of law, or as is required by law.

**IT IS FURTHER UNDERSTOOD AND AGREED** that the law governing this Release is that of British Columbia, and the parties will resolve any disputes they have under this Release in the courts of British Columbia, provided that if, contrary to this Release, I commence, pursue, or maintain any such proceedings against any of the Releasees, I hereby irrevocably consent to such Releasee(s) relying on this Release to obtain a stay or dismissal or such proceedings.

**IT IS FURTHER UNDERSTOOD AND AGREED** that the consideration described herein was voluntarily accepted by me for the purpose of making a full and final settlement of all claims described above and that prior to agreeing to the settlement, I was advised by Xenon of my right to receive independent legal advice.

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**IN WITNESS WHEREOF** this Release has been executed effective the \_\_\_\_\_ (please insert date of signature).

SIGNED, SEALED AND DELIVERED

By **[NAME]** in the presence of:

_____ )	
_____ )	
<b>Signature of Witness</b> )	<b>[NAME]</b> _____
_____ )	
Name of Witness )	
_____ )	
Address )	
_____ )	
Occupation )	

March 19, 2019

**Confidential**

**Via Electronic Mail**

Ian Mortimer

Dear Ian,

**Re: Amended and Restated Employment Agreement**

We are pleased to offer you this Amended and Restated Employment Agreement which replaces and supersedes your earlier Employment Agreement. You will be credited for all purposes with your service to the Company back to your start date of October 21, 2013. As of March 19, 2019 (the "**Effective Date**"), you will continue to be engaged by the Company in the full-time position of President & CFO.

**A. Base Salary.** Retroactive to January 1, 2019, you will earn a base salary of \$420,000 USD per year, less statutory and other applicable deductions as required, for all work and services you perform for the Company (the "**Base Salary**"). The Base Salary is payable semi-monthly in arrears in accordance with the Company's applicable payroll policies. The US dollar amount of your semi-monthly pay will be converted to Canadian dollars at the Bank of Canada exchange rate approximately five (5) days prior to each pay date and paid in Canadian dollars. You hereby agree and understand that the exchange rate between US and Canadian dollars may vary either in your favour or in Xenon's favour (the "**Exchange Rate Variance**"), and you accept that such Exchange Rate Variance is an accepted term and condition of your employment.

**B. Annual Discretionary Bonus.** In addition to your Base Salary, you are eligible to earn an annual discretionary bonus, less statutory and other applicable deductions as required, of up to forty-five percent (45%) of your base salary earnings actually earned in the applicable calendar year of service, in Canadian dollars. Any bonus payable will be paid in Canadian dollars. The payment and amount of the annual bonus is within the sole discretion of the Board of Directors (the "**Board**") and will be evaluated in the first quarter of each year in relation to the achievement of corporate objectives for the previous year. Such objectives will be established annually by the Board in its sole discretion. Bonuses are not earned until paid.

**C. Annual Review.** The Company will conduct an annual review of your compensation package, including your salary and bonus percentage, in accordance with its policies. Any adjustment to the same is at the sole discretion of the Company provided that the Base Salary benchmarked in US dollars will not be reduced without your consent and subject to Sections L and M of this Agreement. You will be paid in Canadian dollars, but the Company may, at its sole discretion, benchmark your compensation in US dollars based on the peer group that is identified from time to time. You hereby agree and acknowledge that the Company has no control over the applicable foreign currency exchange rate and that your compensation in Canadian dollars may be reduced compared to the previous year because of such applicable exchange rate. You further agree and acknowledge that such lower compensation will not constitute constructive dismissal if solely due to the then applicable foreign currency exchange rate.

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**D. Expense Reimbursement.** In accordance with its expense policy, as amended from time to time, the Company will reimburse any authorized expenses actually and reasonably incurred in the course of performing your employment duties. The Company will also provide to you, for the duration of your employment, any necessary work tools, such as a laptop computer and mobile phone. Subject to approval by the Company, you will also be reimbursed for out-of-pocket expenses incurred for attending courses or workshops related to your employment duties.

**E. Reporting Structure/Responsibilities.** You will report to the CEO. You agree that the Company may change the reporting structure, including the person and position to whom you report, and the people and positions who report to you. You will perform the responsibilities and duties of your position, as described in Schedule A, and subject to Sections L and M, such other responsibilities and duties as may be reasonably requested by the Company from time to time. You will at all times: (i) conform to the reasonable and lawful directions of the Company and the Board; (ii) adhere to all applicable Company policies; (iii) give the Company the full benefit of your knowledge, expertise, skill and ingenuity; (iv) well and faithfully serve the Company; (v) devote your best efforts to furthering the interests of the Company; and (vi) exercise the degree of care, diligence and skill that a prudent executive would exercise in comparable circumstances.

You will not during your employment with the Company, be employed by, or provide products or services of any nature whatsoever to, any other person, company, organization or other entity without prior written permission from the Company. This does not restrict you from performing reasonable volunteer activities; however, you must obtain the consent of the Company if you wish to serve on a board of directors or advisory board, or if you perform any paid work or services for other organizations. Schedule B contains a description of all such appointments and positions that you currently occupy, and all paid work and services you currently provide to outside organizations, to which the Company confirms that it provides its permission.

**F. Vacation and Sick Days.** In accordance with the Company's policies, you will earn twenty (20) days of paid vacation per calendar year on a pro rata basis. You may also be entitled to other leaves, including without limitation, an additional allotment of paid sick days and statutory holidays, as provided in the Company's policies during the applicable period. Accrued but unused paid time off and sick days will expire in accordance with the Company's policies, as amended from time to time.

**G. Non-Disclosure, Non-Solicitation & Non-Competition Agreement.** The Employee Non-Disclosure, Non-Solicitation and Non-Competition Agreement that you signed dated October 3, 2014 continues to be in full force and effect. Please note that this agreement also deals with confidentiality and the ownership of intellectual property developments. You continue to agree that compliance with its provisions is reasonable and a necessary requirement in our highly competitive industry, and may be required by our agreements with our suppliers, customers, and distributors.

**H. Stock Options.** You will continue to be eligible to participate in Xenon's 2014 Equity Incentive Plan, a copy of which is attached. Nothing in this Agreement will affect in any way the stock options granted to you by the Company to date, all of which will, except as expressly provided in this Agreement, continue to vest and be exercisable in accordance with their terms while you are employed by the Company.

**I. Benefits.** You will continue to be eligible to participate in the Company's employee group benefit plans, as amended from time to time, subject to the Company's policies, eligibility rules, and terms established by the service providers, as amended from time to time. You will continue to be eligible to participate in the Company's current Group RRSP Plan, under which the Company will match your contributions up to a maximum of 5% of your Base Salary, in the same currency in which your Base Salary is paid.

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**J. Taxes.** Any taxes applicable to your employment compensation package with the Company will be deducted and remitted to the appropriate authorities in accordance with the Company's standard policies and the law.

If you work in a second tax jurisdiction at the Company's request, the Company will cover the reasonable costs for you to use the services of the Company's tax adviser or another adviser mutually agreed upon by the Parties to prepare your home and host country tax returns for any year during which you are required to file tax returns in more than one country as a result of your employment with the Company.

**K. Insurance and Indemnification.** As a corporate and/or executive officer of the Company, during your employment with the Company, you will be covered by its Directors' and Officers' Liability Insurance Policy and such other indemnity policy, agreement or commitment established by the Company, subject to the terms of the Insurance Policy and other policy, agreement or commitment and any amendments made from time to time at the Board's discretion provided that no amendment will substantially reduce your entitlements. Your coverage under such Insurance Policy and any other policy, agreement, or commitment, will continue after your employment ends in respect of your employment. The Indemnification Agreement that you signed dated November 4, 2014 continues to be in full force and effect.

**L. Change of Control.** In this Agreement:

- a. **"Average Bonus"** means an amount that is (i) the sum of the annual bonus awards (expressed as a percentage of the applicable year's Base Salary) that you earned in each of the three (3) completed calendar years preceding the date your employment with the Company terminates, divided by (ii) three (3), multiplied by (iii) your Base Salary at the time your employment with the Company terminates [for example:  $(15\%+5\%+10\%)/3 = 10\%$  of Base Salary]. If you have been employed for more than one (1) but fewer than three (3) completed calendar years of service, then your "Average Bonus" will be the average of the annual bonus awards (as expressed as a percentage of the applicable year's Base Salary) that you have received for the completed calendar year(s) preceding the date of your employment with the Company terminates.
- b. **"Change of Control"** means:
- (i) the acquisition by any person or persons acting jointly or in concert (as determined by the Securities Act) ("**Person**"), whether directly or indirectly, of voting securities of the Company that, together with all other voting securities of the Company held by such Person, constitute in the aggregate more than 50% of all outstanding voting securities of the Company; provided, however, that for purposes of this subsection, the acquisition of additional securities by any one Person, who owns more than 50% of all outstanding voting securities of the Company will not be a Change of Control;
  - (ii) an amalgamation, arrangement or other form of business combination of the Company with another corporation that results in the holders of voting securities of that other corporation holding, in the aggregate, more than 50% of all outstanding voting securities of the corporation resulting from the business combination; provided, however, that for purposes of this subsection, the acquisition of additional securities by any one Person, who owns more than 50% of all outstanding voting securities of the Company will not be a Change of Control; or
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(iii) a change in the ownership of a substantial portion of the Company's assets, including the sale, lease, transfer or exchange of a substantial portion of the Company's assets, to another Person, other than in the ordinary course of business of the Company, which occurs on the date that such Person acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by such person or persons) assets from the Company that have a total gross fair market value equal to or more than fifty percent (50%) of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions; provided, however, that for purposes of this subsection (iii), the following will not constitute a change in the ownership of a substantial portion of the Company's assets: (A) a transfer to a Related Entity, or (B) a transfer of assets by the Company to: (1) a stockholder of the Company (immediately before the asset transfer) in exchange for or with respect to the Company's stock, (2) an entity of which the Company has Control, (3) a Person, that owns, directly or indirectly, fifty percent (50%) or more of the all outstanding voting securities of the Company, or (4) an entity of which a Person described in this subsection (iii)(B)(3) has Control. For purposes of this subsection (iii), gross fair market value means the value of the assets of the Company, or the value of the assets being disposed of, determined without regard to any liabilities associated with such assets;

provided, however, that a Change in Control will not be deemed to have occurred if such Change in Control results solely from the issuance, in connection with a *bona fide* public offering, financing or series of financings by the Company, of voting securities of the Company or any rights to acquire voting securities of the Company which are convertible into voting securities.

Further and for the avoidance of doubt, a transaction will not constitute a Change of Control if: (x) its sole purpose is to change the state or jurisdiction of the Company's incorporation, or (y) its sole purpose is to create a holding company the voting securities of which will be owned in substantially the same proportions by the persons who held the Company's voting securities immediately before such transaction.

c. **"Good Reason"** means any of the following:

- (i) any unilateral change or series of changes to your employment responsibilities, reporting relationship, or status within the Company, such that immediately after such a change or series of changes to your responsibilities, reporting relationship, and status, taken as a whole, and taking into account the size and complexity of the business of the Company at that time, are substantially less than those assigned to you immediately prior to such change or series of changes; or
  - (ii) a material reduction by the Company in your Base Salary or other compensation as in effect prior to the Change of Control that would constitute a constructive dismissal at common law; or
  - (iii) the taking of any action by the Company, or the failure by the Company to take any action, that would materially and adversely affect your participation in, or materially reduce your aggregate benefits under, the total package of long-term incentive, bonus, compensation, RRSP, life insurance, health, accidental disability and other similar plans in which you are participating prior to the action by the Company or the failure by the Company to take any action; or
  - (iv) the unilateral requirement that you relocate to a new location that is both (a) more than 60 kilometers from your previous work location and (b) more than 60 kilometers from your primary residence; or
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- (v) failure or refusal of the Successor Company to offer you terms and conditions of employment, including the provisions of Section M of this Agreement, that are substantially the same as the provisions of this Agreement; or
- (vi) subject to the terms of this Agreement, any reason which would be considered to amount to constructive dismissal by an arbitrator under the laws applicable in British Columbia;

provided that any change or series of changes in reporting relationships alone will not constitute good reason.

- d. **“Successor Company”** means, in connection with a Change of Control, the surviving or acquiring company or entity.

**M. Termination Without Cause or Resignation for Good Reason in Connection With or Following A Change of Control.**

In the event of (i) a termination without cause or (ii) resignation for Good Reason, in either case, occurring within three (3) months prior to a Change of Control and related or connected to that Change of Control or occurring within twelve (12) months after a Change of Control, your employment will end on the date it is terminated without cause by the Company or Successor Company or the date terminated by you for Good Reason, in which case the Company or Successor Company will provide you with the notice or pay in lieu of notice to which you are entitled under the British Columbia Employment Standards Act (the **“Statutory Notice”**). In exchange for and conditional upon you signing and returning a full and final Release of all claims in the form attached hereto as Schedule C, the Company or Successor Company will provide you with the following:

- a. payment equal to twenty-four (24) months (the **“COC Payment Period”**). The COC Payment Period is inclusive of, and not in addition to, the Statutory Notice;
  - b. payment of 100% of your then-applicable bonus eligibility calculated on your then-applicable annual Base Salary (i.e. not prorated for the partial year worked), less statutory and other applicable deductions as required;
  - c. the contributions to your retirement savings plan the Company would have paid on your behalf during the COC Payment Period;
  - d. notwithstanding any provision in the Company’s Amended and Restated Stock Option Plan (the **“Pre-IPO Equity Plan”**), the Equity Incentive Plan and any subsequent deferred compensation plan to the contrary:
    - (i) immediate vesting of all unvested stock options and other deferred compensation awards granted to you by the Company or the Successor Company; and
    - (ii) with respect to stock options granted pursuant to the Pre-IPO Equity Plan and any prior stock option plan, continued exercise rights up to ninety (90) days after the end of the Payment Period, at which time, such rights will be null and void; and
    - (iii) continued exercise rights for the longer of the period stipulated in the applicable plan or grant and six (6) months after the date your employment actually terminates (i.e. the last day you are actually at work); and
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- e. subject to the applicable insurer's terms of coverage, at the Company's discretion, the Company will arrange for you to continue to receive group benefits insurance coverage up to the earlier of (i) the end of the COC Payment Period, or (ii) the date you commence new work or employment with comparable coverage. In the event the insurer does not continue coverage, the Company will pay you an amount equivalent to the cost of the monthly premiums the Company would have paid on your behalf for the group benefits insurance coverage that are terminated.

In the case of Good Reason, you must within three (3) months after the occurrence of Good Reason provide the Company or Successor Company with thirty (30) days' written notice of Good Reason during which you will continue to provide services to the Company or Successor Company. Where the Good Reason is based in whole or in part on a series of changes, the notice period will commence on the occurrence of the last change in the series. Within your thirty (30) day working notice, the Company or the Successor Company may correct, reverse, rectify or otherwise resolve the change or series of changes that constitute Good Reason, in which case your employment with the Company or Successor Company will continue.

The payments described above are inclusive of any termination or severance pay owing to you under applicable employment standards legislation. You further agree that you will not be eligible for any additional payment pursuant to the termination sections below (e.g. you will **not** be entitled to receive both the payments described in this Section M and the Termination Without Cause payments or notice described below in Section P).

#### **Termination:**

**N. Resignation.** If for any reason you should wish to leave the Company, you will provide the Company with three (3) months' prior written notice of your intention (the "**Resignation Period**"). You agree that the Company may, in its sole and unfettered discretion, waive the Resignation Period in whole or in part and end your employment immediately by delivering to you a written notice promptly followed by payment of the Base Salary due to you during the remainder of the Resignation Period and any pay accrued and owing under this Agreement up to the date of such notice. It is further expressly agreed that you will not be entitled to any bonus or pro rata bonus after you give notice of resignation. For example, if you give notice of resignation partway during the calendar year, or any time prior to the bonus payment date following that calendar year, you will not be entitled to any bonus for that calendar year.

**O. Termination for Cause.** The Company may terminate your employment at any time for cause, effective upon delivery by the Company to you of a written notice of termination of your employment for cause. You will not be entitled to receive any further pay or compensation (except for pay, if any, accrued and owing under this Agreement up to the date of termination of your employment), severance pay, notice, payment in lieu of notice, benefits or damages of any kind, and for clarity, without limiting the foregoing, you will not be entitled to any bonus or pro rata bonus payment that has not already been awarded by the Company.

**P. Termination Without Cause.**

(This Section P does not apply to a termination without cause that occurs within three (3) months prior to a Change of Control and in relation or connection to that Change of Control or within twelve (12) months after a Change of Control – such terminations are covered by Section M).

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The Company may terminate your employment without cause at any time upon providing you with the notice or pay in lieu of notice to which you are entitled under the Statutory Notice. In exchange for and conditional upon you signing and returning a full and final Release of all claims in the form attached hereto as Schedule C, the Company will provide you with notice or pay in lieu of notice beyond that required by the Statutory Notice – in particular, the Company will provide you with working notice of termination (in which case all of your terms and conditions of employment including compensation and benefits, subject to the applicable insurer's terms of coverage, will continue during the working notice period, or Base Salary continuance, or a lump sum payment of Base Salary, or an equivalent combination of any of the foregoing, in the amount of twelve (12) months plus one (1) additional month for every one (1) year of consecutive service with the Company, up to a combined maximum of eighteen (18) months (the "**Notice Period**").

It is within the Company's sole discretion to decide whether to provide working notice, Base Salary Continuance, or a lump sum payment of Base Salary, or a combination of the foregoing, for the Notice Period.

The Notice Period is inclusive of, and not in addition to, the Statutory Notice. If the Company elects to provide Base Salary Continuance or a lump sum payment of Base Salary for all or part of the Notice Period, the portion of the Notice Period covered by such payment(s) shall be defined as the "**Payment Period**".

The parties further agree as follows, also conditional upon you signing and returning a full and final Release of all claims in the form attached hereto as Schedule C:

- (i) subject to the applicable insurer's terms of coverage, the Company will arrange for you to continue to receive group benefits insurance coverage up to the earlier of (i) the end of the Notice Period, or (ii) the date you commence full-time employment. In the event the insurer does not continue coverage, the Company will pay you an amount equivalent to the cost of the monthly premiums the Company would have paid on your behalf for the group benefits insurance coverage that are terminated;
  - (ii) you will receive an Average Bonus pro-rated for the period of the calendar year that you actually worked, up to your last day at work, less statutory and other applicable deductions as required. For example, if your last day of work is March 31, you will receive 3 months of your Average Bonus. Payment of your pro-rated Average Bonus will be within four (4) weeks of the termination date provided that if a bonus has not yet been determined for the preceding completed calendar year, the Company will first make that determination in the ordinary course using relevant criteria in a manner consistent with prior practice so that the Average Bonus can then be determined and paid. For clarity, it is expressly agreed that you will not be entitled to any bonus whatsoever for any period of time after your last actual day at work, including during the Payment Period;
  - (iii) the Company will pay the contributions to your retirement savings plan the Company would have paid on your behalf during the Notice Period; and
-

(iv) notwithstanding any provision in this Agreement or in the Pre-IPO Equity Plan, the Equity Incentive Plan and any subsequent incentive compensation plan to the contrary, the Company will extend the vesting and exercise rights of your vested and unvested options and other deferred compensation as follows:

- a. for stock options granted under the Pre-IPO Equity Plan and any prior stock option plan, the stock options will continue vesting until the end of the Notice Period, at which time all unvested options will be null and void, and all vested stock options will be exercisable until the earlier of the original expiry date of the options and the date that is three (3) months following the end of the Notice Period; and
- b. for stock options and other deferred compensation granted under the 2014 Equity Incentive Plan and any subsequent incentive compensation plan, the stock options and other deferred compensation will continue to vest for a period of three (3) months after the date your employment terminates and all vested stock options and other deferred compensation will be exercisable until the earlier of the original expiry date of the stock options and deferred compensation and the date that is six (6) months after the date your employment terminates.

Any payment in lieu of notice provided to you will be inclusive of any termination or severance pay owing to you under applicable employment standards legislation and subject to statutory withholdings and other regular payroll deductions. You will not be entitled to receive any further pay or compensation except (i) as expressly set out in this Agreement, and (ii) the pay, if any, accrued and owing under this Agreement up to the date of termination of your employment.

**Q. Work Permit.** As a condition of your employment, you may become required to work in other jurisdictions where the Company or the Company's affiliates maintain an office. In that event, the continuance of your employment with the Company will become contingent upon your signing and complying with an Employee Secondment Agreement Letter, receiving authorization to work in that or those other jurisdiction(s), and to your maintaining such status. The Company will support your application for any such authorization(s).

**R. FDA Debarment.** As a condition of your employment, you must certify that you are not under investigation by the FDA for debarment action, have not been debarred under the Generic Drug Enforcement Act of 1992 (21 U.S.C. 301 et seq.), and are not otherwise being investigated, restricted or disqualified from performing services relating to clinical trials by the FDA or any other regulatory authority or professional body in any other jurisdiction. If, during the course of your employment with Xenon, you become subject to such investigation or otherwise are restricted or disqualified, you will promptly inform Xenon's Legal Department of such event.

#### **S. Miscellaneous**

**No Implied Entitlement.** Other than as expressly provided herein or in any of the Company's policies, as amended from time to time at the Company's sole discretion, you will not be entitled to receive any further pay or compensation, severance pay, notice, payment in lieu of notice, incentives, bonuses, benefits or damages of any kind.

**Continued Effect.** Notwithstanding any changes in the terms and conditions of your employment which may occur in the future, including any changes in position, duties or compensation, the termination provisions in this Agreement will continue to be in effect for the duration of your employment with the Company unless otherwise amended in writing and signed by the Company.

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**Authorization to Deduct Debts.** If, on the date you leave employment, you owe the Company any money, you hereby authorize the Company to deduct any such debt from your final pay or any other payment due to you to the extent permitted by the *BC Employment Standards Act* if applicable. Any remaining debt will be immediately payable to the Company and you agree to satisfy such debt within fourteen (14) days after any demand for repayment.

**Dispute Resolution.** In the event of a dispute arising out of or in connection with this Agreement, or in respect of any legal relationship associated with it or from it, which does not involve the Company seeking a court injunction or other injunctive or equitable relief to protect its business, confidential information or intellectual property, or enforce the covenants hereunder, that dispute will be resolved confidentially as follows:

- a. *Amicable Negotiation* – The parties agree that, both during and after the performance of their responsibilities under this Agreement, each of them will make *bona fide* efforts to resolve any disputes arising between them by amicable and expeditious negotiations.
- b. *Mediation* – If the parties are unable to negotiate resolution of a dispute, either party may with the agreement of the other party refer the dispute to mediation by providing written notice to the other party. If the parties cannot agree on a mediator within fifteen (15) days after receipt of the notice to mediate, then either party may make application to the British Columbia Arbitration and Mediation Society to have one appointed. The mediation will be held in Vancouver, BC, in accordance with the British Columbia International Commercial Arbitration Centre's (the "**BCICAC**") Commercial Mediation Rules, and each party will bear its own costs, including one-half share of the mediator's fees.
- c. *Arbitration* – If, after mediation, the parties have been unable to resolve a dispute or at any time if mediation is not undertaken, either party may refer the dispute for final and binding arbitration by providing written notice to the other party. If the parties cannot agree on an arbitrator within fifteen (15) days after receipt of the notice to arbitrate, then either party may make application to the British Columbia Arbitration and Mediation Society to appoint one. The arbitration will be held in Vancouver, BC, in accordance with the BCICAC's Shorter Rules for Domestic Commercial Arbitration. Each party will bear its own costs, including one-half share of the arbitrator's fees, provided that the arbitrator will have discretion to award costs against either party.

**Legal Counsel.** You have been advised by the Company to retain independent legal advice with respect to this Employment Agreement.

**Employment Standards Act.** The parties hereby agree that if any provision in this Employment Agreement, in any circumstance, provides for less than what is required by the *BC Employment Standards Act*, such provision shall be replaced with the minimum provision(s) of the *BC Employment Standards Act*.

**Currency.** Except as otherwise specifically indicated, all monetary amounts referenced herein are in Canadian dollars.

**Severability.** If any part, article, section, clause, paragraph or subparagraph of this Agreement is held to be indefinite, invalid, illegal or otherwise voidable or unenforceable for any reason, the entire Agreement will not fail on the account thereof and the validity, legality and enforceability of the remaining provisions will in no way be affected or impaired thereby.

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**Entire Understanding.** We also confirm that this Agreement and the other agreements, documents, and plans that are referred to in this Agreement (including the Non-Disclosure, Non-Solicitation and Non-Competition Agreement) set forth our entire understanding of the terms of your employment with the Company, and cancels and supersedes all previous invitations, proposals, letters, correspondence, negotiations, promises, agreements (including your former employment agreement), covenants, conditions, representations and warranties with respect to the subject matter of this Agreement. Any modifications to these employment terms must be made in writing and signed by both you and the Company.

**Fresh Consideration.** The Company is hereby providing you with one hundred dollars (\$100) as fresh consideration for you entering into this Employment Agreement. You hereby accept the receipt and sufficiency of this fresh consideration.

**Governing Law.** This Agreement and all matters arising hereunder will be governed by and construed in accordance with the laws of the Province of British Columbia.

If you have any questions or concerns regarding the above, please do not hesitate to contact me.

To accept this Agreement on the terms set out herein, please sign where indicated below, and return a signed copy of this Agreement to me before March 21, 2019.

Yours sincerely,

**XENON PHARMACEUTICALS INC.**

*/s/ Simon Pimstone*  
Simon Pimstone  
CEO

Attachments:

- 1) Xenon Employee Non-Disclosure, Non-Solicitation and Non-Competition Agreement

I hereby confirm that I have read, understand and voluntarily accept the terms of this Agreement:

*/s/ Ian Mortimer* 22/03/2019  
**Ian Mortimer** **DD/MM/YYYY**

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## SCHEDULE A

### Duties and Responsibilities

Your duties and responsibilities in this position will include those listed below:

1. Manage all finance, IT, human resources, legal, investor relations, facilities and other related functions within the Company.
  2. Collaborate with the management team to develop and implement plans for the operational infrastructure of systems, processes, and personnel as required by the needs of the Company.
  3. Assure necessary compliance on all tax, reporting, regulatory and financial obligations. Coordinate and supervise the management of all transactions related to investments, accounts payable and purchasing.
  4. Oversee corporate positioning, public relations, press releases and SEC regulatory compliance.
  5. Assist in the protection of the Company by mitigating key elements of the Company's risk profile and ensuring compliance with all applicable laws and policies.
  6. Clearly articulate the scientific story to the investment community including frequent presentations at key meetings.
  7. Participate and contribute in the strategic planning, establishment of financial objectives and with the CEO, securing adequate financing to realize objectives and assure that stable, well-developed and secure financial systems are in place.
  8. Assist in the preparation for and presentation of Company at BOD meetings, investor conferences and analyst and institutional investor meetings.
  9. Work with Senior Executives in setting and executing on general corporate strategy for the Company.
  10. Work with Senior Executives in identifying and managing the review and preparation of partnering opportunities.
  11. Play a key role on the senior management team and serve as a business confidant and partner to the CEO and contribute extensively at the Board level.
  12. Develop and maintain positive relationships with clients, investors, and business partners.
  13. Lead employees to encourage maximum performance in alignment with Company culture and goals.
  14. Travel for meetings, conferences, and other applicable business.
  15. Other duties as required from time to time.
  16. Strictly adhere to all Xenon corporate policies, particularly those concerning confidentiality, intellectual property, and safety.
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**SCHEDULE C**

**Form of Release**

**IN CONSIDERATION OF** the terms and conditions set out in the [DATE] letter from **Xenon Pharmaceuticals Inc.** (hereinafter called "**Xenon**") to me, [NAME], and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledge, I do hereby remise, release and forever discharge Xenon, its officers, directors, servants, employees and agents, and their heirs, executors, administrators, successors and assigns, as the case may be (defined collectively as the "Releasees"), of and from any and all manner of actions, causes of action, suits, contracts, claims, damages, costs and expenses of any nature or kind whatsoever, whether in law or in equity, which as against Xenon or such persons as aforesaid or any of them, I have ever had, now have, or at any time hereafter I or my personal representatives can, shall or may have, by reason of or arising out of the termination of my employment with Xenon on or about [DATE], without limiting the generality of the foregoing, any and all claims for damages for termination of my employment, constructive termination of my employment, loss of position, loss of status, loss of future job opportunity, loss of opportunity to enhance my reputation, the timing of the termination and the manner in which it was effected, loss of bonuses, loss of shares and/or share options, loss of benefits, including life insurance and short and long-term disability benefit coverage, and any other type of damages arising from the above.

**IT IS UNDERSTOOD AND AGREED** that this Release includes any and all claims arising under the *Employment Standards Act*, *Human Rights Code*, or other applicable legislation as it relates to the termination of my employment and that the consideration provided includes any amount that I may be entitled to under such legislation.

**IT IS FURTHER UNDERSTOOD AND AGREED** that this Release is subject to compliance by Xenon with the said conditions as stipulated in the aforementioned employment agreement entered into between the undersigned and Xenon.

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**IT IS FURTHER UNDERSTOOD AND AGREED THAT XENON** will withhold and remit income tax and other statutory deductions from the aforesaid consideration and I agree to indemnify and hold harmless Xenon from any further assessments for income tax, repayment of any employment insurance benefits received by me, or other statutory deductions which may be made under statutory authority.

**IT IS FURTHER UNDERSTOOD AND AGREED** that this is a compromise and is not to be construed as an admission of liability on the part of Xenon. The terms of this Release set out the entire agreement between Xenon and me with respect to the matters described herein and are intended to be contractual and not a mere recital. If the facts on which this Release is made prove to be other than or different from the facts in that connection now known or believed to be true by the parties or either of them, the parties and each of them expressly accept and assume the risk of the facts being different and agree that all the terms of this Release shall be in all respects effective and not subject to termination, variation, or rescission by any discovery of any difference in the facts. If any part or provision of this Release or its application to any circumstance is restricted, prohibited or unenforceable, such part or provision will be ineffective only to the extent of such restriction, prohibition or unenforceability, and the remainder of the Release will remain in full force and effect.

**IT IS FURTHER UNDERSTOOD AND AGREED** that I will keep the contents of this settlement and all communication relating thereto confidential except to Revenue Canada or as is required to obtain legal and tax advice, or to enforce my rights hereunder in a court of law, or as is required by law.

**IT IS FURTHER UNDERSTOOD AND AGREED** that the law governing this Release is that of British Columbia, and the parties will resolve any disputes they have under this Release in the courts of British Columbia, provided that if, contrary to this Release, I commence, pursue, or maintain any such proceedings against any of the Releasees, I hereby irrevocably consent to such Releasee(s) relying on this Release to obtain a stay or dismissal or such proceedings.

**IT IS FURTHER UNDERSTOOD AND AGREED** that the consideration described herein was voluntarily accepted by me for the purpose of making a full and final settlement of all claims described above and that prior to agreeing to the settlement, I was advised by Xenon of my right to receive independent legal advice.

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**IN WITNESS WHEREOF** this Release has been executed effective the \_\_\_\_\_ (please insert date of signature).

SIGNED, SEALED AND DELIVERED

By **[NAME]** in the presence of:

_____	)	
	)	
<b>Signature of Witness</b>	)	<b>[NAME]</b> _____
_____	)	
Name of Witness	)	
_____	)	
Address	)	
_____	)	
Occupation	)	

March 19, 2019

**Confidential**

**Via Electronic Mail**

Ernesto Aycardi

Dear Ernesto,

**Re: Amended and Restated Employment Agreement**

We are pleased to offer you this Amended and Restated Employment Agreement which replaces and supersedes your earlier Offer of Employment (the "**Prior Agreement**") dated February 21, 2018 with Xenon Pharmaceuticals USA Inc. (the "**Company**"), a wholly-owned subsidiary of Xenon Pharmaceuticals Inc. (the "**Parent**"). You will be credited for all purposes with your service to the Company back to your start date of March 19, 2018. As of March 19, 2019 (the "**Effective Date**"), you will continue to be engaged by the Company in the full-time position of Chief Medical Officer. Subject to Sections L through P below, the Company agrees to employ you, and you agree to serve the Company, on an "at-will" basis, which means that either the Company or you may terminate your employment with the Company at any time and for any or no reason, in accordance with the terms of this agreement (the "**Agreement**").

**A. Base Salary.** Retroactive to January 1, 2019, and subject to Section T below, you will earn a base salary at a rate of \$420,000 USD per year, less statutory and other applicable deductions as required, for all work and services you perform for the Company (the "**Base Salary**"). The Base Salary is payable semi-monthly in arrears in accordance with the Company's applicable payroll policies.

**B. Annual Discretionary Bonus.** In addition to your Base Salary, you are eligible to earn an annual discretionary bonus, less statutory and other applicable deductions as required, of up to forty percent (40%) of your base salary earnings actually earned in the applicable calendar year of service. The payment and amount of the annual bonus is within the sole discretion of the Board of Directors of the Company (the "**Board**"), based on the determination of the Compensation Committee of the Board of Directors of Parent (the "**Compensation Committee**") and will be evaluated in the first quarter of each year in relation to the achievement of corporate objectives for the previous year and subject to the terms and conditions of Appendix A. Such objectives will be established annually by the Compensation Committee in its sole discretion. Bonuses are not earned until paid and are contingent upon your continued employment with the Company through the date the bonus is paid. No "pro-rated" or partial bonus will be provided unless provided for in Sections L through P below or as otherwise approved by the Board, based on the determination of the Compensation Committee, in its sole discretion.

**C. Annual Review.** The Compensation Committee will conduct an annual review of your compensation package, including your salary and bonus percentage in accordance with its policies. The Compensation Committee's recommendations regarding your compensation package will be conveyed to the Board for final approval. Any adjustment to your compensation package is at the sole discretion of the Compensation Committee and the Board provided that the Base Salary will not be reduced without your consent and subject to Sections L and M of this Agreement.

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**D. Expense Reimbursement.** In accordance with its expense policy, as amended from time to time, the Company will reimburse any authorized expenses actually and reasonably incurred in the course of performing your employment duties. The Company will also provide to you, for the duration of your employment, any necessary work tools and equipment, such as a laptop computer and mobile phone. Subject to advance approval by the Company, you will also be reimbursed for out-of-pocket expenses incurred for attending courses or workshops related to your employment duties.

**E. Reporting Structure/Responsibilities.** You will report to the CEO of Parent. You agree that the Company may change the reporting structure, including the person and position to whom you report, and the people and positions who report to you. You will perform the responsibilities and duties of your position, as described in Schedule A, and subject to Sections L and M of this Agreement, such other responsibilities and duties as may be reasonably requested by the Parent and/or the Company from time to time. You will at all times: (i) conform to the reasonable and lawful directions of the Parent, the Company and the Board; (ii) adhere to all applicable Company and Parent policies; (iii) give the Company and Parent the full benefit of your knowledge, expertise, skill and ingenuity; (iv) well and faithfully serve the Company and Parent; (v) devote your full time and best efforts to furthering the interests of the Company and Parent; and (vi) exercise the degree of care, diligence and skill that a prudent executive would exercise in comparable circumstances.

You will not during your employment with the Company, be employed by, or provide products or services of any nature whatsoever to, any other person, company, organization or other entity without prior written permission from the Company, provided that you may provide services to Parent as agreed between Parent and Company as part of your duties under this Agreement (with the understanding that the compensation provided to you under this Agreement shall fully compensate you for any such services to Parent). This does not restrict you from performing reasonable volunteer activities; however, you must obtain the prior consent of the Company if you wish to serve on a board of directors or advisory board, or if you perform any paid work or services for other organizations. Schedule B contains a description of all such appointments and positions that you currently occupy, and all paid work and services you currently provide to outside organizations, to which the Company confirms that it provides its permission. The Company retains the right to revoke any consent for such outside services, especially in the event where any such services may create a conflict of interest.

**F. Paid Time Off.** You will earn twenty (20) days of paid time off per calendar year on a pro rata basis. You may use paid time off for any purpose, including vacation, sick or personal days. You may also be entitled to other leaves, including without limitation, an additional allotment of paid sick days and statutory holidays in accordance with applicable law and the Company's applicable policies, as may be in effect from time to time. Accrued but unused paid time off and sick days will expire in accordance with the Company's policies, as amended from time to time

**G. Confidentiality Agreement.** As a condition of your employment under this Agreement, you must enter into and abide by the enclosed At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement (the "**Confidentiality Agreement**"). Please note that this agreement also deals with, among other things, confidentiality and the ownership of intellectual property developments, and contains non-solicitation, non-competition, and other restrictive covenants. By entering into the Confidentiality Agreement, you are agreeing that compliance with its provisions is reasonable and a necessary requirement in our highly competitive industry, and may be required by our agreements with our suppliers, customers, and distributors. In the event that you leave the employ of the Company, you consent to notification by the Company to your new employer about your rights and obligations under the Confidentiality Agreement.

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**H. Stock Options.** You will continue be eligible to participate in Parent's 2014 Equity Incentive Plan, a copy of which is attached. Nothing in this Agreement will affect in any way the stock options granted to you by the Parent to date, all of which will, except as expressly provided in this Agreement, continue to vest and be exercisable in accordance with their terms while you are employed by the Company.

**I. Benefits.** You will continue to be eligible to receive and participate in the Company's employee benefits as may be established from time to time for the Company's employees, subject to the terms of the applicable plans. You will continue to be eligible to participate in any retirement savings plan that the Company may sponsor, which, subject to compliance with applicable U.S. laws, may include a Company matching contribution of up to the amount of your personal contributions to such retirement savings plan in a given tax year, subject to a cap of 5% of your Base Salary (the "**Matching Contribution**"). Alternatively, if either (a) there is no Company-sponsored retirement savings plan in which you are eligible to participate, or (b) there is a Company-sponsored retirement savings plan in which you have contributed the maximum amount permitted by law in a given tax year and applicable U.S. law does not permit receipt of the full Matching Contribution, then the Company may pay you a bonus in an amount through the Company's regular payroll so that the aggregate amount you receive for a plan year (including any portion of the Matching Contribution) is economically equivalent to the full Matching Contribution.

**J. Taxes.** Any taxes applicable to your employment compensation package with the Company and your secondment to the Parent will be deducted and remitted to the appropriate authorities in accordance with the Company's standard policies and applicable law. You acknowledge and agree that during your employment with the Company, you will be expected to provide services to the Parent pursuant to a secondment arrangement between the Company and the Parent, and that any such services may result in your owing taxes in Canada. You are advised to consult your own financial advisor.

If you work in a second tax jurisdiction at the Parent or Company's request, the Company will cover the reasonable costs for you to use the services of the Company's tax adviser or another tax adviser agreed upon by the Parties to prepare your home and host country tax returns for any year during which you are required to file tax returns in more than one country as a result of your employment with the Company.

**K. Insurance and Indemnification.** As a corporate and/or executive officer of the Company and/or of the Parent during your employment with the Company, you will be covered by Parent's Directors' and Officers' Liability Insurance Policy and such other indemnity policy, agreement or commitment established by the Company or Parent, as may be in effect from time to time, subject to the terms of the Insurance Policy and other policy, agreement or commitment and any amendments made from time to time at the discretion of the Parent's Board of Directors, provided that no amendment will substantially reduce your entitlements. Your coverage under such insurance policy and any other policy, agreement or commitment will continue after your employment with the Company ends in respect of your employment with the Company.

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**L. Change of Control.** In this Agreement:

- a. **“Average Bonus”** means an amount that is (i) the sum of the annual bonus awards (expressed as a percentage of the applicable year’s Base Salary) that you earned in each of the three (3) completed calendar years preceding the date your employment with the Company terminates, divided by (ii) three (3), multiplied by (iii) your Base Salary at the time your employment with the Company terminates [for example:  $(15\%+5\%+10\%)/3 = 10\%$  of Base Salary]. If you have been employed for more than one (1) but fewer than three (3) completed calendar years of service, then your “Average Bonus” will be the average of the annual bonus awards (as expressed as a percentage of the applicable year’s Base Salary) that you have received for the completed calendar year(s) preceding the date of your employment with the Company terminates
- b. **“Change of Control”** means:
- (i) the acquisition by any person or persons acting jointly or in concert (as determined by the Securities Act) (“**Person**”), whether directly or indirectly, of voting securities of the Parent that, together with all other voting securities of the Parent held by such Person, constitute in the aggregate more than 50% of all outstanding voting securities of the Parent; provided, however, that for purposes of this subsection, the acquisition of additional securities by any one Person, who owns more than 50% of all outstanding voting securities of the Parent will not be a Change of Control;
  - (ii) an amalgamation, arrangement or other form of business combination of the Parent with another corporation that results in the holders of voting securities of that other corporation holding, in the aggregate, more than 50% of all outstanding voting securities of the corporation resulting from the business combination; provided, however, that for purposes of this subsection, the acquisition of additional securities by any one Person, who owns more than 50% of all outstanding voting securities of the Parent will not be a Change of Control; or
  - (iii) a change in the ownership of a substantial portion of the Parent’s assets, including the sale, lease, transfer or exchange of a substantial portion of the Parent’s assets, to another Person, other than in the ordinary course of business of the Parent, which occurs on the date that such Person acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by such person or persons) assets from the Parent that have a total gross fair market value equal to or more than fifty percent (50%) of the total gross fair market value of all of the assets of the Parent immediately prior to such acquisition or acquisitions; provided, however, that for purposes of this subsection (iii), the following will not constitute a change in the ownership of a substantial portion of the Parent’s assets: (A) a transfer to a Related Entity, or (B) a transfer of assets by the Parent to: (1) a stockholder of the Parent (immediately before the asset transfer) in exchange for or with respect to the Parent’s stock, (2) an entity of which the Parent has Control, (3) a Person, that owns, directly or indirectly, fifty percent (50%) or more of the all outstanding voting securities of the Parent, or (4) an entity of which a Person described in this subsection (iii)(B)(3) has Control. For purposes of this subsection (iii), gross fair market value means the value of the assets of the Parent, or the value of the assets being disposed of, determined without regard to any liabilities associated with such assets;

provided, however, that a Change in Control will not be deemed to have occurred if such Change in Control results solely from the issuance, in connection with a *bona fide* public offering, financing or series of financings by the Parent, of voting securities of the Parent or any rights to acquire voting securities of the Parent which are convertible into voting securities.

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Further and for the avoidance of doubt, a transaction will not constitute a Change of Control if: (x) its sole purpose is to change the state or jurisdiction of the Parent's incorporation, or (y) its sole purpose is to create a holding company the voting securities of which will be owned in substantially the same proportions by the persons who held the Parent's voting securities immediately before such transaction.

c. **"Good Reason"** means any of the following:

- (i) any unilateral change or series of changes to your employment responsibilities, reporting relationship, or status within the Company or Parent, such that immediately after such a change or series of changes to your responsibilities, reporting relationship, or status, taken as a whole, and taking into account the size and complexity of the business of the Company or Parent at that time, are substantially less than those assigned to you immediately prior to such change or series of changes; or
- (ii) a material reduction in your Base Salary or other compensation as in effect prior to the Change of Control; or
- (iii) the taking of any action by the Company or Parent, or the failure by the Company or Parent to take any action, that would materially adversely affect your participation in, or materially reduce your aggregate benefits under, the total package of long-term incentive, bonus, compensation, retirement savings plan, life insurance, health, accident disability and other similar plans in which you are participating prior to the action by the Company or Parent or the failure by the Company or Parent to take any action; or
- (iv) the unilateral requirement that you relocate to a new location that is both (a) more than 60 kilometers from your previous work location and (b) more than 60 kilometers from your primary residence; it being understood that you shall not be considered to have been relocated for purposes of this subsection (iv) if you are providing services to the Company consistent with Section R of this Agreement or you otherwise expressly consent to a change to Section R; or
- (v) failure or refusal of the Successor Company to offer you terms and conditions of employment, including the provisions of Section M of this Agreement, that are substantially the same as the provisions of this Agreement;

provided that any change or series of changes in reporting relationships alone will not constitute Good Reason.

d. **"Successor Company"** means, in connection with a Change of Control, the surviving or acquiring company or entity.

e. **"Cause"** has the meaning set forth in Appendix A.

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**M. Termination Without Cause or Resignation for Good Reason in Connection With or Following A Change of Control:**

In the event of (i) a termination without cause or (ii) resignation for Good Reason, in either case, occurring within three (3) months prior to a Change of Control and related or connected to that Change of Control or occurring within twelve (12) months after the date of the Change of Control, your employment will end on the date it is terminated without Cause by the Company or Successor Company or the date terminated by you for Good Reason, in which case the Company or Successor Company will provide you with the following, subject to Appendix A and the conditions precedent therein:

- a. payment equal to twelve (12) months' Base Salary, plus one (1) additional month of Base Salary for every year of consecutive service with the Company, including any service with Parent, and Successor Company, up to a combined maximum of eighteen (18) months (the "**COC Payment Period**");
- b. payment of 100% of your then-applicable bonus eligibility calculated on your then-applicable annual Base Salary (i.e. not prorated for the partial year worked), less statutory and other applicable deductions as required;
- c. payment of an amount equal to the contributions to your retirement savings plan the Company would have paid on your behalf during the COC Payment Period;
- d. notwithstanding any provision in the Equity Incentive Plan to the contrary:
  - i. immediate vesting of all unvested stock options and other deferred compensation awards granted to you by the Parent or the Successor Company; and
  - ii. with respect to stock options and other deferred compensation granted pursuant to the Equity Incentive Plan and any subsequent deferred compensation plan, continued exercise rights for the longer of the period stipulated in the applicable plan or grant and six (6) months from the termination of your employment;
- e. payment directly on your behalf or reimbursement to you for the cost of the monthly premiums for you and your eligible dependents to continue your health care benefits pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("**COBRA**") up to the earlier of (I) the end of the Payment Period, or (II) the date you commence full-time employment.

In the case of Good Reason, you must within three (3) months after the occurrence of Good Reason, provide the Company or Successor Company with thirty (30) days' written notice of Good Reason. Where the Good Reason is based in whole or in part on a series of changes, the notice period will commence on the occurrence of the last change in the series. Within thirty (30) days after receipt of written notice of Good Reason, the Company or the Successor Company may correct, reverse, rectify or otherwise resolve the change or series of changes that constitute Good Reason, in which case your employment with the Company or Successor Company will continue.

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Subject to Appendix A, the payments described above, are inclusive of any termination or severance pay owing to you under applicable law, and will be subject to statutory withholdings and other regular payroll deductions. You further agree that you will not be eligible for any additional severance or separation payments under any other Company policy or practice. You will be entitled to the pay, if any, accrued and owing under this Agreement up to the date of termination of your employment. In the event you trigger termination under the Change of Control/Good Reason terms above or are entitled to the termination provisions above as a result of the termination of your employment without Cause, you will not be eligible for any payment pursuant to the termination sections below.

#### **Termination:**

**N. Resignation.** If for any reason you should wish to leave the Company, you will provide the Company with three (3) months' prior written notice of your intention (the "**Resignation Period**"). You agree that in order to protect the Company's interests, the Company may, in its sole and unfettered discretion, waive the Resignation Period and end your employment immediately by delivering to you a written notice, which shall cease any further pay or compensation obligations of the Company (except for pay, if any, accrued and owing under this Agreement up to the date of termination of your employment). Nothing in this provision is intended to alter the at-will nature of your employment with the Company.

**O. Termination for Cause.** The Company may terminate your employment at any time for Cause. You will not be entitled to receive any further pay or compensation (except for pay, if any, accrued and owing under this Agreement up to the date of termination of your employment), severance pay, notice, payment in lieu of notice, benefits or damages of any kind, and for clarity, without limiting the foregoing, you will not be entitled to any bonus or pro rata bonus payment that has not already been awarded by the Company.

#### **P. Termination Without Cause.**

(This Section P does not apply to a termination without cause that occurs within three (3) months prior to a Change of Control and in relation or connection to that Change of Control or within six (6) months prior to a Change of Control and in relation or connection to that Change of Control or within twelve (12) months of a Change of Control – such terminations are covered by Section M).

The Company may terminate your employment without Cause at any time upon providing you a severance payment in the amount equal to twelve (12) months plus one (1) additional month for every one (1) year of consecutive service with the Company or Parent, up to a maximum of eighteen (18) months (the "**Payment Period**"), and subject to Appendix A and the conditions precedent therein.

In addition to the severance payment above, in the event of a termination without Cause, the Company will provide you with the following, and, as above, subject to Appendix A and the conditions precedent therein:

- (i) the Company will pay on your behalf or otherwise reimburse you for the cost of the monthly premiums for you and your eligible dependents to continue your health care benefits pursuant under COBRA, as amended up to the earlier of (I) the end of the Payment Period, or (II) the date you commence full-time employment;

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- (ii) the Company will pay you an Average Bonus pro-rated for the period of the partial bonus year you actually worked immediately prior to the termination of your employment, less statutory and other applicable deductions as required. For example, if your last day of work is March 31, you will receive three (3) months of your Average Bonus. If a bonus has not yet been determined for the preceding completed calendar year, the Compensation Committee will first make that determination in the ordinary course using relevant criteria in a manner consistent with prior practice and make its recommendation to the Board so that the Average Bonus can then be determined and paid in accordance with this provision. For clarity, it is expressly agreed that you will not be entitled to any bonus whatsoever for any period of time after your last actual day at work, including during the Payment Period;
- (iii) the Company will pay an amount equal to the contributions to your retirement savings plan it would have paid on your behalf for the Payment Period.
- (iv) notwithstanding any provision in the Plan to the contrary, all options and any other deferred compensation granted to you will continue to vest for a period of three (3) months after the date your employment terminates and all vested stock options and other deferred compensation will be exercisable until the earlier of the original expiry day of the stock options and deferred compensation and the date that is six (6) months after the date your employment terminates.

Any payments, severance, or other benefits hereunder will be subject to applicable withholdings and deductions. You will not be entitled to receive any further pay or compensation except (i) as expressly set out in this Agreement, and (ii) the pay, if any, accrued and owing under this Agreement up to the date of termination of your employment.

On termination of your employment, regardless of the reason for such termination, you shall immediately (and with contemporaneous effect) resign any directorships, offices or other positions that you may hold, if any, in the Company, Parent or any affiliate, unless otherwise agreed in writing by the Company and Parent.

**Q. Work Permit.** You will continue to be required to work in the Parent's Canadian office while fulfilling your on-site presence expectations, as further described in an Employee Secondment Agreement Letter. As such, your employment with the Company is contingent upon your signing and complying with the Employee Secondment Agreement Letter and maintaining your authorization to work in Canada. If you fail to maintain such status at any point after commencing your employment with the Company, that will be considered a frustration of your employment agreement and the Company will then be able to terminate your employment agreement with no severance payment to you. The Company will support your application for any such authorization.

**R. On-Site Expectations.** You will be expected to be on site at Parent's place of business one (1) week per month at a minimum. Business travel on behalf of Parent will be considered as time spent on-site at Parent. The requirements for your on-site presence will be reviewed with the Parent on an ongoing basis. In order to support your on-site presence, Company will pay for your flights to and from Vancouver, BC and your accommodation during your travel to Vancouver, BC.

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**S. FDA Debarment.** As a condition of your employment with the Company, you must certify and reaffirm that you are not under investigation by the FDA for debarment action, have not been debarred under the Generic Drug Enforcement Act of 1992 (21 U.S.C. 301 et seq.), and are not otherwise being investigated, restricted or disqualified from performing services relating to clinical trials by the FDA or any other regulatory authority or professional body in any other jurisdiction. If, during the course of your employment with the Company, you become subject to such investigation or otherwise are restricted or disqualified, you will promptly inform Parent's Legal Department of such event.

**T. Miscellaneous**

**No Implied Entitlement.** Other than as expressly provided herein, you will not be entitled to receive any further pay or compensation, severance pay, notice, payment in lieu of notice, incentives, bonuses, benefits or damages of any kind.

**Continued Effect.** Notwithstanding any changes in the terms and conditions of your employment which may occur in the future, including any changes in position, duties or compensation, the termination provisions in this Agreement will continue to be in effect for the duration of your employment with the Company unless otherwise amended in writing and signed by the Company.

**Authorization to Deduct Debts.** If, on the date you leave employment, you owe the Company any money, you hereby authorize the Company to deduct any such debt from your final pay or any other payment due to you to the extent permitted by applicable law. Any remaining debt will be immediately payable to the Company and you agree to satisfy such debt within fourteen (14) days after any demand for repayment, to the extent permitted by applicable law.

**Dispute Resolution.** IN CONSIDERATION OF YOUR EMPLOYMENT WITH THE COMPANY, ITS PROMISE TO ARBITRATE ALL EMPLOYMENT-RELATED DISPUTES AND YOUR RECEIPT OF THE COMPENSATION AND OTHER BENEFITS PAID TO YOU BY THE COMPANY, AT PRESENT AND IN THE FUTURE, YOU AGREE THAT ANY AND ALL CONTROVERSIES, CLAIMS, OR DISPUTES WITH ANYONE (INCLUDING THE COMPANY AND ANY EMPLOYEE, OFFICER, DIRECTOR, SHAREHOLDER OR BENEFIT PLAN OF THE COMPANY, IN THEIR CAPACITY AS SUCH OR OTHERWISE), ARISING OUT OF, RELATING TO, OR RESULTING FROM YOUR EMPLOYMENT WITH THE COMPANY OR THE TERMINATION OF YOUR EMPLOYMENT WITH THE COMPANY, INCLUDING ANY BREACH OF THIS AGREEMENT, SHALL BE SUBJECT TO BINDING ARBITRATION, AS SET FORTH IN THE CONFIDENTIALITY AGREEMENT.

**Legal Counsel.** You have been advised by the Company to retain independent legal advice with respect to this Employment Agreement.

**Currency.** Except as otherwise specifically indicated, all monetary amounts referenced herein are in U.S. dollars.

**Severability.** If any part, article, section, clause, paragraph or subparagraph of this Agreement is held to be indefinite, invalid, illegal or otherwise voidable or unenforceable for any reason, the entire Agreement will not fail on the account thereof and the validity, legality and enforceability of the remaining provisions will in no way be affected or impaired thereby.

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**Entire Understanding.** We also confirm that this Agreement (including Appendix A), the Equity Incentive Plan and the attached Confidentiality Agreement and Employee Secondment Agreement Letter and related documentation set forth our entire understanding of the terms of your employment with the Company, and cancels and supersedes all previous invitations, proposals, letters, correspondence, negotiations, promises, agreements with the Parent, the Company, or any related entity (including the Prior Agreement), covenants, conditions, representations and warranties with respect to the subject matter of this Agreement. Any modifications to these employment terms must be made in writing and signed by both you and the Company.

**Fresh Consideration.** The Company is hereby providing you with one hundred dollars (\$100) as fresh consideration for you entering into this Employment Agreement. You hereby accept the receipt and sufficiency of this fresh consideration.

**Governing Law.** This Agreement and all matters arising hereunder will be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without regard for conflict of law provisions.

**Protected Activity Not Prohibited.** I understand that nothing in this Agreement shall in any way limit or prohibit me from engaging in any Protected Activity. For purposes of this Agreement, "Protected Activity" means filing a charge or complaint with, or otherwise communicating or cooperating with or participating in any investigation or proceeding that may be conducted by any federal, state or local government agency or commission, including the Securities and Exchange Commission, the Equal Employment Opportunity Commission, the Occupational Safety and Health Administration, and the National Labor Relations Board ("**Government Agencies**"). I understand that in connection with such Protected Activity, I am permitted to disclose documents or other information as permitted by law, and without giving notice to, or receiving authorization from, the Company or Parent. Notwithstanding, in making any such disclosures or communications, I agree to take all reasonable precautions to prevent any unauthorized use or disclosure of any information that may constitute Company Confidential Information to any parties other than the Government Agencies. I further understand that Protected Activity does not include the disclosure of any Company or Parent attorney-client privileged communications. In addition, I hereby acknowledge that the Company has provided me with notice in compliance with the Defend Trade Secrets Act of 2016 regarding immunity from liability for limited disclosures of trade secrets. The full text of the notice is attached in Appendix B.

If you have any questions or concerns regarding the above, please do not hesitate to contact me.

To accept this Agreement on the terms set out herein, please sign where indicated below, and return a signed copy of this Agreement along with a signed copy of the Confidentiality Agreement and the Secondment Agreement to me before March 21, 2019.

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Yours sincerely,

**XENON PHARMACEUTICALS USA INC.**

*/s/ Ian Mortimer*

Ian Mortimer

President & Treasurer

Attachment(s):

1. Confidentiality Agreement
2. Employee Secondment Agreement Letter

I hereby confirm that I have read, understand and voluntarily accept the terms of this Agreement:

*/s/ Ernesto*

23/03/2019

*Aycardi*

**Ernesto Aycardi**

**DD/MM/YYYY**

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## APPENDIX A

### ADDITIONAL TERMS TO EXECUTIVE EMPLOYMENT AGREEMENT

Unless otherwise defined below, capitalized terms used herein will have the meanings set forth in the Agreement.

- A. Conditions to Receipt of Annual Bonus.** Your annual bonus must be paid no later than March 15th of the year following the year for which you earn such bonus.
- B. Conditions to Receipt of Severance.**
- a. *Release of Claims.* The receipt of any vesting acceleration, severance payments and benefits pursuant to Sections M or P of the Agreement will be subject to you signing and not revoking a separation agreement and release of claims related to your service with the Company (which may include an agreement not to disparage the Company, affirmation of your obligations under the Confidentiality Agreement (as defined above), and other standard terms and conditions) in a form reasonably satisfactory to the Company (the “**Release**”) and provided that such Release becomes effective and irrevocable no later than sixty (60) days (or such longer time as may be required by applicable law) following the termination date (such deadline, the “**Release Deadline**”). If the Release does not become effective and irrevocable by the Release Deadline, you will forfeit any rights to severance or benefits under this Agreement. In no event will severance payments or benefits be paid or provided until the Release becomes effective and irrevocable. In the event that the Release Deadline spans two (2) calendar years, then any severance payments or benefits payable under Sections M or P that otherwise constitute Deferred Payments (as defined below) will be paid no earlier than the first day of the second calendar year, subject to any delayed as may be required for Section 409A.
- b. *Section 409A*
- (i) Notwithstanding anything to the contrary in this Agreement, no Deferred Payments will be paid or otherwise provided until you have a “separation from service” (within the meaning of Section 409A) from the relevant position or positions. Similarly, no severance payable to you, if any, pursuant to this Agreement that otherwise would be exempt from Section 409A solely pursuant to Treasury Regulation Section 1.409A-1(b)(9) will be payable until you have a “separation from service” (within the meaning of Section 409A).
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- (ii) Notwithstanding anything to the contrary in this Agreement, if you are a “specified employee” within the meaning of Section 409A at the time of your termination of employment (other than due to death), then the Deferred Payments that are payable within the first six (6) months following your separation from service, will, to the extent required to be delayed pursuant to Section 409A(a)(2)(B) of the Code, become payable on the first payroll date that occurs on or after the date six (6) months and one (1) day following the date of your separation from service. All subsequent Deferred Payments, if any, will be payable in accordance with the payment schedule applicable to each payment or benefit. Notwithstanding anything herein to the contrary, if you die following your separation from service, but prior to the six (6) month anniversary of the separation from service, then any payments delayed in accordance with this paragraph will be payable in a lump sum as soon as administratively practicable after the date of your death and all other Deferred Payments will be payable in accordance with the payment schedule applicable to each payment or benefit. In no event will the Company reimburse you for any taxes that may be imposed on you as a result of Section 409A. Each payment and benefit payable under this Agreement is intended to constitute a separate payment for purposes of Section 1.409A-2(b)(2) of the U.S. Treasury Regulations.
  - (iii) Any amount paid under this Agreement that satisfies the requirements of the “short-term deferral” rule set forth in Section 1.409A-1(b)(4) of the U.S. Treasury Regulations will not constitute Deferred Payments for purposes of this Agreement.
  - (iv) Any amount paid under this Agreement that qualifies as a payment made as a result of an involuntary separation from service pursuant to Section 1.409A-1(b)(9)(iii) of the U.S. Treasury Regulations that does not exceed the Section 409A Limit (as defined below) will not constitute Deferred Payments for purposes of this Agreement.
  - (v) With respect to any expense reimbursements which are not otherwise excludible from your gross taxable income, to the extent required to comply with the provisions of Section 409A, no reimbursement of expenses incurred by you during any taxable year shall be made after the last day of the following taxable year, the right to reimbursement of any such expenses shall not be subject to liquidation or exchange for another benefit, and the amount of expenses eligible for reimbursement during any taxable year may not affect the expenses eligible for reimbursement in any other taxable year.
  - (vi) The provisions of this Agreement and the payments and benefits hereunder are intended to be exempt from or comply with the requirements of Section 409A so that none of the severance or other payments and benefits to be provided hereunder will be subject to the additional tax imposed under Section 409A, and any ambiguities herein will be interpreted to be so exempt or so comply. The Company and you agree to work together in good faith to consider amendments to this Agreement and to take such reasonable actions which are necessary, appropriate or desirable to avoid imposition of any additional tax or income recognition prior to actual payment to you under Section 409A.
  - (vii) Definitions:
    - (A) **“Deferred Payment”** means any severance pay or benefits to be paid or provided to you (or your estate or beneficiaries) pursuant to this Agreement and any other severance payments or separation benefits to be paid or provided to you (or your estate or beneficiaries), that in each case, when considered together, are considered deferred compensation under Section 409A.
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- (B) **“Section 409A”** means Section 409A of the U.S. Internal Revenue Code of 1986 (the **“Code”**) and the final regulations and any guidance thereunder and any applicable state law equivalent, as each may be amended or promulgated from time to time.
- (C) **“Section 409A Limit”** means two (2) times the lesser of: (i) your annualized compensation based upon the annual rate of pay paid to you during your taxable year preceding the taxable year of your separation from service as determined under U.S. Treasury Regulation Section 1.409A-1(b)(9)(iii)(A)(1) and any U.S. Internal Revenue Service guidance issued with respect thereto; or (ii) the maximum amount that may be taken into account under a qualified plan pursuant to Section 401(a)(17) of the Code for the year in which your separation from service occurred.

C. **“Cause”** shall mean: (i) your continued failure to substantially perform the material duties and obligations under this Agreement (for reasons other than death or disability), which failure, if curable within the discretion of the Company, is not cured to the reasonable satisfaction of the Company within thirty (30) days after receipt of written notice from the Company of such failure; (ii) your failure or refusal to comply with the policies, standards and regulations established by the Company from time to time which failure, if curable in the discretion of the Company, is not cured to the reasonable satisfaction of the Company within thirty (30) days after receipt of written notice of such failure from the Company; (iii) any act of personal dishonesty, fraud, embezzlement, misrepresentation, or other unlawful act committed by you that benefits you at the expense of the Company; (iv) your violation of a U.S. or Canadian federal, provincial or state law or regulation applicable to the Company’s business; (v) your violation of, or a plea of nolo contendere or guilty to, a felony under the laws of the United States or any state or Canada or any province; (vi) your material breach of the terms of this Agreement or the Confidentiality Agreement; or (vii) the Company’s severe financial distress, whereby the Company is in the process of winding down its business and your employment is terminated in connection with such winding down.

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## Schedule A

### Duties and Responsibilities

Your duties and responsibilities in this position will include those listed below:

1. Develop strategic plans for the company's clinical stage product portfolio to ensure development programs meet quality and safety standards required by medical and regulatory agencies.
  2. Build the development organization to meet the corporate and portfolio needs.
  3. Oversee clinical development across the portfolio of clinical stage programs.
  4. Orchestrate and manage clinical aspects of regulatory strategies and interactions with Health Authorities.
  5. Oversee the analysis and interpretation of clinical trial data and the reporting of clinical trial results.
  6. Oversee the portfolio management activities for the Company to ensure appropriate objectives and resources are deployed to meet strategic portfolio plans delivering on key milestones to advance all of the Company's products in development.
  7. Lead interactions with academic thought leaders, key opinion leaders, investigators, patient advocacy groups, and other clinical stakeholders.
  8. Provide clinical support and work with other members of the management team to develop and communicate the overall corporate strategy.
  9. Represent the Company and its programs to external audiences, including the investment, medical and regulatory communities, as well as pharmaceutical or biotechnology industry collaborators/partners.
  10. Leading and overseeing the Clinical Department consisting of but not limited to: Clinical Operations, Toxicology, Quality and Regulatory Affairs.
  11. Travel to for meetings, conferences and other applicable business.
  12. Other duties as required from time to time.
  13. Strictly adhere to all Company and Parent corporate policies, particularly those concerning confidentiality, intellectual property, and safety.
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## APPENDIX B

### Section 7 of The Defend Trade Secrets Act of 2016

“ . . . 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—(A) is made—(i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. . . . 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—(A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order.”

[DATE]

**Confidential**

**Via Electronic Mail**

[NAME]

Dear [Name],

**Re: Offer of Employment (CDN Executive)**

We are pleased to offer you the position of [Title] with Xenon Pharmaceuticals Inc. (the "**Company**"), commencing on or about [Date].

**A. Base Salary.** You will earn a base salary of \$[XXXX] USD per year, less statutory and other applicable deductions as required, for all work and services you perform for the Company (the "**Base Salary**"). The Base Salary is payable semi-monthly in arrears in accordance with the Company's applicable payroll policies. The US dollar amount of your semi-monthly pay will be converted to Canadian dollars at the Bank of Canada exchange rate that is in place approximately five (5) days prior to each pay date and paid in Canadian dollars. You hereby agree and understand that the exchange rate between US and Canadian dollars may vary either in your favour or in Xenon's favour (the "Exchange Rate Variance"), and you accept that such Exchange Rate Variance is an accepted term and condition of your employment.

**B. Annual Discretionary Bonus.** In addition to your Base Salary, you are eligible to earn an annual discretionary bonus, less statutory and other applicable deductions as required, of up to [XX] percent ([XX]%) of your base salary earnings actually earned in the applicable calendar year of service, in Canadian dollars. Any bonus payable will be paid in Canadian dollars. The payment and amount of the annual bonus is within the sole discretion of the Board of Directors (the "**Board**") and will be evaluated in the first quarter of each year in relation to the achievement of corporate and/or personal objectives for the previous year. Such objectives will be established annually by the Board in its sole discretion. Any bonus payable to you for your first year of employment will be prorated based upon your actual start date. Bonuses are not earned until paid.

**C. Annual Review.** The Company will conduct an annual review of your compensation package, including your salary and bonus percentage, in accordance with its policies. Any adjustment to the same is at the sole discretion of the Company provided that the Base Salary benchmarked in US dollars will not be reduced without your consent and subject to Sections L and M of this Agreement. You will be paid in Canadian dollars, but the Company may, at its sole discretion, benchmark your compensation in US dollars based on the peer group that is identified from time to time. You hereby agree and acknowledge that the Company has no control over the applicable foreign currency exchange rate and that your compensation in Canadian dollars may be reduced compared to the previous year because of such applicable exchange rate. You further agree and acknowledge that such lower compensation will not constitute constructive dismissal if solely due to the then applicable foreign currency exchange rate.

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**D. Expense Reimbursement.** In accordance with its expense policy, as amended from time to time, the Company will reimburse any authorized expenses actually and reasonably incurred in the course of performing your employment duties. The Company will also provide to you, for the duration of your employment, any necessary work tools, such as a laptop computer and mobile phone. Subject to approval by the Company, you will also be reimbursed for out-of-pocket expenses incurred for attending courses or workshops related to your employment duties.

**E. Reporting Structure/Responsibilities.** You will report to the [Title]. You agree that the Company may change the reporting structure, including the person and position to whom you report, and the people and positions who report to you. You will perform the responsibilities and duties of your position, as described in Schedule A, and subject to Sections L and M, such other responsibilities and duties as may be reasonably requested by the Company from time to time. You will at all times: (i) conform to the reasonable and lawful directions of the Company and the Board; (ii) adhere to all applicable Company policies; (iii) give the Company the full benefit of your knowledge, expertise, skill and ingenuity; (iv) well and faithfully serve the Company; (v) devote your best efforts to furthering the interests of the Company; and (vi) exercise the degree of care, diligence and skill that a prudent executive would exercise in comparable circumstances.

You will not during your employment with the Company, be employed by, or provide products or services of any nature whatsoever to, any other person, company, organization or other entity without prior written permission from the Company. This does not restrict you from performing reasonable volunteer activities; however, you must obtain the consent of the Company if you wish to serve on a board of directors or advisory board, or if you perform any paid work or services for other organizations. Schedule B contains a description of all such appointments and positions that you currently occupy, and all paid work and services you currently provide to outside organizations, to which the Company confirms that it provides its permission.

**F. Vacation and Sick Days.** In accordance with the Company's policies, you will earn twenty (20) days of paid vacation per calendar year on a pro rata basis. You may also be entitled to other leaves, including without limitation, an additional allotment of paid sick days and statutory holidays, as provided in the Company's policies during the applicable period. Accrued but unused paid time off and sick days will expire in accordance with the Company's policies, as amended from time to time.

**G. Non-Disclosure, Non-Solicitation & Non-Competition Agreement.** As a condition of entering into this agreement, you must enter into the enclosed Employee Non-Disclosure, Non-Solicitation and Non-Competition Agreement. Please note that this agreement also deals with confidentiality and the ownership of intellectual property developments. By entering into this agreement, you are agreeing that compliance with its provisions is reasonable and a necessary requirement in our highly competitive industry, and may be required by our agreements with our suppliers, customers, and distributors.

**H. Stock Options.** As a Xenon employee, you will be eligible to participate in Xenon's 2014 Equity Incentive Plan, a copy of which is attached. Subject to the terms of our Equity Incentive Plan (as such may be amended from time to time) and approval by Xenon's Board of Directors and on or as soon as possible after your Start Date, you will be granted [XXXX] stock options to purchase common shares of Xenon Pharmaceuticals Inc. All such stock options will have a ten (10) year term and vest in installments over a four (4) year term, in accordance with Xenon's standard policy in that regard: 25% on the first anniversary of the date you begin your employment position with Xenon, and the remaining 75% then vesting monthly over the course of the following three (3) years, in equal amounts, on the last day of each month. The exercise price will be the Market Price as determined by the Equity Incentive Plan on the date that these options are approved and granted by Xenon's Board of Directors.

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**I. Benefits.** You will be eligible to participate in the Company's employee group benefit plans, as amended from time to time, subject to the Company's policies, eligibility rules, and terms established by the service providers, as amended from time to time. You will be eligible to participate in the Company's current Group RRSP Plan, under which the Company will match your contributions up to a maximum of 5% of your Base Salary.

**J. Taxes.** Any taxes applicable to your employment compensation package with the Company will be deducted and remitted to the appropriate authorities in accordance with the Company's standard policies and the law.

If you work in a second tax jurisdiction at the Company's request, the Company will cover the reasonable costs for you to use the services of the Company's tax adviser or another adviser mutually agreed upon by the Parties to prepare your home and host country tax returns for any year during which you are required to file tax returns in more than one country as a result of your employment with the Company.

**K. Insurance and Indemnification.** As a corporate and/or executive officer of the Company, during your employment with the Company, you will be covered by its Directors' and Officers' Liability Insurance Policy and such other indemnity policy, agreement or commitment established by the Company, subject to the terms of the Insurance Policy and other policy, agreement or commitment and any amendments made from time to time at the Board's discretion provided that no amendment will substantially reduce your entitlements. Your coverage under such Insurance Policy and any other policy, agreement, or commitment, will continue after your employment ends in respect of your employment.

**L. Change of Control.** In this Agreement:

a. **"Average Bonus"** means an amount that is (i) the sum of the annual bonus awards (expressed as a percentage of the applicable year's Base Salary) that you earned in each of the three (3) completed calendar years preceding the date your employment with the Company terminates, divided by (ii) three (3), multiplied by (iii) your Base Salary at the time your employment with the Company terminates [for example:  $(15\%+5\%+10\%)/3 = 10\%$  of Base Salary]. If you have been employed for more than one (1) but fewer than three (3) completed calendar years of service, then your "Average Bonus" will be the average of the annual bonus awards (as expressed as a percentage of the applicable year's Base Salary) that you have received for the completed calendar year(s) preceding the date of your employment with the Company terminates.

b. **"Change of Control"** means:

(i) the acquisition by any person or persons acting jointly or in concert (as determined by the Securities Act) ("**Person**"), whether directly or indirectly, of voting securities of the Company that, together with all other voting securities of the Company held by such Person, constitute in the aggregate more than 50% of all outstanding voting securities of the Company; provided, however, that for purposes of this subsection, the acquisition of additional securities by any one Person, who owns more than 50% of all outstanding voting securities of the Company will not be a Change of Control;

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- (ii) an amalgamation, arrangement or other form of business combination of the Company with another corporation that results in the holders of voting securities of that other corporation holding, in the aggregate, more than 50% of all outstanding voting securities of the corporation resulting from the business combination; provided, however, that for purposes of this subsection, the acquisition of additional securities by any one Person, who owns more than 50% of all outstanding voting securities of the Company will not be a Change of Control; or
- (iii) a change in the ownership of a substantial portion of the Company's assets, including the sale, lease, transfer or exchange of a substantial portion of the Company's assets, to another Person, other than in the ordinary course of business of the Company, which occurs on the date that such Person acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by such person or persons) assets from the Company that have a total gross fair market value equal to or more than fifty percent (50%) of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions; provided, however, that for purposes of this subsection (iii), the following will not constitute a change in the ownership of a substantial portion of the Company's assets: (A) a transfer to a Related Entity, or (B) a transfer of assets by the Company to: (1) a stockholder of the Company (immediately before the asset transfer) in exchange for or with respect to the Company's stock, (2) an entity of which the Company has Control, (3) a Person, that owns, directly or indirectly, fifty percent (50%) or more of the all outstanding voting securities of the Company, or (4) an entity of which a Person described in this subsection (iii)(B)(3) has Control. For purposes of this subsection (iii), gross fair market value means the value of the assets of the Company, or the value of the assets being disposed of, determined without regard to any liabilities associated with such assets;

provided, however, that a Change in Control will not be deemed to have occurred if such Change in Control results solely from the issuance, in connection with a *bona fide* public offering, financing or series of financings by the Company, of voting securities of the Company or any rights to acquire voting securities of the Company which are convertible into voting securities.

Further and for the avoidance of doubt, a transaction will not constitute a Change of Control if: (x) its sole purpose is to change the state or jurisdiction of the Company's incorporation, or (y) its sole purpose is to create a holding company the voting securities of which will be owned in substantially the same proportions by the persons who held the Company's voting securities immediately before such transaction.

c. **"Good Reason"** means any of the following:

- (i) any unilateral change or series of changes to your employment responsibilities, reporting relationship, or status within the Company, such that immediately after such a change or series of changes to your responsibilities, reporting relationship, and status, taken as a whole, and taking into account the size and complexity of the business of the Company at that time, are substantially less than those assigned to you immediately prior to such change or series of changes; or
  - (ii) a material reduction by the Company in your Base Salary or other compensation as in effect prior to the Change of Control that would constitute a constructive dismissal at common law; or
-

- (iii) the taking of any action by the Company, or the failure by the Company to take any action, that would materially and adversely affect your participation in, or materially reduce your aggregate benefits under, the total package of long-term incentive, bonus, compensation, RRSP, life insurance, health, accidental disability and other similar plans in which you are participating prior to the action by the Company or the failure by the Company to take any action; or
- (iv) the unilateral requirement that you relocate to a new location that is both (a) more than 60 kilometers from your previous work location and (b) more than 60 kilometers from your primary residence; or
- (v) failure or refusal of the Successor Company to offer you terms and conditions of employment, including the provisions of Section M of this Agreement, that are substantially the same as the provisions of this Agreement; or
- (vi) subject to the terms of this Agreement, any reason which would be considered to amount to constructive dismissal by an arbitrator under the laws applicable in British Columbia;

provided that any change or series of changes in reporting relationships alone will not constitute good reason.

- d. **“Successor Company”** means, in connection with a Change of Control, the surviving or acquiring company or entity.

**M. Termination Without Cause or Resignation for Good Reason in Connection With or Following A Change of Control.**

In the event of (i) a termination without cause or (ii) resignation for Good Reason, in either case, occurring within three (3) months prior to a Change of Control and related or connected to that Change of Control or occurring within twelve (12) months after a Change of Control, your employment will end on the date it is terminated without cause by the Company or Successor Company or the date terminated by you for Good Reason, in which case the Company or Successor Company will provide you with the notice or pay in lieu of notice to which you are entitled under the British Columbia Employment Standards Act (the **“Statutory Notice”**). In exchange for and conditional upon you signing and returning a full and final Release of all claims in the form attached hereto as Schedule C, the Company or Successor Company will provide you with the following:

- a. payment equal to twelve (12) months' Base Salary, plus one (1) additional month of Base Salary for every year of consecutive service with the Company and Successor Company, up to a combined maximum of eighteen (18) months (the **“COC Payment Period”**). The COC Payment Period is inclusive of, and not in addition to, the Statutory Notice;
  - b. payment of 100% of your then-applicable bonus eligibility calculated on your then-applicable annual Base Salary (i.e. not prorated for the partial year worked), less statutory and other applicable deductions as required;
  - c. the contributions to your retirement savings plan the Company would have paid on your behalf during the COC Payment Period;
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- d. notwithstanding any provision in the Equity Incentive Plan and any subsequent deferred compensation plan to the contrary:
  - (i) immediate vesting of all unvested stock options and other deferred compensation awards granted to you by the Company or the Successor Company; and
  - (ii) continued exercise rights for the longer of the period stipulated in the applicable plan or grant and six (6) months after the date your employment actually terminates (i.e. the last day you are actually at work); and
- e. subject to the applicable insurer's terms of coverage, at the Company's discretion, the Company will arrange for you to continue to receive group benefits insurance coverage up to the earlier of (i) the end of the COC Payment Period, or (ii) the date you commence new work or employment with comparable coverage. In the event the insurer does not continue coverage, the Company will pay you an amount equivalent to the cost of the monthly premiums the Company would have paid on your behalf for the group benefits insurance coverage that are terminated.

In the case of Good Reason, you must within three (3) months after the occurrence of Good Reason provide the Company or Successor Company with thirty (30) days' written notice of Good Reason during which you will continue to provide services to the Company or Successor Company. Where the Good Reason is based in whole or in part on a series of changes, the notice period will commence on the occurrence of the last change in the series. Within your thirty (30) day working notice, the Company or the Successor Company may correct, reverse, rectify or otherwise resolve the change or series of changes that constitute Good Reason, in which case your employment with the Company or Successor Company will continue.

The payments described above are inclusive of any termination or severance pay owing to you under applicable employment standards legislation. You further agree that you will not be eligible for any additional payment pursuant to the termination sections below (e.g. you will **not** be entitled to receive both the payments described in this Section M and the Termination Without Cause payments or notice described below in Section P).

#### **Termination:**

**N. Resignation.** If for any reason you should wish to leave the Company, you will provide the Company with three (3) months' prior written notice of your intention (the "**Resignation Period**"). You agree that the Company may, in its sole and unfettered discretion, waive the Resignation Period in whole or in part and end your employment immediately by delivering to you a written notice promptly followed by payment of the Base Salary due to you during the remainder of the Resignation Period and any pay accrued and owing under this Agreement up to the date of such notice. It is further expressly agreed that you will not be entitled to any bonus or pro rata bonus after you give notice of resignation. For example, if you give notice of resignation partway during the calendar year, or any time prior to the bonus payment date following that calendar year, you will not be entitled to any bonus for that calendar year.

**O. Termination for Cause.** The Company may terminate your employment at any time for cause, effective upon delivery by the Company to you of a written notice of termination of your employment for cause. You will not be entitled to receive any further pay or compensation (except for pay, if any, accrued and owing under this Agreement up to the date of termination of your employment), severance pay, notice, payment in lieu of notice, benefits or damages of any kind, and for clarity, without limiting the foregoing, you will not be entitled to any bonus or pro rata bonus payment that has not already been awarded by the Company.

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**P. Termination Without Cause.**

(This Section P does not apply to a termination without cause that occurs within three (3) months prior to a Change of Control and in relation or connection to that Change of Control or within twelve (12) months after a Change of Control – such terminations are covered by Section M).

The Company may terminate your employment without cause at any time upon providing you with the notice or pay in lieu of notice to which you are entitled under the **Statutory Notice**. In exchange for and conditional upon you signing and returning a full and final Release of all claims in the form attached hereto as Schedule C, the Company will provide you with notice or pay in lieu of notice beyond that required by the Statutory Notice – in particular, the Company will provide you with working notice of termination (in which case all of your terms and conditions of employment including compensation and benefits, subject to the applicable insurer's terms of coverage, will continue during the working notice period, or Base Salary continuance, or a lump sum payment of Base Salary, or an equivalent combination of any of the foregoing, in the amount of twelve (12) months plus one (1) additional month for every one (1) year of consecutive service with the Company, up to a combined maximum of eighteen (18) months (the "**Notice Period**").

It is within the Company's sole discretion to decide whether to provide working notice, Base Salary Continuance, or a lump sum payment of Base Salary, or a combination of the foregoing, for the Notice Period.

The Notice Period is inclusive of, and not in addition to, the Statutory Notice. If the Company elects to provide Base Salary Continuance or a lump sum payment of Base Salary for all or part of the Notice Period, the portion of the Notice Period covered by such payment(s) shall be defined as the "**Payment Period**".

The parties further agree as follows, also conditional upon you signing and returning a full and final Release of all claims in the form attached hereto as Schedule C:

- (i) subject to the applicable insurer's terms of coverage, the Company will arrange for you to continue to receive group benefits insurance coverage up to the earlier of (i) the end of the Notice Period, or (ii) the date you commence full-time employment. In the event the insurer does not continue coverage, the Company will pay you an amount equivalent to the cost of the monthly premiums the Company would have paid on your behalf for the group benefits insurance coverage that are terminated;
  - (ii) If you have been employed for less than one year, payment of a bonus based on your full bonus eligibility pro-rated for the period of that first year you worked, less statutory and other applicable deductions as required, payable within four (4) weeks of the termination date;
  - (iii) if you have been employed for more than one year, you will receive an Average Bonus pro-rated for the period of the calendar year that you actually worked, up to your last day at work, less statutory and other applicable deductions as required. For example, if your last day of work is March 31, you will receive three (3) months of your Average Bonus. Payment of your pro-rated Average Bonus will be within four (4) weeks of the termination date provided that if a bonus has not yet been determined for the preceding completed calendar year, the Company will first make that determination in the ordinary course using relevant criteria in a manner consistent with prior practice so that the Average Bonus can then be determined and paid. For clarity, it is expressly agreed that you will not be entitled to any bonus whatsoever for any period of time after your last actual day at work, including during the Payment Period;
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- (iv) the Company will pay the contributions to your retirement savings plan the Company would have paid on your behalf during the Notice Period; and
- (v) notwithstanding any provision in this Agreement or in the Equity Incentive Plan and any subsequent incentive compensation plan to the contrary, all options and any other deferred compensation granted to you will continue to vest for a period of three (3) months after the date your employment terminates and all vested stock options and other deferred compensation will be exercisable until the earlier of the original expiry date of the stock options and deferred compensation and the date that is six (6) months after the date your employment terminates (i.e. the last day you are actually at work).

Any payment in lieu of notice provided to you will be inclusive of any termination or severance pay owing to you under applicable employment standards legislation and subject to statutory withholdings and other regular payroll deductions. You will not be entitled to receive any further pay or compensation except (i) as expressly set out in this Agreement, and (ii) the pay, if any, accrued and owing under this Agreement up to the date of termination of your employment.

**Q. Work Permit.** As a condition of your employment, you may become required to work in other jurisdictions where the Company or the Company's affiliates maintain an office. In that event, the continuance of your employment with the Company will become contingent upon your signing and complying with an Employee Secondment Agreement Letter, receiving authorization to work in that or those other jurisdiction(s), and to your maintaining such status. If you do not receive authorization to work in that or those other jurisdiction(s) or fail to maintain such authorization(s) at any point after commencing your employment with the Company, that will be considered a frustration of your employment agreement, and Xenon will then be able to terminate your employment agreement with no notice or pay in lieu of notice to you. The Company will support your application for any such authorization(s).

**R. FDA Debarment.** As a condition of your employment, you must certify that you are not under investigation by the FDA for debarment action, have not been debarred under the Generic Drug Enforcement Act of 1992 (21 U.S.C. 301 et seq.), and are not otherwise being investigated, restricted or disqualified from performing services relating to clinical trials by the FDA or any other regulatory authority or professional body in any other jurisdiction. If, during the course of your employment with Xenon, you become subject to such investigation or otherwise are restricted or disqualified, you will promptly inform Xenon's Legal Department of such event.

#### **S. Miscellaneous**

**No Implied Entitlement.** Other than as expressly provided herein or in any of the Company's policies, as amended from time to time at the Company's sole discretion, you will not be entitled to receive any further pay or compensation, severance pay, notice, payment in lieu of notice, incentives, bonuses, benefits or damages of any kind.

**Continued Effect.** Notwithstanding any changes in the terms and conditions of your employment which may occur in the future, including any changes in position, duties or compensation, the termination provisions in this Agreement will continue to be in effect for the duration of your employment with the Company unless otherwise amended in writing and signed by the Company.

**Authorization to Deduct Debts.** If, on the date you leave employment, you owe the Company any money, you hereby authorize the Company to deduct any such debt from your final pay or any other payment due to you to the extent permitted by the *BC Employment Standards Act* if applicable. Any remaining debt will be immediately payable to the Company and you agree to satisfy such debt within fourteen (14) days after any demand for repayment.

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**Dispute Resolution.** In the event of a dispute arising out of or in connection with this Agreement, or in respect of any legal relationship associated with it or from it, which does not involve the Company seeking a court injunction or other injunctive or equitable relief to protect its business, confidential information or intellectual property, or enforce the covenants hereunder, that dispute will be resolved confidentially as follows:

- a. *Amicable Negotiation* – The parties agree that, both during and after the performance of their responsibilities under this Agreement, each of them will make *bona fide* efforts to resolve any disputes arising between them by amicable and expeditious negotiations.
- b. *Mediation* – If the parties are unable to negotiate resolution of a dispute, either party may with the agreement of the other party refer the dispute to mediation by providing written notice to the other party. If the parties cannot agree on a mediator within fifteen (15) days after receipt of the notice to mediate, then either party may make application to the British Columbia Arbitration and Mediation Society to have one appointed. The mediation will be held in Vancouver, BC, in accordance with the British Columbia International Commercial Arbitration Centre's (the "BCICAC") Commercial Mediation Rules, and each party will bear its own costs, including one-half share of the mediator's fees.
- c. *Arbitration* – If, after mediation, the parties have been unable to resolve a dispute or at any time if mediation is not undertaken, either party may refer the dispute for final and binding arbitration by providing written notice to the other party. If the parties cannot agree on an arbitrator within fifteen (15) days after receipt of the notice to arbitrate, then either party may make application to the British Columbia Arbitration and Mediation Society to appoint one. The arbitration will be held in Vancouver, BC, in accordance with the BCICAC's Shorter Rules for Domestic Commercial Arbitration. Each party will bear its own costs, including one-half share of the arbitrator's fees, provided that the arbitrator will have discretion to award costs against either party.

**Legal Counsel.** You have been advised by the Company to retain independent legal advice with respect to this Employment Agreement.

**Employment Standards Act.** The parties hereby agree that if any provision in this Employment Agreement, in any circumstance, provides for less than what is required by the Employment Standards Act, such provision shall be replaced with the minimum provision(s) of the Employment Standards Act.

**Currency.** Except as otherwise specifically indicated, all monetary amounts referenced herein are in Canadian dollars.

**Severability.** If any part, article, section, clause, paragraph or subparagraph of this Agreement is held to be indefinite, invalid, illegal or otherwise voidable or unenforceable for any reason, the entire Agreement will not fail on the account thereof and the validity, legality and enforceability of the remaining provisions will in no way be affected or impaired thereby.

**Entire Understanding.** We also confirm that this Agreement and the other agreements, documents, and plans that are referred to in this Agreement (including the Non-Disclosure, Non-Solicitation and Non-Competition Agreement) set forth our entire understanding of the terms of your employment with the Company, and cancels and supersedes all previous invitations, proposals, letters, correspondence, negotiations, promises, agreements, covenants, conditions, representations and warranties with respect to the subject matter of this Agreement. Any modifications to these employment terms must be made in writing and signed by both you and the Company.

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**Governing Law.** This Agreement and all matters arising hereunder will be governed by and construed in accordance with the laws of the Province of British Columbia.

If you have any questions or concerns regarding the above, please do not hesitate to contact me.

To accept this Agreement on the terms set out herein, please sign where indicated below, and return a signed copy of this Agreement along with a signed copy of the Employee Non-Disclosure, Non-Competition and Non-Solicitation Agreement to me before Date.

Yours sincerely,

**XENON PHARMACEUTICALS INC.**

[Signatory Name]

[Signatory Title]

Attachments:

- 1) Xenon Employee Non-Disclosure, Non-Solicitation and Non-Competition Agreement
- 2) 2014 Equity Incentive Plan
- 3) Indemnification Agreement

I hereby confirm that I have read, understand and voluntarily accept the terms of this Agreement:

\_\_\_\_\_

**[Name]**

\_\_\_\_\_

**Date**

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## **SCHEDULE A**

### **Duties and Responsibilities**

Your duties and responsibilities in this position will include those listed below:

1. [XXX]
  2. Other duties as required from time to time.
  3. Strictly adhere to all Xenon corporate policies, particularly those concerning confidentiality, intellectual property, and safety.
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**SCHEDULE C**

**Form of Release**

**IN CONSIDERATION OF** the terms and conditions set out in the [DATE] letter from **Xenon Pharmaceuticals Inc.** (hereinafter called "**Xenon**") to me, [NAME], and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledge, I do hereby remise, release and forever discharge Xenon, its officers, directors, servants, employees and agents, and their heirs, executors, administrators, successors and assigns, as the case may be (defined collectively as the "Releasees"), of and from any and all manner of actions, causes of action, suits, contracts, claims, damages, costs and expenses of any nature or kind whatsoever, whether in law or in equity, which as against Xenon or such persons as aforesaid or any of them, I have ever had, now have, or at any time hereafter I or my personal representatives can, shall or may have, by reason of or arising out of the termination of my employment with Xenon on or about [DATE], without limiting the generality of the foregoing, any and all claims for damages for termination of my employment, constructive termination of my employment, loss of position, loss of status, loss of future job opportunity, loss of opportunity to enhance my reputation, the timing of the termination and the manner in which it was effected, loss of bonuses, loss of shares and/or share options, loss of benefits, including life insurance and short and long-term disability benefit coverage, and any other type of damages arising from the above.

**IT IS UNDERSTOOD AND AGREED** that this Release includes any and all claims arising under the *Employment Standards Act*, *Human Rights Code*, or other applicable legislation as it relates to the termination of my employment and that the consideration provided includes any amount that I may be entitled to under such legislation.

**IT IS FURTHER UNDERSTOOD AND AGREED** that this Release is subject to compliance by Xenon with the said conditions as stipulated in the aforementioned employment agreement entered into between the undersigned and Xenon.

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**IT IS FURTHER UNDERSTOOD AND AGREED THAT XENON** will withhold and remit income tax and other statutory deductions from the aforesaid consideration and I agree to indemnify and hold harmless Xenon from any further assessments for income tax, repayment of any employment insurance benefits received by me, or other statutory deductions which may be made under statutory authority.

**IT IS FURTHER UNDERSTOOD AND AGREED** that this is a compromise and is not to be construed as an admission of liability on the part of Xenon. The terms of this Release set out the entire agreement between Xenon and me with respect to the matters described herein and are intended to be contractual and not a mere recital. If the facts on which this Release is made prove to be other than or different from the facts in that connection now known or believed to be true by the parties or either of them, the parties and each of them expressly accept and assume the risk of the facts being different and agree that all the terms of this Release shall be in all respects effective and not subject to termination, variation, or rescission by any discovery of any difference in the facts. If any part or provision of this Release or its application to any circumstance is restricted, prohibited or unenforceable, such part or provision will be ineffective only to the extent of such restriction, prohibition or unenforceability, and the remainder of the Release will remain in full force and effect.

**IT IS FURTHER UNDERSTOOD AND AGREED** that I will keep the contents of this settlement and all communication relating thereto confidential except to Revenue Canada or as is required to obtain legal and tax advice, or to enforce my rights hereunder in a court of law, or as is required by law.

**IT IS FURTHER UNDERSTOOD AND AGREED** that the law governing this Release is that of British Columbia, and the parties will resolve any disputes they have under this Release in the courts of British Columbia, provided that if, contrary to this Release, I commence, pursue, or maintain any such proceedings against any of the Releasees, I hereby irrevocably consent to such Releasee(s) relying on this Release to obtain a stay or dismissal or such proceedings.

**IT IS FURTHER UNDERSTOOD AND AGREED** that the consideration described herein was voluntarily accepted by me for the purpose of making a full and final settlement of all claims described above and that prior to agreeing to the settlement, I was advised by Xenon of my right to receive independent legal advice.

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**IN WITNESS WHEREOF** this Release has been executed effective the \_\_\_\_\_ (please insert date of signature).

SIGNED, SEALED AND DELIVERED

By **[NAME]** in the presence of:

_____	)	
	)	
<b>Signature of Witness</b>	)	<b>[NAME]</b> _____
_____	)	
Name of Witness	)	
_____	)	
Address	)	
_____	)	
Occupation	)	

[Date]

**Confidential**

**Via Electronic Mail**

[NAME]

Dear [Name],

**Re: Amended and Restated Employment Agreement (CDN Executive)**

We are pleased to offer you this Amended and Restated Employment Agreement which replaces and supersedes your earlier Employment Agreement. You will be credited for all purposes with your service to the Company back to your start date of [DATE]. As of [DATE] (the "**Effective Date**"), you will continue to be engaged by the Company in the full-time position of [TITLE].

**A. Base Salary.** Retroactive to January 1, 2019, you will earn a base salary of \$[XXXX] USD per year, less statutory and other applicable deductions as required, for all work and services you perform for the Company (the "**Base Salary**"). The Base Salary is payable semi-monthly in arrears in accordance with the Company's applicable payroll policies. The US dollar amount of your semi-monthly pay will be converted to Canadian dollars at the Bank of Canada exchange rate approximately five (5) days prior to each pay date and paid in Canadian dollars. You hereby agree and understand that the exchange rate between US and Canadian dollars may vary either in your favour or in Xenon's favour (the "**Exchange Rate Variance**"), and you accept that such Exchange Rate Variance is an accepted term and condition of your employment.

**B. Annual Discretionary Bonus.** In addition to your Base Salary, you are eligible to earn an annual discretionary bonus, less statutory and other applicable deductions as required, of up to [XX] percent ([XX]%) of your base salary earnings actually earned in the applicable calendar year of service, in Canadian dollars. Any bonus payable will be paid in Canadian dollars. The payment and amount of the annual bonus is within the sole discretion of the Board of Directors (the "**Board**") and will be evaluated in the first quarter of each year in relation to the achievement of corporate and/or personal objectives for the previous year. Such objectives will be established annually by the Board in its sole discretion. Bonuses are not earned until paid.

**C. Annual Review.** The Company will conduct an annual review of your compensation package, including your salary and bonus percentage, in accordance with its policies. Any adjustment to the same is at the sole discretion of the Company provided that the Base Salary benchmarked in US dollars will not be reduced without your consent and subject to Sections L and M of this Agreement. You will be paid in Canadian dollars, but the Company may, at its sole discretion, benchmark your compensation in US dollars based on the peer group that is identified from time to time. You hereby agree and acknowledge that the Company has no control over the applicable foreign currency exchange rate and that your compensation in Canadian dollars may be reduced compared to the previous year because of such applicable exchange rate. You further agree and acknowledge that such lower compensation will not constitute constructive dismissal if solely due to the then applicable foreign currency exchange rate.

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**D. Expense Reimbursement.** In accordance with its expense policy, as amended from time to time, the Company will reimburse any authorized expenses actually and reasonably incurred in the course of performing your employment duties. The Company will also provide to you, for the duration of your employment, any necessary work tools, such as a laptop computer and mobile phone. Subject to approval by the Company, you will also be reimbursed for out-of-pocket expenses incurred for attending courses or workshops related to your employment duties.

**E. Reporting Structure/Responsibilities.** You will report to the [TITLE]. You agree that the Company may change the reporting structure, including the person and position to whom you report, and the people and positions who report to you. You will perform the responsibilities and duties of your position, as described in Schedule A, and subject to Sections L and M, such other responsibilities and duties as may be reasonably requested by the Company from time to time. You will at all times: (i) conform to the reasonable and lawful directions of the Company and the Board; (ii) adhere to all applicable Company policies; (iii) give the Company the full benefit of your knowledge, expertise, skill and ingenuity; (iv) well and faithfully serve the Company; (v) devote your best efforts to furthering the interests of the Company; and (vi) exercise the degree of care, diligence and skill that a prudent executive would exercise in comparable circumstances.

You will not during your employment with the Company, be employed by, or provide products or services of any nature whatsoever to, any other person, company, organization or other entity without prior written permission from the Company. This does not restrict you from performing reasonable volunteer activities; however, you must obtain the consent of the Company if you wish to serve on a board of directors or advisory board, or if you perform any paid work or services for other organizations. Schedule B contains a description of all such appointments and positions that you currently occupy, and all paid work and services you currently provide to outside organizations, to which the Company confirms that it provides its permission.

**F. Vacation and Sick Days.** In accordance with the Company's policies, you will earn twenty (20) days of paid vacation per calendar year on a pro rata basis. You may also be entitled to other leaves, including without limitation, an additional allotment of paid sick days and statutory holidays, as provided in the Company's policies during the applicable period. Accrued but unused paid time off and sick days will expire in accordance with the Company's policies, as amended from time to time.

**G. Non-Disclosure, Non-Solicitation & Non-Competition Agreement.** The Employee Non-Disclosure, Non-Solicitation and Non-Competition Agreement that you signed dated [DATE] continues to be in full force and effect. Please note that this agreement also deals with confidentiality and the ownership of intellectual property developments. You continue to agree that compliance with its provisions is reasonable and a necessary requirement in our highly competitive industry, and may be required by our agreements with our suppliers, customers, and distributors.

**H. Stock Options.** You will continue to be eligible to participate in Xenon's 2014 Equity Incentive Plan, a copy of which is attached. Nothing in this Agreement will affect in any way the stock options granted to you by the Company to date, all of which will, except as expressly provided in this Agreement, continue to vest and be exercisable in accordance with their terms while you are employed by the Company.

**I. Benefits.** You will continue to be eligible to participate in the Company's employee group benefit plans, as amended from time to time, subject to the Company's policies, eligibility rules, and terms established by the service providers, as amended from time to time. You will continue to be eligible to participate in the Company's current Group RRSP Plan, under which the Company will match your contributions up to a maximum of 5% of your Base Salary, in the same currency in which your Base Salary is paid.

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**J. Taxes.** Any taxes applicable to your employment compensation package with the Company will be deducted and remitted to the appropriate authorities in accordance with the Company's standard policies and the law.

If you work in a second tax jurisdiction at the Company's request, the Company will cover the reasonable costs for you to use the services of the Company's tax adviser or another adviser mutually agreed upon by the Parties to prepare your home and host country tax returns for any year during which you are required to file tax returns in more than one country as a result of your employment with the Company.

**K. Insurance and Indemnification.** As a corporate and/or executive officer of the Company, during your employment with the Company, you will be covered by its Directors' and Officers' Liability Insurance Policy and such other indemnity policy, agreement or commitment established by the Company, subject to the terms of the Insurance Policy and other policy, agreement or commitment and any amendments made from time to time at the Board's discretion provided that no amendment will substantially reduce your entitlements. Your coverage under such Insurance Policy and any other policy, agreement, or commitment, will continue after your employment ends in respect of your employment. The Indemnification Agreement that you signed dated [DATE] continues to be in full force and effect.

**L. Change of Control.** In this Agreement:

- a. **"Average Bonus"** means an amount that is (i) the sum of the annual bonus awards (expressed as a percentage of the applicable year's Base Salary) that you earned in each of the three (3) completed calendar years preceding the date your employment with the Company terminates, divided by (ii) three (3), multiplied by (iii) your Base Salary at the time your employment with the Company terminates [for example:  $(15\%+5\%+10\%)/3 = 10\%$  of Base Salary]. If you have been employed for more than one (1) but fewer than three (3) completed calendar years of service, then your "Average Bonus" will be the average of the annual bonus awards (as expressed as a percentage of the applicable year's Base Salary) that you have received for the completed calendar year(s) preceding the date of your employment with the Company terminates.
- b. **"Change of Control"** means:
- (i) the acquisition by any person or persons acting jointly or in concert (as determined by the Securities Act) ("**Person**"), whether directly or indirectly, of voting securities of the Company that, together with all other voting securities of the Company held by such Person, constitute in the aggregate more than 50% of all outstanding voting securities of the Company; provided, however, that for purposes of this subsection, the acquisition of additional securities by any one Person, who owns more than 50% of all outstanding voting securities of the Company will not be a Change of Control;
  - (ii) an amalgamation, arrangement or other form of business combination of the Company with another corporation that results in the holders of voting securities of that other corporation holding, in the aggregate, more than 50% of all outstanding voting securities of the corporation resulting from the business combination; provided, however, that for purposes of this subsection, the acquisition of additional securities by any one Person, who owns more than 50% of all outstanding voting securities of the Company will not be a Change of Control; or
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(iii) a change in the ownership of a substantial portion of the Company's assets, including the sale, lease, transfer or exchange of a substantial portion of the Company's assets, to another Person, other than in the ordinary course of business of the Company, which occurs on the date that such Person acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by such person or persons) assets from the Company that have a total gross fair market value equal to or more than fifty percent (50%) of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions; provided, however, that for purposes of this subsection (iii), the following will not constitute a change in the ownership of a substantial portion of the Company's assets: (A) a transfer to a Related Entity, or (B) a transfer of assets by the Company to: (1) a stockholder of the Company (immediately before the asset transfer) in exchange for or with respect to the Company's stock, (2) an entity of which the Company has Control, (3) a Person, that owns, directly or indirectly, fifty percent (50%) or more of the all outstanding voting securities of the Company, or (4) an entity of which a Person described in this subsection (iii)(B)(3) has Control. For purposes of this subsection (iii), gross fair market value means the value of the assets of the Company, or the value of the assets being disposed of, determined without regard to any liabilities associated with such assets;

provided, however, that a Change in Control will not be deemed to have occurred if such Change in Control results solely from the issuance, in connection with a *bona fide* public offering, financing or series of financings by the Company, of voting securities of the Company or any rights to acquire voting securities of the Company which are convertible into voting securities.

Further and for the avoidance of doubt, a transaction will not constitute a Change of Control if: (x) its sole purpose is to change the state or jurisdiction of the Company's incorporation, or (y) its sole purpose is to create a holding company the voting securities of which will be owned in substantially the same proportions by the persons who held the Company's voting securities immediately before such transaction.

c. **"Good Reason"** means any of the following:

- (i) any unilateral change or series of changes to your employment responsibilities, reporting relationship, or status within the Company, such that immediately after such a change or series of changes to your responsibilities, reporting relationship, and status, taken as a whole, and taking into account the size and complexity of the business of the Company at that time, are substantially less than those assigned to you immediately prior to such change or series of changes; or
  - (ii) a material reduction by the Company in your Base Salary or other compensation as in effect prior to the Change of Control that would constitute a constructive dismissal at common law; or
  - (iii) the taking of any action by the Company, or the failure by the Company to take any action, that would materially and adversely affect your participation in, or materially reduce your aggregate benefits under, the total package of long-term incentive, bonus, compensation, RRSP, life insurance, health, accidental disability and other similar plans in which you are participating prior to the action by the Company or the failure by the Company to take any action; or
  - (iv) the unilateral requirement that you relocate to a new location that is both (a) more than 60 kilometers from your previous work location and (b) more than 60 kilometers from your primary residence; or
-

- (v) failure or refusal of the Successor Company to offer you terms and conditions of employment, including the provisions of Section M of this Agreement, that are substantially the same as the provisions of this Agreement; or
- (vi) subject to the terms of this Agreement, any reason which would be considered to amount to constructive dismissal by an arbitrator under the laws applicable in British Columbia;

provided that any change or series of changes in reporting relationships alone will not constitute good reason.

- d. **“Successor Company”** means, in connection with a Change of Control, the surviving or acquiring company or entity.

**M. Termination Without Cause or Resignation for Good Reason in Connection With or Following A Change of Control.**

In the event of (i) a termination without cause or (ii) resignation for Good Reason, in either case, occurring within three (3) months prior to a Change of Control and related or connected to that Change of Control or occurring within twelve (12) months after a Change of Control, your employment will end on the date it is terminated without cause by the Company or Successor Company or the date terminated by you for Good Reason, in which case the Company or Successor Company will provide you with the notice or pay in lieu of notice to which you are entitled under the British Columbia Employment Standards Act (the **“Statutory Notice”**). In exchange for and conditional upon you signing and returning a full and final Release of all claims in the form attached hereto as Schedule C, the Company or Successor Company will provide you with the following:

- a. payment equal to twelve (12) months' Base Salary, plus one (1) additional month of Base Salary for every year of consecutive service with the Company and Successor Company, up to a combined maximum of eighteen (18) months (the **“COC Payment Period”**). The COC Payment Period is inclusive of, and not in addition to, the Statutory Notice;
  - b. payment of 100% of your then-applicable bonus eligibility calculated on your then-applicable annual Base Salary (i.e. not prorated for the partial year worked), less statutory and other applicable deductions as required;
  - c. the contributions to your retirement savings plan the Company would have paid on your behalf during the COC Payment Period;
  - d. notwithstanding any provision in the Company's Amended and Restated Stock Option Plan (the **“Pre-IPO Equity Plan”**), the Equity Incentive Plan and any subsequent deferred compensation plan to the contrary:
    - (i) immediate vesting of all unvested stock options and other deferred compensation awards granted to you by the Company or the Successor Company; and
    - (ii) with respect to stock options granted pursuant to the Pre-IPO Equity Plan and any prior stock option plan, continued exercise rights up to ninety (90) days after the end of the Payment Period, at which time, such rights will be null and void; and
    - (iii) continued exercise rights for the longer of the period stipulated in the applicable plan or grant and six (6) months after the date your employment actually terminates (i.e. the last day you are actually at work); and
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- e. subject to the applicable insurer's terms of coverage, at the Company's discretion, the Company will arrange for you to continue to receive group benefits insurance coverage up to the earlier of (i) the end of the COC Payment Period, or (ii) the date you commence new work or employment with comparable coverage. In the event the insurer does not continue coverage, the Company will pay you an amount equivalent to the cost of the monthly premiums the Company would have paid on your behalf for the group benefits insurance coverage that are terminated.

In the case of Good Reason, you must within three (3) months after the occurrence of Good Reason provide the Company or Successor Company with thirty (30) days' written notice of Good Reason during which you will continue to provide services to the Company or Successor Company. Where the Good Reason is based in whole or in part on a series of changes, the notice period will commence on the occurrence of the last change in the series. Within your thirty (30) day working notice, the Company or the Successor Company may correct, reverse, rectify or otherwise resolve the change or series of changes that constitute Good Reason, in which case your employment with the Company or Successor Company will continue.

The payments described above are inclusive of any termination or severance pay owing to you under applicable employment standards legislation. You further agree that you will not be eligible for any additional payment pursuant to the termination sections below (e.g. you will **not** be entitled to receive both the payments described in this Section M and the Termination Without Cause payments or notice described below in Section P).

#### **Termination:**

**N. Resignation.** If for any reason you should wish to leave the Company, you will provide the Company with three (3) months' prior written notice of your intention (the "**Resignation Period**"). You agree that the Company may, in its sole and unfettered discretion, waive the Resignation Period in whole or in part and end your employment immediately by delivering to you a written notice promptly followed by payment of the Base Salary due to you during the remainder of the Resignation Period and any pay accrued and owing under this Agreement up to the date of such notice. It is further expressly agreed that you will not be entitled to any bonus or pro rata bonus after you give notice of resignation. For example, if you give notice of resignation partway during the calendar year, or any time prior to the bonus payment date following that calendar year, you will not be entitled to any bonus for that calendar year.

**O. Termination for Cause.** The Company may terminate your employment at any time for cause, effective upon delivery by the Company to you of a written notice of termination of your employment for cause. You will not be entitled to receive any further pay or compensation (except for pay, if any, accrued and owing under this Agreement up to the date of termination of your employment), severance pay, notice, payment in lieu of notice, benefits or damages of any kind, and for clarity, without limiting the foregoing, you will not be entitled to any bonus or pro rata bonus payment that has not already been awarded by the Company.

**P. Termination Without Cause.**

(This Section P does not apply to a termination without cause that occurs within three (3) months prior to a Change of Control and in relation or connection to that Change of Control or within twelve (12) months after a Change of Control – such terminations are covered by Section M).

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The Company may terminate your employment without cause at any time upon providing you with the notice or pay in lieu of notice to which you are entitled under the Statutory Notice. In exchange for and conditional upon you signing and returning a full and final Release of all claims in the form attached hereto as Schedule C, the Company will provide you with notice or pay in lieu of notice beyond that required by the Statutory Notice – in particular, the Company will provide you with working notice of termination (in which case all of your terms and conditions of employment including compensation and benefits, subject to the applicable insurer's terms of coverage, will continue during the working notice period, or Base Salary continuance, or a lump sum payment of Base Salary, or an equivalent combination of any of the foregoing, in the amount of twelve (12) months plus one (1) additional month for every one (1) year of consecutive service with the Company, up to a combined maximum of eighteen (18) months (the "**Notice Period**").

It is within the Company's sole discretion to decide whether to provide working notice, Base Salary Continuance, or a lump sum payment of Base Salary, or a combination of the foregoing, for the Notice Period.

The Notice Period is inclusive of, and not in addition to, the Statutory Notice. If the Company elects to provide Base Salary Continuance or a lump sum payment of Base Salary for all or part of the Notice Period, the portion of the Notice Period covered by such payment(s) shall be defined as the "**Payment Period**".

The parties further agree as follows, also conditional upon you signing and returning a full and final Release of all claims in the form attached hereto as Schedule C:

- (i) subject to the applicable insurer's terms of coverage, the Company will arrange for you to continue to receive group benefits insurance coverage up to the earlier of (i) the end of the Notice Period, or (ii) the date you commence full-time employment. In the event the insurer does not continue coverage, the Company will pay you an amount equivalent to the cost of the monthly premiums the Company would have paid on your behalf for the group benefits insurance coverage that are terminated;
  - (ii) you will receive an Average Bonus pro-rated for the period of the calendar year that you actually worked, up to your last day at work, less statutory and other applicable deductions as required. For example, if your last day of work is March 31, you will receive 3 months of your Average Bonus. Payment of your pro-rated Average Bonus will be within four (4) weeks of the termination date provided that if a bonus has not yet been determined for the preceding completed calendar year, the Company will first make that determination in the ordinary course using relevant criteria in a manner consistent with prior practice so that the Average Bonus can then be determined and paid. For clarity, it is expressly agreed that you will not be entitled to any bonus whatsoever for any period of time after your last actual day at work, including during the Payment Period;
  - (iii) the Company will pay the contributions to your retirement savings plan the Company would have paid on your behalf during the Notice Period; and
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(iv) notwithstanding any provision in this Agreement or in the Pre-IPO Equity Plan, the Equity Incentive Plan and any subsequent incentive compensation plan to the contrary, the Company will extend the vesting and exercise rights of your vested and unvested options and other deferred compensation as follows:

- a. for stock options granted under the Pre-IPO Equity Plan and any prior stock option plan, the stock options will continue vesting until the end of the Notice Period, at which time all unvested options will be null and void, and all vested stock options will be exercisable until the earlier of the original expiry date of the options and the date that is three (3) months following the end of the Notice Period; and
- b. for stock options and other deferred compensation granted under the 2014 Equity Incentive Plan and any subsequent incentive compensation plan, the stock options and other deferred compensation will continue to vest for a period of three (3) months after the date your employment terminates and all vested stock options and other deferred compensation will be exercisable until the earlier of the original expiry date of the stock options and deferred compensation and the date that is six (6) months after the date your employment terminates.

Any payment in lieu of notice provided to you will be inclusive of any termination or severance pay owing to you under applicable employment standards legislation and subject to statutory withholdings and other regular payroll deductions. You will not be entitled to receive any further pay or compensation except (i) as expressly set out in this Agreement, and (ii) the pay, if any, accrued and owing under this Agreement up to the date of termination of your employment.

**Q. Work Permit.** As a condition of your employment, you may become required to work in other jurisdictions where the Company or the Company's affiliates maintain an office. In that event, the continuance of your employment with the Company will become contingent upon your signing and complying with an Employee Secondment Agreement Letter, receiving authorization to work in that or those other jurisdiction(s), and to your maintaining such status. The Company will support your application for any such authorization(s).

**R. FDA Debarment.** As a condition of your employment, you must certify that you are not under investigation by the FDA for debarment action, have not been debarred under the Generic Drug Enforcement Act of 1992 (21 U.S.C. 301 et seq.), and are not otherwise being investigated, restricted or disqualified from performing services relating to clinical trials by the FDA or any other regulatory authority or professional body in any other jurisdiction. If, during the course of your employment with Xenon, you become subject to such investigation or otherwise are restricted or disqualified, you will promptly inform Xenon's Legal Department of such event.

**S. Miscellaneous**

**No Implied Entitlement.** Other than as expressly provided herein or in any of the Company's policies, as amended from time to time at the Company's sole discretion, you will not be entitled to receive any further pay or compensation, severance pay, notice, payment in lieu of notice, incentives, bonuses, benefits or damages of any kind.

**Continued Effect.** Notwithstanding any changes in the terms and conditions of your employment which may occur in the future, including any changes in position, duties or compensation, the termination provisions in this Agreement will continue to be in effect for the duration of your employment with the Company unless otherwise amended in writing and signed by the Company.

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**Authorization to Deduct Debts.** If, on the date you leave employment, you owe the Company any money, you hereby authorize the Company to deduct any such debt from your final pay or any other payment due to you to the extent permitted by the *BC Employment Standards Act* if applicable. Any remaining debt will be immediately payable to the Company and you agree to satisfy such debt within fourteen (14) days after any demand for repayment.

**Dispute Resolution.** In the event of a dispute arising out of or in connection with this Agreement, or in respect of any legal relationship associated with it or from it, which does not involve the Company seeking a court injunction or other injunctive or equitable relief to protect its business, confidential information or intellectual property, or enforce the covenants hereunder, that dispute will be resolved confidentially as follows:

- a. *Amicable Negotiation* – The parties agree that, both during and after the performance of their responsibilities under this Agreement, each of them will make *bona fide* efforts to resolve any disputes arising between them by amicable and expeditious negotiations.
- b. *Mediation* – If the parties are unable to negotiate resolution of a dispute, either party may with the agreement of the other party refer the dispute to mediation by providing written notice to the other party. If the parties cannot agree on a mediator within fifteen (15) days after receipt of the notice to mediate, then either party may make application to the British Columbia Arbitration and Mediation Society to have one appointed. The mediation will be held in Vancouver, BC, in accordance with the British Columbia International Commercial Arbitration Centre's (the "**BCICAC**") Commercial Mediation Rules, and each party will bear its own costs, including one-half share of the mediator's fees.
- c. *Arbitration* – If, after mediation, the parties have been unable to resolve a dispute or at any time if mediation is not undertaken, either party may refer the dispute for final and binding arbitration by providing written notice to the other party. If the parties cannot agree on an arbitrator within fifteen (15) days after receipt of the notice to arbitrate, then either party may make application to the British Columbia Arbitration and Mediation Society to appoint one. The arbitration will be held in Vancouver, BC, in accordance with the BCICAC's Shorter Rules for Domestic Commercial Arbitration. Each party will bear its own costs, including one-half share of the arbitrator's fees, provided that the arbitrator will have discretion to award costs against either party.

**Legal Counsel.** You have been advised by the Company to retain independent legal advice with respect to this Employment Agreement.

**Employment Standards Act.** The parties hereby agree that if any provision in this Employment Agreement, in any circumstance, provides for less than what is required by the *BC Employment Standards Act*, such provision shall be replaced with the minimum provision(s) of the *BC Employment Standards Act*.

**Currency.** Except as otherwise specifically indicated, all monetary amounts referenced herein are in Canadian dollars.

**Severability.** If any part, article, section, clause, paragraph or subparagraph of this Agreement is held to be indefinite, invalid, illegal or otherwise voidable or unenforceable for any reason, the entire Agreement will not fail on the account thereof and the validity, legality and enforceability of the remaining provisions will in no way be affected or impaired thereby.

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**Entire Understanding.** We also confirm that this Agreement and the other agreements, documents, and plans that are referred to in this Agreement (including the Non-Disclosure, Non-Solicitation and Non-Competition Agreement) set forth our entire understanding of the terms of your employment with the Company, and cancels and supersedes all previous invitations, proposals, letters, correspondence, negotiations, promises, agreements (including your former employment agreement), covenants, conditions, representations and warranties with respect to the subject matter of this Agreement. Any modifications to these employment terms must be made in writing and signed by both you and the Company.

**Fresh Consideration.** The Company is hereby providing you with one hundred dollars (\$100) as fresh consideration for you entering into this Employment Agreement. You hereby accept the receipt and sufficiency of this fresh consideration.

**Governing Law.** This Agreement and all matters arising hereunder will be governed by and construed in accordance with the laws of the Province of British Columbia.

If you have any questions or concerns regarding the above, please do not hesitate to contact me.

To accept this Agreement on the terms set out herein, please sign where indicated below, and return a signed copy of this Agreement to me before [Date].

Yours sincerely,

**XENON PHARMACEUTICALS INC.**

[Signatory Name]

[Signatory Title]

Attachments:

- 1) Xenon Employee Non-Disclosure, Non-Solicitation and Non-Competition Agreement
- 2) 2014 Equity Incentive Plan

I hereby confirm that I have read, understand and voluntarily accept the terms of this Agreement:

\_\_\_\_\_  
**Name**

\_\_\_\_\_  
**DDM/MM/YYYY**

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## **SCHEDULE A**

### **Duties and Responsibilities**

Your duties and responsibilities in this position will include those listed below:

1. [XXX]
  2. Other duties as required from time to time.
  3. Strictly adhere to all Xenon corporate policies, particularly those concerning confidentiality, intellectual property, and safety.
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**SCHEDULE C**

**Form of Release**

**IN CONSIDERATION OF** the terms and conditions set out in the [DATE] letter from **Xenon Pharmaceuticals Inc.** (hereinafter called "**Xenon**") to me, [NAME], and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledge, I do hereby remise, release and forever discharge Xenon, its officers, directors, servants, employees and agents, and their heirs, executors, administrators, successors and assigns, as the case may be (defined collectively as the "Releasees"), of and from any and all manner of actions, causes of action, suits, contracts, claims, damages, costs and expenses of any nature or kind whatsoever, whether in law or in equity, which as against Xenon or such persons as aforesaid or any of them, I have ever had, now have, or at any time hereafter I or my personal representatives can, shall or may have, by reason of or arising out of the termination of my employment with Xenon on or about [DATE], without limiting the generality of the foregoing, any and all claims for damages for termination of my employment, constructive termination of my employment, loss of position, loss of status, loss of future job opportunity, loss of opportunity to enhance my reputation, the timing of the termination and the manner in which it was effected, loss of bonuses, loss of shares and/or share options, loss of benefits, including life insurance and short and long-term disability benefit coverage, and any other type of damages arising from the above.

**IT IS UNDERSTOOD AND AGREED** that this Release includes any and all claims arising under the *Employment Standards Act*, *Human Rights Code*, or other applicable legislation as it relates to the termination of my employment and that the consideration provided includes any amount that I may be entitled to under such legislation.

**IT IS FURTHER UNDERSTOOD AND AGREED** that this Release is subject to compliance by Xenon with the said conditions as stipulated in the aforementioned employment agreement entered into between the undersigned and Xenon.

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**IT IS FURTHER UNDERSTOOD AND AGREED THAT XENON** will withhold and remit income tax and other statutory deductions from the aforesaid consideration and I agree to indemnify and hold harmless Xenon from any further assessments for income tax, repayment of any employment insurance benefits received by me, or other statutory deductions which may be made under statutory authority.

**IT IS FURTHER UNDERSTOOD AND AGREED** that this is a compromise and is not to be construed as an admission of liability on the part of Xenon. The terms of this Release set out the entire agreement between Xenon and me with respect to the matters described herein and are intended to be contractual and not a mere recital. If the facts on which this Release is made prove to be other than or different from the facts in that connection now known or believed to be true by the parties or either of them, the parties and each of them expressly accept and assume the risk of the facts being different and agree that all the terms of this Release shall be in all respects effective and not subject to termination, variation, or rescission by any discovery of any difference in the facts. If any part or provision of this Release or its application to any circumstance is restricted, prohibited or unenforceable, such part or provision will be ineffective only to the extent of such restriction, prohibition or unenforceability, and the remainder of the Release will remain in full force and effect.

**IT IS FURTHER UNDERSTOOD AND AGREED** that I will keep the contents of this settlement and all communication relating thereto confidential except to Revenue Canada or as is required to obtain legal and tax advice, or to enforce my rights hereunder in a court of law, or as is required by law.

**IT IS FURTHER UNDERSTOOD AND AGREED** that the law governing this Release is that of British Columbia, and the parties will resolve any disputes they have under this Release in the courts of British Columbia, provided that if, contrary to this Release, I commence, pursue, or maintain any such proceedings against any of the Releasees, I hereby irrevocably consent to such Releasee(s) relying on this Release to obtain a stay or dismissal or such proceedings.

**IT IS FURTHER UNDERSTOOD AND AGREED** that the consideration described herein was voluntarily accepted by me for the purpose of making a full and final settlement of all claims described above and that prior to agreeing to the settlement, I was advised by Xenon of my right to receive independent legal advice.

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**IN WITNESS WHEREOF** this Release has been executed effective the \_\_\_\_\_ (please insert date of signature).

SIGNED, SEALED AND DELIVERED

By **[NAME]** in the presence of:

_____	)	
	)	
<b>Signature of Witness</b>	)	<b>[NAME]</b> _____
_____	)	
Name of Witness	)	
_____	)	
Address	)	
_____	)	
Occupation	)	

[Date]

**Confidential**

**Via Electronic Mail**

[NAME]

Dear [Name],

**Re: Offer of Employment (U.S. Executive)**

We are pleased to offer you the position of [TITLE] with Xenon Pharmaceuticals USA Inc. (the "**Company**"), a wholly-owned subsidiary of Xenon Pharmaceuticals Inc. (the "**Parent**"), commencing on or about [DATE]. Subject to Sections L through P below, the Company agrees to employ you, and you agree to serve the Company, on an "at-will" basis, which means that either the Company or you may terminate your employment with the Company at any time and for any or no reason, in accordance with the terms of this agreement (the "**Agreement**").

**A. Base Salary.** Subject to Section V below, you will earn a base salary at a rate of \$[XXX] USD per year, less statutory and other applicable deductions as required, for all work and services you perform for the Company (the "**Base Salary**"). The Base Salary is payable semi-monthly in arrears in accordance with the Company's applicable payroll policies.

**B. Annual Discretionary Bonus.** In addition to your Base Salary, you are eligible to earn an annual discretionary bonus, less statutory and other applicable deductions as required, of up to [XX] percent ([XX]%) of your base salary earnings actually earned in the applicable calendar year of service. The payment and amount of the annual bonus is within the sole discretion of the Board of Directors of the Company (the "**Board**"), based on the determination of the Compensation Committee of the Board of Directors of Parent (the "**Compensation Committee**") and will be evaluated in the first quarter of each year in relation to the achievement of corporate and/or personal objectives for the previous year and subject to the terms and conditions of Appendix A. Such objectives will be established annually by the Compensation Committee in its sole discretion. Bonuses are not earned until paid and are contingent upon your continued employment with the Company through the date the bonus is paid. No "pro-rated" or partial bonus will be provided unless provided for in Sections L through P below or as otherwise approved by the Board, based on the determination of the Compensation Committee, in its sole discretion.

**C. Annual Review.** The Compensation Committee will conduct an annual review of your compensation package, including your salary and bonus percentage in accordance with its policies. The Compensation Committee's recommendations regarding your compensation package will be conveyed to the Board for final approval. Any adjustment to your compensation package is at the sole discretion of the Compensation Committee and the Board provided that the Base Salary will not be reduced without your consent and subject to Sections L and M of this Agreement.

**D. Expense Reimbursement.** In accordance with its expense policy, as amended from time to time, the Company will reimburse any authorized expenses actually and reasonably incurred in the course of performing your employment duties. The Company will also provide to you, for the duration of your employment, any necessary work tools and equipment, such as a laptop computer and mobile phone. Subject to advance approval by the Company, you will also be reimbursed for out-of-pocket expenses incurred for attending courses or workshops related to your employment duties.

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**E. Reporting Structure/Responsibilities.** You will report to the [Title]. You agree that the Company may change the reporting structure, including the person and position to whom you report, and the people and positions who report to you. You will perform the responsibilities and duties of your position, as described in Schedule A, and subject to Sections L and M of this Agreement, such other responsibilities and duties as may be reasonably requested by the Parent and/or the Company from time to time. You will at all times: (i) conform to the reasonable and lawful directions of the Parent, the Company and the Board; (ii) adhere to all applicable Company and Parent policies; (iii) give the Company and Parent the full benefit of your knowledge, expertise, skill and ingenuity; (iv) well and faithfully serve the Company and Parent; (v) devote your full time and best efforts to furthering the interests of the Company and Parent; and (vi) exercise the degree of care, diligence and skill that a prudent executive would exercise in comparable circumstances. You acknowledge and agree that you will sign an acknowledgement of any applicable Company or Parent policy in connection with your commencing employment with the Company.

You will not during your employment with the Company, be employed by, or provide products or services of any nature whatsoever to, any other person, company, organization or other entity without prior written permission from the Company, provided that you may provide services to Parent as agreed between Parent and Company as part of your duties under this Agreement (with the understanding that the compensation provided to you under this Agreement shall fully compensate you for any such services to Parent). This does not restrict you from performing reasonable volunteer activities; however, you must obtain the prior consent of the Company if you wish to serve on a board of directors or advisory board, or if you perform any paid work or services for other organizations. Schedule B contains a description of all such appointments and positions that you currently occupy, and all paid work and services you currently provide to outside organizations, to which the Company confirms that it provides its permission. The Company retains the right to revoke any consent for such outside services, especially in the event where any such services may create a conflict of interest.

**F. Paid Time Off.** You will earn twenty (20) days of paid time off per calendar year on a pro rata basis. You may use paid time off for any purpose, including vacation, sick or personal days. You may also be entitled to other leaves, including without limitation, an additional allotment of paid sick days and statutory holidays in accordance with applicable law and the Company's applicable policies, as may be in effect from time to time. Accrued but unused paid time off and sick days will expire in accordance with the Company's policies, as amended from time to time

**G. Confidentiality Agreement.** As a condition of your employment under this Agreement, you must enter into and abide by the enclosed At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement (the "**Confidentiality Agreement**"). Please note that this agreement also deals with, among other things, confidentiality and the ownership of intellectual property developments, and contains non-solicitation, non-competition, and other restrictive covenants. By entering into the Confidentiality Agreement, you are agreeing that compliance with its provisions is reasonable and a necessary requirement in our highly competitive industry, and may be required by our agreements with our suppliers, customers, and distributors. In the event that you leave the employ of the Company, you consent to notification by the Company to your new employer about your rights and obligations under the Confidentiality Agreement.

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**H. Stock Options.** As a Company employee, you will be eligible to participate in Parent's 2014 Equity Incentive Plan (the "Plan"), a copy of which is attached. Subject to the terms of the Plan (as such may be amended from time to time) and approval by Parent's Board of Directors, you will be granted [XXX] stock options to purchase common shares of Parents. All such stock options will have a ten (10) year term and vest in installments over a four (4) year term, in accordance with Parent's standard policy in that regard: 25% on the first anniversary of the date you begin your employment position with Company, and the remaining 75% then vesting monthly over the course of the following three (3) years, in equal amounts, on the last day of each month. The exercise price will be the Market Price as determined by the Plan on the date that these options are approved and granted by Parent's Board of Directors.

**I. Benefits.** You will be eligible to receive and participate in the Company's employee benefits as may be established from time to time for the Company's employees, subject to the terms of the applicable plans. You will be eligible to participate in any retirement savings plan that the Company may sponsor, which, subject to compliance with applicable U.S. laws, may include a Company matching contribution of up to the amount of your personal contributions to such retirement savings plan in a given tax year, subject to a cap of 5% of your Base Salary (the "Matching Contribution"). Alternatively, if either (a) there is no Company-sponsored retirement savings plan in which you are eligible to participate, or (b) there is a Company-sponsored retirement savings plan in which you have contributed the maximum amount permitted by law in a given tax year and applicable U.S. law does not permit receipt of the full Matching Contribution, then the Company may pay you a bonus in an amount through the Company's regular payroll so that the aggregate amount you receive for a plan year (including any portion of the Matching Contribution) is economically equivalent to the full Matching Contribution.

**J. Taxes.** Any taxes applicable to your employment compensation package with the Company and your secondment to the Parent will be deducted and remitted to the appropriate authorities in accordance with the Company's standard policies and applicable law. You acknowledge and agree that during your employment with the Company, you will be expected to provide services to the Parent pursuant to a secondment arrangement between the Company and the Parent, and that any such services may result in your owing taxes in Canada. You are advised to consult your own financial advisor.

If you work in a second tax jurisdiction at the Parent or Company's request, the Company will cover the reasonable costs for you to use the services of the Company's tax adviser or another tax adviser agreed upon by the Parties to prepare your home and host country tax returns for any year during which you are required to file tax returns in more than one country as a result of your employment with the Company.

**K. Insurance and Indemnification.** As a corporate and/or executive officer of the Company and/or of the Parent during your employment with the Company, you will be covered by Parent's Directors' and Officers' Liability Insurance Policy and such other indemnity policy, agreement or commitment established by the Company or Parent, as may be in effect from time to time, subject to the terms of the Insurance Policy and other policy, agreement or commitment and any amendments made from time to time at the discretion of the Parent's Board of Directors, provided that no amendment will substantially reduce your entitlements. Your coverage under such insurance policy and any other policy, agreement or commitment will continue after your employment with the Company ends in respect of your employment with the Company.

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**L. Change of Control.** In this Agreement:

- a. **“Average Bonus”** means an amount that is (i) the sum of the annual bonus awards (expressed as a percentage of the applicable year’s Base Salary) that you earned in each of the three (3) completed calendar years preceding the date your employment with the Company terminates, divided by (ii) three (3), multiplied by (iii) your Base Salary at the time your employment with the Company terminates [for example:  $(15\%+5\%+10\%)/3 = 10\%$  of Base Salary]. If you have been employed for more than one (1) but fewer than three (3) completed calendar years of service, then your “Average Bonus” will be the average of the annual bonus awards (as expressed as a percentage of the applicable year’s Base Salary) that you have received for the completed calendar year(s) preceding the date of your employment with the Company terminates
- b. **“Change of Control”** means:
- (i) the acquisition by any person or persons acting jointly or in concert (as determined by the Securities Act) (“**Person**”), whether directly or indirectly, of voting securities of the Parent that, together with all other voting securities of the Parent held by such Person, constitute in the aggregate more than 50% of all outstanding voting securities of the Parent; provided, however, that for purposes of this subsection, the acquisition of additional securities by any one Person, who owns more than 50% of all outstanding voting securities of the Parent will not be a Change of Control;
  - (ii) an amalgamation, arrangement or other form of business combination of the Parent with another corporation that results in the holders of voting securities of that other corporation holding, in the aggregate, more than 50% of all outstanding voting securities of the corporation resulting from the business combination; provided, however, that for purposes of this subsection, the acquisition of additional securities by any one Person, who owns more than 50% of all outstanding voting securities of the Parent will not be a Change of Control; or
  - (iii) a change in the ownership of a substantial portion of the Parent’s assets, including the sale, lease, transfer or exchange of a substantial portion of the Parent’s assets, to another Person, other than in the ordinary course of business of the Parent, which occurs on the date that such Person acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by such person or persons) assets from the Parent that have a total gross fair market value equal to or more than fifty percent (50%) of the total gross fair market value of all of the assets of the Parent immediately prior to such acquisition or acquisitions; provided, however, that for purposes of this subsection (iii), the following will not constitute a change in the ownership of a substantial portion of the Parent’s assets: (A) a transfer to a Related Entity, or (B) a transfer of assets by the Parent to: (1) a stockholder of the Parent (immediately before the asset transfer) in exchange for or with respect to the Parent’s stock, (2) an entity of which the Parent has Control, (3) a Person, that owns, directly or indirectly, fifty percent (50%) or more of the all outstanding voting securities of the Parent, or (4) an entity of which a Person described in this subsection (iii)(B)(3) has Control. For purposes of this subsection (iii), gross fair market value means the value of the assets of the Parent, or the value of the assets being disposed of, determined without regard to any liabilities associated with such assets;

provided, however, that a Change in Control will not be deemed to have occurred if such Change in Control results solely from the issuance, in connection with a *bona fide* public offering, financing or series of financings by the Parent, of voting securities of the Parent or any rights to acquire voting securities of the Parent which are convertible into voting securities.

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Further and for the avoidance of doubt, a transaction will not constitute a Change of Control if: (x) its sole purpose is to change the state or jurisdiction of the Parent's incorporation, or (y) its sole purpose is to create a holding company the voting securities of which will be owned in substantially the same proportions by the persons who held the Parent's voting securities immediately before such transaction.

c. **"Good Reason"** means any of the following:

- (i) any unilateral change or series of changes to your employment responsibilities, reporting relationship, or status within the Company or Parent, such that immediately after such a change or series of changes to your responsibilities, reporting relationship, or status, taken as a whole, and taking into account the size and complexity of the business of the Company or Parent at that time, are substantially less than those assigned to you immediately prior to such change or series of changes; or
- (ii) a material reduction in your Base Salary or other compensation as in effect prior to the Change of Control; or
- (iii) the taking of any action by the Company or Parent, or the failure by the Company or Parent to take any action, that would materially adversely affect your participation in, or materially reduce your aggregate benefits under, the total package of long-term incentive, bonus, compensation, retirement savings plan, life insurance, health, accident disability and other similar plans in which you are participating prior to the action by the Company or Parent or the failure by the Company or Parent to take any action; or
- (iv) the unilateral requirement that you relocate to a new location that is both (a) more than 60 kilometers from your previous work location and (b) more than 60 kilometers from your primary residence; it being understood that you shall not be considered to have been relocated for purposes of this subsection (iv) if you are providing services to the Company consistent with Section R of this Agreement or you otherwise expressly consent to a change to Section R; or
- (v) failure or refusal of the Successor Company to offer you terms and conditions of employment, including the provisions of Section M of this Agreement, that are substantially the same as the provisions of this Agreement;

provided that any change or series of changes in reporting relationships alone will not constitute Good Reason.

d. **"Successor Company"** means, in connection with a Change of Control, the surviving or acquiring company or entity.

e. **"Cause"** has the meaning set forth in Appendix A.

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**M. Termination Without Cause or Resignation for Good Reason in Connection With or Following A Change of Control:**

In the event of (i) a termination without cause or (ii) resignation for Good Reason, in either case, occurring within three (3) months prior to a Change of Control and related or connected to that Change of Control or occurring within twelve (12) months after the date of the Change of Control, your employment will end on the date it is terminated without Cause by the Company or Successor Company or the date terminated by you for Good Reason, in which case the Company or Successor Company will provide you with the following, subject to Appendix A and the conditions precedent therein:

- a. payment equal to twelve (12) months' Base Salary, plus one (1) additional month of Base Salary for every year of consecutive service with the Company, including any service with Parent, and Successor Company, up to a combined maximum of eighteen (18) months (the "**COC Payment Period**");
- b. payment of 100% of your then-applicable bonus eligibility calculated on your then-applicable annual Base Salary (i.e. not prorated for the partial year worked), less statutory and other applicable deductions as required;
- c. payment of an amount equal to the contributions to your retirement savings plan the Company would have paid on your behalf during the COC Payment Period;
- d. notwithstanding any provision in the Equity Incentive Plan to the contrary:
  - i. immediate vesting of all unvested stock options and other deferred compensation awards granted to you by the Parent or the Successor Company; and
  - ii. with respect to stock options and other deferred compensation granted pursuant to the Equity Incentive Plan and any subsequent deferred compensation plan, continued exercise rights for the longer of the period stipulated in the applicable plan or grant and six (6) months from the termination of your employment.
- e. payment directly on your behalf or reimbursement to you for the cost of the monthly premiums for you and your eligible dependents to continue your health care benefits pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("**COBRA**") up to the earlier of (I) the end of the Payment Period, or (II) the date you commence full-time employment.

In the case of Good Reason, you must within three (3) months after the occurrence of Good Reason, provide the Company or Successor Company with thirty (30) days' written notice of Good Reason. Where the Good Reason is based in whole or in part on a series of changes, the notice period will commence on the occurrence of the last change in the series. Within thirty (30) days after receipt of written notice of Good Reason, the Company or the Successor Company may correct, reverse, rectify or otherwise resolve the change or series of changes that constitute Good Reason, in which case your employment with the Company or Successor Company will continue.

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Subject to Appendix A, the payments described above, are inclusive of any termination or severance pay owing to you under applicable law, and will be subject to statutory withholdings and other regular payroll deductions. You further agree that you will not be eligible for any additional severance or separation payments under any other Company policy or practice. You will be entitled to the pay, if any, accrued and owing under this Agreement up to the date of termination of your employment. In the event you trigger termination under the Change of Control/Good Reason terms above or are entitled to the termination provisions above as a result of the termination of your employment without Cause, you will not be eligible for any payment pursuant to the termination sections below.

#### **Termination:**

**N. Resignation.** If for any reason you should wish to leave the Company, you will provide the Company with three (3) months' prior written notice of your intention (the "**Resignation Period**"). You agree that in order to protect the Company's interests, the Company may, in its sole and unfettered discretion, waive the Resignation Period and end your employment immediately by delivering to you a written notice, which shall cease any further pay or compensation obligations of the Company (except for pay, if any, accrued and owing under this Agreement up to the date of termination of your employment). Nothing in this provision is intended to alter the at-will nature of your employment with the Company.

**O. Termination for Cause.** The Company may terminate your employment at any time for Cause. You will not be entitled to receive any further pay or compensation (except for pay, if any, accrued and owing under this Agreement up to the date of termination of your employment), severance pay, notice, payment in lieu of notice, benefits or damages of any kind, and for clarity, without limiting the foregoing, you will not be entitled to any bonus or pro rata bonus payment that has not already been awarded by the Company.

#### **P. Termination Without Cause.**

(This Section P does not apply to a termination without cause that occurs within three (3) months prior to a Change of Control and in relation or connection to that Change of Control or within six (6) months prior to a Change of Control and in relation or connection to that Change of Control or within twelve (12) months of a Change of Control – such terminations are covered by Section M).

The Company may terminate your employment without Cause at any time upon providing you a severance payment in the amount equal to twelve (12) months plus one (1) additional month for every one (1) year of consecutive service with the Company, up to a maximum of eighteen (18) months (the "**Payment Period**"), and subject to Appendix A and the conditions precedent therein.

In addition to the severance payment above, in the event of a termination without Cause, the Company will provide you with the following, and, as above, subject to Appendix A and the conditions precedent therein:

- (i) the Company will pay on your behalf or otherwise reimburse you for the cost of the monthly premiums for you and your eligible dependents to continue your health care benefits pursuant under COBRA, as amended up to the earlier of (I) the end of the Payment Period, or (II) the date you commence full-time employment;

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- (ii) the Company will pay you an Average Bonus pro-rated for the period of the partial bonus year you actually worked immediately prior to the termination of your employment, less statutory and other applicable deductions as required. For example, if your last day of work is March 31, you will receive three (3) months of your Average Bonus. If a bonus has not yet been determined for the preceding completed calendar year, the Compensation Committee will first make that determination in the ordinary course using relevant criteria in a manner consistent with prior practice and make its recommendation to the Board so that the Average Bonus can then be determined and paid in accordance with this provision. For clarity, it is expressly agreed that you will not be entitled to any bonus whatsoever for any period of time after your last actual day at work, including during the Payment Period;
- (iii) the Company will pay an amount equal to the contributions to your retirement savings plan it would have paid on your behalf for the Payment Period;
- (iv) notwithstanding any provision in the Plan to the contrary, all options and any other deferred compensation granted to you will continue to vest for a period of three (3) months after the date your employment terminates and all vested stock options and other deferred compensation will be exercisable until the earlier of the original expiry day of the stock options and deferred compensation and the date that is six (6) months after the date your employment terminates.

Any payments, severance, or other benefits hereunder will be subject to applicable withholdings and deductions. You will not be entitled to receive any further pay or compensation except (i) as expressly set out in this Agreement, and (ii) the pay, if any, accrued and owing under this Agreement up to the date of termination of your employment.

On termination of your employment, regardless of the reason for such termination, you shall immediately (and with contemporaneous effect) resign any directorships, offices or other positions that you may hold, if any, in the Company, Parent or any affiliate, unless otherwise agreed in writing by the Company and Parent.

**Q. Work Permit.** You will continue to be required to work in the Parent's Canadian office while fulfilling your on-site presence expectations, as further described in an Employee Secondment Agreement Letter. As such, your employment with the Company is contingent upon your signing and complying with the Employee Secondment Agreement Letter and maintaining your authorization to work in Canada. If you fail to maintain such status at any point after commencing your employment with the Company, that will be considered a frustration of your employment agreement and the Company will then be able to terminate your employment agreement with no severance payment to you. The Company will support your application for any such authorization.

**R. On-Site Expectations.** You will be expected to be on site at Parent's place of business an average of [XXX] weeks per month at a minimum. Business travel on behalf of Parent will be considered as time spent on-site at Parent. The requirements for your on-site presence will be reviewed with the Parent on an ongoing basis. In order to support your on-site presence, Company will pay for your flights to and from Vancouver, BC and your accommodation during your travel to Vancouver, BC.

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**S. FDA Debarment.** As a condition of your employment with the Company, you must certify and reaffirm that you are not under investigation by the FDA for debarment action, have not been debarred under the Generic Drug Enforcement Act of 1992 (21 U.S.C. 301 et seq.), and are not otherwise being investigated, restricted or disqualified from performing services relating to clinical trials by the FDA or any other regulatory authority or professional body in any other jurisdiction. If, during the course of your employment with the Company, you become subject to such investigation or otherwise are restricted or disqualified, you will promptly inform Parent's Legal Department of such event.

**T. Miscellaneous**

**No Implied Entitlement.** Other than as expressly provided herein, you will not be entitled to receive any further pay or compensation, severance pay, notice, payment in lieu of notice, incentives, bonuses, benefits or damages of any kind.

**Continued Effect.** Notwithstanding any changes in the terms and conditions of your employment which may occur in the future, including any changes in position, duties or compensation, the termination provisions in this Agreement will continue to be in effect for the duration of your employment with the Company unless otherwise amended in writing and signed by the Company.

**Authorization to Deduct Debts.** If, on the date you leave employment, you owe the Company any money, you hereby authorize the Company to deduct any such debt from your final pay or any other payment due to you to the extent permitted by applicable law. Any remaining debt will be immediately payable to the Company and you agree to satisfy such debt within fourteen (14) days after any demand for repayment, to the extent permitted by applicable law.

**Dispute Resolution.** IN CONSIDERATION OF YOUR EMPLOYMENT WITH THE COMPANY, ITS PROMISE TO ARBITRATE ALL EMPLOYMENT-RELATED DISPUTES AND YOUR RECEIPT OF THE COMPENSATION AND OTHER BENEFITS PAID TO YOU BY THE COMPANY, AT PRESENT AND IN THE FUTURE, YOU AGREE THAT ANY AND ALL CONTROVERSIES, CLAIMS, OR DISPUTES WITH ANYONE (INCLUDING THE COMPANY AND ANY EMPLOYEE, OFFICER, DIRECTOR, SHAREHOLDER OR BENEFIT PLAN OF THE COMPANY, IN THEIR CAPACITY AS SUCH OR OTHERWISE), ARISING OUT OF, RELATING TO, OR RESULTING FROM YOUR EMPLOYMENT WITH THE COMPANY OR THE TERMINATION OF YOUR EMPLOYMENT WITH THE COMPANY, INCLUDING ANY BREACH OF THIS AGREEMENT, SHALL BE SUBJECT TO BINDING ARBITRATION, AS SET FORTH IN THE CONFIDENTIALITY AGREEMENT.

**Legal Counsel.** You have been advised by the Company to retain independent legal advice with respect to this Employment Agreement.

**Currency.** Except as otherwise specifically indicated, all monetary amounts referenced herein are in U.S. dollars.

**Severability.** If any part, article, section, clause, paragraph or subparagraph of this Agreement is held to be indefinite, invalid, illegal or otherwise voidable or unenforceable for any reason, the entire Agreement will not fail on the account thereof and the validity, legality and enforceability of the remaining provisions will in no way be affected or impaired thereby.

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**Entire Understanding.** We also confirm that this Agreement (including Appendix A) and the Confidentiality Agreement, Employee Secondment Agreement Letter and the Equity Incentive Plan and related documentation set forth our entire understanding of the terms of your employment with the Company, and cancels and supersedes all previous invitations, proposals, letters, correspondence, negotiations, promises, agreements with the Parent, the Company, or any related entity (including the Prior Agreement), covenants, conditions, representations and warranties with respect to the subject matter of this Agreement. Any modifications to these employment terms must be made in writing and signed by both you and the Company.

**Governing Law.** This Agreement and all matters arising hereunder will be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without regard for conflict of law provisions.

**Protected Activity Not Prohibited.** I understand that nothing in this Agreement shall in any way limit or prohibit me from engaging in any Protected Activity. For purposes of this Agreement, "Protected Activity" means filing a charge or complaint with, or otherwise communicating or cooperating with or participating in any investigation or proceeding that may be conducted by any federal, state or local government agency or commission, including the Securities and Exchange Commission, the Equal Employment Opportunity Commission, the Occupational Safety and Health Administration, and the National Labor Relations Board ("**Government Agencies**"). I understand that in connection with such Protected Activity, I am permitted to disclose documents or other information as permitted by law, and without giving notice to, or receiving authorization from, the Company or Parent. Notwithstanding, in making any such disclosures or communications, I agree to take all reasonable precautions to prevent any unauthorized use or disclosure of any information that may constitute Company Confidential Information to any parties other than the Government Agencies. I further understand that Protected Activity does not include the disclosure of any Company or Parent attorney-client privileged communications. In addition, I hereby acknowledge that the Company has provided me with notice in compliance with the Defend Trade Secrets Act of 2016 regarding immunity from liability for limited disclosures of trade secrets. The full text of the notice is attached in Appendix B.

If you have any questions or concerns regarding the above, please do not hesitate to contact me.

To accept this Agreement on the terms set out herein, please sign where indicated below, and return a signed copy of this Agreement along with a signed copy of the Confidentiality Agreement and the Secondment Agreement to me before [Date].

Yours sincerely,

**XENON PHARMACEUTICALS USA INC.**

[Signatory Name]

[Signatory Title]

Attachment(s):

1. Confidentiality Agreement
  2. Employee Secondment Agreement Letter
  3. 2014 Equity Incentive Plan
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I hereby confirm that I have read, understand and voluntarily accept the terms of this Agreement:

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**Name**

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**DD/MM/YYYY**

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## APPENDIX A

### ADDITIONAL TERMS TO EXECUTIVE EMPLOYMENT AGREEMENT

Unless otherwise defined below, capitalized terms used herein will have the meanings set forth in the Agreement.

- A. Conditions to Receipt of Annual Bonus.** Your annual bonus must be paid no later than March 15th of the year following the year for which you earn such bonus.
- B. Conditions to Receipt of Severance.**
- a. *Release of Claims.* The receipt of any vesting acceleration, severance payments and benefits pursuant to Sections M or P of the Agreement will be subject to you signing and not revoking a separation agreement and release of claims related to your service with the Company (which may include an agreement not to disparage the Company, affirmation of your obligations under the Confidentiality Agreement (as defined above), and other standard terms and conditions) in a form reasonably satisfactory to the Company (the “**Release**”) and provided that such Release becomes effective and irrevocable no later than sixty (60) days (or such longer time as may be required by applicable law) following the termination date (such deadline, the “**Release Deadline**”). If the Release does not become effective and irrevocable by the Release Deadline, you will forfeit any rights to severance or benefits under this Agreement. In no event will severance payments or benefits be paid or provided until the Release becomes effective and irrevocable. In the event that the Release Deadline spans two (2) calendar years, then any severance payments or benefits payable under Sections M or P that otherwise constitute Deferred Payments (as defined below) will be paid no earlier than the first day of the second calendar year, subject to any delayed as may be required for Section 409A.
- b. *Section 409A*
- (i) Notwithstanding anything to the contrary in this Agreement, no Deferred Payments will be paid or otherwise provided until you have a “separation from service” (within the meaning of Section 409A) from the relevant position or positions. Similarly, no severance payable to you, if any, pursuant to this Agreement that otherwise would be exempt from Section 409A solely pursuant to Treasury Regulation Section 1.409A-1(b)(9) will be payable until you have a “separation from service” (within the meaning of Section 409A).
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- (ii) Notwithstanding anything to the contrary in this Agreement, if you are a “specified employee” within the meaning of Section 409A at the time of your termination of employment (other than due to death), then the Deferred Payments that are payable within the first six (6) months following your separation from service, will, to the extent required to be delayed pursuant to Section 409A(a)(2)(B) of the Code, become payable on the first payroll date that occurs on or after the date six (6) months and one (1) day following the date of your separation from service. All subsequent Deferred Payments, if any, will be payable in accordance with the payment schedule applicable to each payment or benefit. Notwithstanding anything herein to the contrary, if you die following your separation from service, but prior to the six (6) month anniversary of the separation from service, then any payments delayed in accordance with this paragraph will be payable in a lump sum as soon as administratively practicable after the date of your death and all other Deferred Payments will be payable in accordance with the payment schedule applicable to each payment or benefit. In no event will the Company reimburse you for any taxes that may be imposed on you as a result of Section 409A. Each payment and benefit payable under this Agreement is intended to constitute a separate payment for purposes of Section 1.409A-2(b)(2) of the U.S. Treasury Regulations.
  - (iii) Any amount paid under this Agreement that satisfies the requirements of the “short-term deferral” rule set forth in Section 1.409A-1(b)(4) of the U.S. Treasury Regulations will not constitute Deferred Payments for purposes of this Agreement.
  - (iv) Any amount paid under this Agreement that qualifies as a payment made as a result of an involuntary separation from service pursuant to Section 1.409A-1(b)(9)(iii) of the U.S. Treasury Regulations that does not exceed the Section 409A Limit (as defined below) will not constitute Deferred Payments for purposes of this Agreement.
  - (v) With respect to any expense reimbursements which are not otherwise excludible from your gross taxable income, to the extent required to comply with the provisions of Section 409A, no reimbursement of expenses incurred by you during any taxable year shall be made after the last day of the following taxable year, the right to reimbursement of any such expenses shall not be subject to liquidation or exchange for another benefit, and the amount of expenses eligible for reimbursement during any taxable year may not affect the expenses eligible for reimbursement in any other taxable year.
  - (vi) The provisions of this Agreement and the payments and benefits hereunder are intended to be exempt from or comply with the requirements of Section 409A so that none of the severance or other payments and benefits to be provided hereunder will be subject to the additional tax imposed under Section 409A, and any ambiguities herein will be interpreted to be so exempt or so comply. The Company and you agree to work together in good faith to consider amendments to this Agreement and to take such reasonable actions which are necessary, appropriate or desirable to avoid imposition of any additional tax or income recognition prior to actual payment to you under Section 409A.
  - (vii) Definitions:
    - (A) **“Deferred Payment”** means any severance pay or benefits to be paid or provided to you (or your estate or beneficiaries) pursuant to this Agreement and any other severance payments or separation benefits to be paid or provided to you (or your estate or beneficiaries), that in each case, when considered together, are considered deferred compensation under Section 409A.
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- (B) **“Section 409A”** means Section 409A of the U.S. Internal Revenue Code of 1986 (the **“Code”**) and the final regulations and any guidance thereunder and any applicable state law equivalent, as each may be amended or promulgated from time to time.
- (C) **“Section 409A Limit”** means two (2) times the lesser of: (i) your annualized compensation based upon the annual rate of pay paid to you during your taxable year preceding the taxable year of your separation from service as determined under U.S. Treasury Regulation Section 1.409A-1(b)(9)(iii)(A)(1) and any U.S. Internal Revenue Service guidance issued with respect thereto; or (ii) the maximum amount that may be taken into account under a qualified plan pursuant to Section 401(a)(17) of the Code for the year in which your separation from service occurred.

C. **“Cause”** shall mean: (i) your continued failure to substantially perform the material duties and obligations under this Agreement (for reasons other than death or disability), which failure, if curable within the discretion of the Company, is not cured to the reasonable satisfaction of the Company within thirty (30) days after receipt of written notice from the Company of such failure; (ii) your failure or refusal to comply with the policies, standards and regulations established by the Company from time to time which failure, if curable in the discretion of the Company, is not cured to the reasonable satisfaction of the Company within thirty (30) days after receipt of written notice of such failure from the Company; (iii) any act of personal dishonesty, fraud, embezzlement, misrepresentation, or other unlawful act committed by you that benefits you at the expense of the Company; (iv) your violation of a U.S. or Canadian federal, provincial or state law or regulation applicable to the Company’s business; (v) your violation of, or a plea of nolo contendere or guilty to, a felony under the laws of the United States or any state or Canada or any province; (vi) your material breach of the terms of this Agreement or the Confidentiality Agreement; or (vii) the Company’s severe financial distress, whereby the Company is in the process of winding down its business and your employment is terminated in connection with such winding down.

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## Schedule A

### Duties and Responsibilities

Your duties and responsibilities in this position will include those listed below:

1. [XXX]
  2. Other duties as required from time to time.
  3. Strictly adhere to all Company and Parent corporate policies, particularly those concerning confidentiality, intellectual property, and safety.
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## APPENDIX B

### Section 7 of The Defend Trade Secrets Act of 2016

“ . . . 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—(A) is made—(i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. . . . 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—(A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order.”

[Date]

**Confidential**

**Via Electronic Mail**

[NAME]

Dear [Name],

**Re: Amended and Restated Employment Agreement (U.S. Executive)**

We are pleased to offer you this Amended and Restated Employment Agreement which replaces and supersedes your earlier Offer of Employment (the "**Prior Agreement**") dated [DATE] with Xenon Pharmaceuticals USA Inc. (the "**Company**"), a wholly-owned subsidiary of Xenon Pharmaceuticals Inc. (the "**Parent**"). You will be credited for all purposes with your service to the Company back to your start date of [DATE]. As of [DATE] (the "**Effective Date**"), you will continue to be engaged by the Company in the full-time position of [TITLE]. Subject to Sections L through P below, the Company agrees to employ you, and you agree to serve the Company, on an "at-will" basis, which means that either the Company or you may terminate your employment with the Company at any time and for any or no reason, in accordance with the terms of this agreement (the "**Agreement**").

**A. Base Salary.** Retroactive to January 1, 2019, and subject to Section T below, you will earn a base salary at a rate of \$[XXX] USD per year, less statutory and other applicable deductions as required, for all work and services you perform for the Company (the "**Base Salary**"). The Base Salary is payable semi-monthly in arrears in accordance with the Company's applicable payroll policies.

**B. Annual Discretionary Bonus.** In addition to your Base Salary, you are eligible to earn an annual discretionary bonus, less statutory and other applicable deductions as required, of up to [XX] percent ([XX]%) of your base salary earnings actually earned in the applicable calendar year of service. The payment and amount of the annual bonus is within the sole discretion of the Board of Directors of the Company (the "**Board**"), based on the determination of the Compensation Committee of the Board of Directors of Parent (the "**Compensation Committee**") and will be evaluated in the first quarter of each year in relation to the achievement of corporate and/or personal objectives for the previous year and subject to the terms and conditions of Appendix A. Such objectives will be established annually by the Compensation Committee in its sole discretion. Bonuses are not earned until paid and are contingent upon your continued employment with the Company through the date the bonus is paid. No "pro-rated" or partial bonus will be provided unless provided for in Sections L through P below or as otherwise approved by the Board, based on the determination of the Compensation Committee, in its sole discretion.

**C. Annual Review.** The Compensation Committee will conduct an annual review of your compensation package, including your salary and bonus percentage in accordance with its policies. The Compensation Committee's recommendations regarding your compensation package will be conveyed to the Board for final approval. Any adjustment to your compensation package is at the sole discretion of the Compensation Committee and the Board provided that the Base Salary will not be reduced without your consent and subject to Sections L and M of this Agreement.

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**D. Expense Reimbursement.** In accordance with its expense policy, as amended from time to time, the Company will reimburse any authorized expenses actually and reasonably incurred in the course of performing your employment duties. The Company will also provide to you, for the duration of your employment, any necessary work tools and equipment, such as a laptop computer and mobile phone. Subject to advance approval by the Company, you will also be reimbursed for out-of-pocket expenses incurred for attending courses or workshops related to your employment duties.

**E. Reporting Structure/Responsibilities.** You will report to the [Title]. You agree that the Company may change the reporting structure, including the person and position to whom you report, and the people and positions who report to you. You will perform the responsibilities and duties of your position, as described in Schedule A, and subject to Sections L and M of this Agreement, such other responsibilities and duties as may be reasonably requested by the Parent and/or the Company from time to time. You will at all times: (i) conform to the reasonable and lawful directions of the Parent, the Company and the Board; (ii) adhere to all applicable Company and Parent policies; (iii) give the Company and Parent the full benefit of your knowledge, expertise, skill and ingenuity; (iv) well and faithfully serve the Company and Parent; (v) devote your full time and best efforts to furthering the interests of the Company and Parent; and (vi) exercise the degree of care, diligence and skill that a prudent executive would exercise in comparable circumstances.

You will not during your employment with the Company, be employed by, or provide products or services of any nature whatsoever to, any other person, company, organization or other entity without prior written permission from the Company, provided that you may provide services to Parent as agreed between Parent and Company as part of your duties under this Agreement (with the understanding that the compensation provided to you under this Agreement shall fully compensate you for any such services to Parent). This does not restrict you from performing reasonable volunteer activities; however, you must obtain the prior consent of the Company if you wish to serve on a board of directors or advisory board, or if you perform any paid work or services for other organizations. Schedule B contains a description of all such appointments and positions that you currently occupy, and all paid work and services you currently provide to outside organizations, to which the Company confirms that it provides its permission. The Company retains the right to revoke any consent for such outside services, especially in the event where any such services may create a conflict of interest.

**F. Paid Time Off.** You will earn twenty (20) days of paid time off per calendar year on a pro rata basis. You may use paid time off for any purpose, including vacation, sick or personal days. You may also be entitled to other leaves, including without limitation, an additional allotment of paid sick days and statutory holidays in accordance with applicable law and the Company's applicable policies, as may be in effect from time to time. Accrued but unused paid time off and sick days will expire in accordance with the Company's policies, as amended from time to time

**G. Confidentiality Agreement.** As a condition of your employment under this Agreement, you must enter into and abide by the enclosed At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement (the "**Confidentiality Agreement**"). Please note that this agreement also deals with, among other things, confidentiality and the ownership of intellectual property developments, and contains non-solicitation, non-competition, and other restrictive covenants. By entering into the Confidentiality Agreement, you are agreeing that compliance with its provisions is reasonable and a necessary requirement in our highly competitive industry, and may be required by our agreements with our suppliers, customers, and distributors. In the event that you leave the employ of the Company, you consent to notification by the Company to your new employer about your rights and obligations under the Confidentiality Agreement.

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**H. Stock Options.** You will continue be eligible to participate in Parent's 2014 Equity Incentive Plan, a copy of which is attached. Nothing in this Agreement will affect in any way the stock options granted to you by the Parent to date, all of which will, except as expressly provided in this Agreement, continue to vest and be exercisable in accordance with their terms while you are employed by the Company.

**I. Benefits.** You will continue to be eligible to receive and participate in the Company's employee benefits as may be established from time to time for the Company's employees, subject to the terms of the applicable plans. You will continue to be eligible to participate in any retirement savings plan that the Company may sponsor, which, subject to compliance with applicable U.S. laws, may include a Company matching contribution of up to the amount of your personal contributions to such retirement savings plan in a given tax year, subject to a cap of 5% of your Base Salary (the "**Matching Contribution**"). Alternatively, if either (a) there is no Company-sponsored retirement savings plan in which you are eligible to participate, or (b) there is a Company-sponsored retirement savings plan in which you have contributed the maximum amount permitted by law in a given tax year and applicable U.S. law does not permit receipt of the full Matching Contribution, then the Company may pay you a bonus in an amount through the Company's regular payroll so that the aggregate amount you receive for a plan year (including any portion of the Matching Contribution) is economically equivalent to the full Matching Contribution.

**J. Taxes.** Any taxes applicable to your employment compensation package with the Company and your secondment to the Parent will be deducted and remitted to the appropriate authorities in accordance with the Company's standard policies and applicable law. You acknowledge and agree that during your employment with the Company, you will be expected to provide services to the Parent pursuant to a secondment arrangement between the Company and the Parent, and that any such services may result in your owing taxes in Canada. You are advised to consult your own financial advisor.

If you work in a second tax jurisdiction at the Parent or Company's request, the Company will cover the reasonable costs for you to use the services of the Company's tax adviser or another tax adviser agreed upon by the Parties to prepare your home and host country tax returns for any year during which you are required to file tax returns in more than one country as a result of your employment with the Company.

**K. Insurance and Indemnification.** As a corporate and/or executive officer of the Company and/or of the Parent during your employment with the Company, you will be covered by Parent's Directors' and Officers' Liability Insurance Policy and such other indemnity policy, agreement or commitment established by the Company or Parent, as may be in effect from time to time, subject to the terms of the Insurance Policy and other policy, agreement or commitment and any amendments made from time to time at the discretion of the Parent's Board of Directors, provided that no amendment will substantially reduce your entitlements. Your coverage under such insurance policy and any other policy, agreement or commitment will continue after your employment with the Company ends in respect of your employment with the Company. The Indemnification Agreement you signed dated [DATE] continues to be in full force and effect.

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**L. Change of Control.** In this Agreement:

- a. **“Average Bonus”** means an amount that is (i) the sum of the annual bonus awards (expressed as a percentage of the applicable year’s Base Salary) that you earned in each of the three (3) completed calendar years preceding the date your employment with the Company terminates, divided by (ii) three (3), multiplied by (iii) your Base Salary at the time your employment with the Company terminates [for example:  $(15\%+5\%+10\%)/3 = 10\%$  of Base Salary]. If you have been employed for more than one (1) but fewer than three (3) completed calendar years of service, then your “Average Bonus” will be the average of the annual bonus awards (as expressed as a percentage of the applicable year’s Base Salary) that you have received for the completed calendar year(s) preceding the date of your employment with the Company terminates
- b. **“Change of Control”** means:
- (i) the acquisition by any person or persons acting jointly or in concert (as determined by the Securities Act) (“**Person**”), whether directly or indirectly, of voting securities of the Parent that, together with all other voting securities of the Parent held by such Person, constitute in the aggregate more than 50% of all outstanding voting securities of the Parent; provided, however, that for purposes of this subsection, the acquisition of additional securities by any one Person, who owns more than 50% of all outstanding voting securities of the Parent will not be a Change of Control;
  - (ii) an amalgamation, arrangement or other form of business combination of the Parent with another corporation that results in the holders of voting securities of that other corporation holding, in the aggregate, more than 50% of all outstanding voting securities of the corporation resulting from the business combination; provided, however, that for purposes of this subsection, the acquisition of additional securities by any one Person, who owns more than 50% of all outstanding voting securities of the Parent will not be a Change of Control; or
  - (iii) a change in the ownership of a substantial portion of the Parent’s assets, including the sale, lease, transfer or exchange of a substantial portion of the Parent’s assets, to another Person, other than in the ordinary course of business of the Parent, which occurs on the date that such Person acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by such person or persons) assets from the Parent that have a total gross fair market value equal to or more than fifty percent (50%) of the total gross fair market value of all of the assets of the Parent immediately prior to such acquisition or acquisitions; provided, however, that for purposes of this subsection (iii), the following will not constitute a change in the ownership of a substantial portion of the Parent’s assets: (A) a transfer to a Related Entity, or (B) a transfer of assets by the Parent to: (1) a stockholder of the Parent (immediately before the asset transfer) in exchange for or with respect to the Parent’s stock, (2) an entity of which the Parent has Control, (3) a Person, that owns, directly or indirectly, fifty percent (50%) or more of the all outstanding voting securities of the Parent, or (4) an entity of which a Person described in this subsection (iii)(B)(3) has Control. For purposes of this subsection (iii), gross fair market value means the value of the assets of the Parent, or the value of the assets being disposed of, determined without regard to any liabilities associated with such assets;

provided, however, that a Change in Control will not be deemed to have occurred if such Change in Control results solely from the issuance, in connection with a *bona fide* public offering, financing or series of financings by the Parent, of voting securities of the Parent or any rights to acquire voting securities of the Parent which are convertible into voting securities.

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Further and for the avoidance of doubt, a transaction will not constitute a Change of Control if: (x) its sole purpose is to change the state or jurisdiction of the Parent's incorporation, or (y) its sole purpose is to create a holding company the voting securities of which will be owned in substantially the same proportions by the persons who held the Parent's voting securities immediately before such transaction.

c. **"Good Reason"** means any of the following:

- (i) any unilateral change or series of changes to your employment responsibilities, reporting relationship, or status within the Company or Parent, such that immediately after such a change or series of changes to your responsibilities, reporting relationship, or status, taken as a whole, and taking into account the size and complexity of the business of the Company or Parent at that time, are substantially less than those assigned to you immediately prior to such change or series of changes; or
- (ii) a material reduction in your Base Salary or other compensation as in effect prior to the Change of Control; or
- (iii) the taking of any action by the Company or Parent, or the failure by the Company or Parent to take any action, that would materially adversely affect your participation in, or materially reduce your aggregate benefits under, the total package of long-term incentive, bonus, compensation, retirement savings plan, life insurance, health, accident disability and other similar plans in which you are participating prior to the action by the Company or Parent or the failure by the Company or Parent to take any action; or
- (iv) the unilateral requirement that you relocate to a new location that is both (a) more than 60 kilometers from your previous work location and (b) more than 60 kilometers from your primary residence; it being understood that you shall not be considered to have been relocated for purposes of this subsection (iv) if you are providing services to the Company consistent with Section R of this Agreement or you otherwise expressly consent to a change to Section R; or
- (v) failure or refusal of the Successor Company to offer you terms and conditions of employment, including the provisions of Section M of this Agreement, that are substantially the same as the provisions of this Agreement;

provided that any change or series of changes in reporting relationships alone will not constitute Good Reason.

d. **"Successor Company"** means, in connection with a Change of Control, the surviving or acquiring company or entity.

e. **"Cause"** has the meaning set forth in Appendix A.

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**M. Termination Without Cause or Resignation for Good Reason in Connection With or Following A Change of Control:**

In the event of (i) a termination without cause or (ii) resignation for Good Reason, in either case, occurring within three (3) months prior to a Change of Control and related or connected to that Change of Control or occurring within twelve (12) months after the date of the Change of Control, your employment will end on the date it is terminated without Cause by the Company or Successor Company or the date terminated by you for Good Reason, in which case the Company or Successor Company will provide you with the following, subject to Appendix A and the conditions precedent therein:

- a. payment equal to twelve (12) months' Base Salary, plus one (1) additional month of Base Salary for every year of consecutive service with the Company, including any service with Parent, and Successor Company, up to a combined maximum of eighteen (18) months (the "**COC Payment Period**");
- b. payment of 100% of your then-applicable bonus eligibility calculated on your then-applicable annual Base Salary (i.e. not prorated for the partial year worked), less statutory and other applicable deductions as required;
- c. payment of an amount equal to the contributions to your retirement savings plan the Company would have paid on your behalf during the COC Payment Period;
- d. notwithstanding any provision in the Equity Incentive Plan to the contrary:
  - i. immediate vesting of all unvested stock options and other deferred compensation awards granted to you by the Parent or the Successor Company; and
  - ii. with respect to stock options and other deferred compensation granted pursuant to the Equity Incentive Plan and any subsequent deferred compensation plan, continued exercise rights for the longer of the period stipulated in the applicable plan or grant and six (6) months from the termination of your employment.
- e. payment directly on your behalf or reimbursement to you for the cost of the monthly premiums for you and your eligible dependents to continue your health care benefits pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("**COBRA**") up to the earlier of (I) the end of the Payment Period, or (II) the date you commence full-time employment.

In the case of Good Reason, you must within three (3) months after the occurrence of Good Reason, provide the Company or Successor Company with thirty (30) days' written notice of Good Reason. Where the Good Reason is based in whole or in part on a series of changes, the notice period will commence on the occurrence of the last change in the series. Within thirty (30) days after receipt of written notice of Good Reason, the Company or the Successor Company may correct, reverse, rectify or otherwise resolve the change or series of changes that constitute Good Reason, in which case your employment with the Company or Successor Company will continue.

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Subject to Appendix A, the payments described above, are inclusive of any termination or severance pay owing to you under applicable law, and will be subject to statutory withholdings and other regular payroll deductions. You further agree that you will not be eligible for any additional severance or separation payments under any other Company policy or practice. You will be entitled to the pay, if any, accrued and owing under this Agreement up to the date of termination of your employment. In the event you trigger termination under the Change of Control/Good Reason terms above or are entitled to the termination provisions above as a result of the termination of your employment without Cause, you will not be eligible for any payment pursuant to the termination sections below.

#### **Termination:**

**N. Resignation.** If for any reason you should wish to leave the Company, you will provide the Company with three (3) months' prior written notice of your intention (the "**Resignation Period**"). You agree that in order to protect the Company's interests, the Company may, in its sole and unfettered discretion, waive the Resignation Period and end your employment immediately by delivering to you a written notice, which shall cease any further pay or compensation obligations of the Company (except for pay, if any, accrued and owing under this Agreement up to the date of termination of your employment). Nothing in this provision is intended to alter the at-will nature of your employment with the Company.

**O. Termination for Cause.** The Company may terminate your employment at any time for Cause. You will not be entitled to receive any further pay or compensation (except for pay, if any, accrued and owing under this Agreement up to the date of termination of your employment), severance pay, notice, payment in lieu of notice, benefits or damages of any kind, and for clarity, without limiting the foregoing, you will not be entitled to any bonus or pro rata bonus payment that has not already been awarded by the Company.

#### **P. Termination Without Cause.**

(This Section P does not apply to a termination without cause that occurs within three (3) months prior to a Change of Control and in relation or connection to that Change of Control or within six (6) months prior to a Change of Control and in relation or connection to that Change of Control or within twelve (12) months of a Change of Control – such terminations are covered by Section M).

The Company may terminate your employment without Cause at any time upon providing you a severance payment in the amount equal to twelve (12) months plus one (1) additional month for every one (1) year of consecutive service with the Company or Parent, up to a maximum of eighteen (18) months (the "**Payment Period**"), and subject to Appendix A and the conditions precedent therein.

In addition to the severance payment above, in the event of a termination without Cause, the Company will provide you with the following, and, as above, subject to Appendix A and the conditions precedent therein:

- (i) the Company will pay on your behalf or otherwise reimburse you for the cost of the monthly premiums for you and your eligible dependents to continue your health care benefits pursuant under COBRA, as amended up to the earlier of (I) the end of the Payment Period, or (II) the date you commence full-time employment;
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- (ii) the Company will pay you an Average Bonus pro-rated for the period of the partial bonus year you actually worked immediately prior to the termination of your employment, less statutory and other applicable deductions as required. For example, if your last day of work is March 31, you will receive three (3) months of your Average Bonus. If a bonus has not yet been determined for the preceding completed calendar year, the Compensation Committee will first make that determination in the ordinary course using relevant criteria in a manner consistent with prior practice and make its recommendation to the Board so that the Average Bonus can then be determined and paid in accordance with this provision. For clarity, it is expressly agreed that you will not be entitled to any bonus whatsoever for any period of time after your last actual day at work, including during the Payment Period;
- (iii) the Company will pay an amount equal to the contributions to your retirement savings plan it would have paid on your behalf for the Payment Period.
- (iv) notwithstanding any provision in the Plan to the contrary, all options and any other deferred compensation granted to you will continue to vest for a period of three (3) months after the date your employment terminates and all vested stock options and other deferred compensation will be exercisable until the earlier of the original expiry day of the stock options and deferred compensation and the date that is six (6) months after the date your employment terminates.

Any payments, severance, or other benefits hereunder will be subject to applicable withholdings and deductions. You will not be entitled to receive any further pay or compensation except (i) as expressly set out in this Agreement, and (ii) the pay, if any, accrued and owing under this Agreement up to the date of termination of your employment.

On termination of your employment, regardless of the reason for such termination, you shall immediately (and with contemporaneous effect) resign any directorships, offices or other positions that you may hold, if any, in the Company, Parent or any affiliate, unless otherwise agreed in writing by the Company and Parent.

**Q. Work Permit.** You will continue to be required to work in the Parent's Canadian office while fulfilling your on-site presence expectations, as further described in an Employee Secondment Agreement Letter. As such, your employment with the Company is contingent upon your signing and complying with the Employee Secondment Agreement Letter and maintaining your authorization to work in Canada. If you fail to maintain such status at any point after commencing your employment with the Company, that will be considered a frustration of your employment agreement and the Company will then be able to terminate your employment agreement with no severance payment to you. The Company will support your application for any such authorization.

**R. On-Site Expectations.** You will be expected to be on site at Parent's place of business an average of [XXX] weeks per month at a minimum. Business travel on behalf of Parent will be considered as time spent on-site at Parent. The requirements for your on-site presence will be reviewed with the Parent on an ongoing basis. In order to support your on-site presence, the Company will pay for your flights to and from Vancouver, BC and your accommodation during your travel to Vancouver, BC.

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**S. FDA Debarment.** As a condition of your employment with the Company, you must certify and reaffirm that you are not under investigation by the FDA for debarment action, have not been debarred under the Generic Drug Enforcement Act of 1992 (21 U.S.C. 301 et seq.), and are not otherwise being investigated, restricted or disqualified from performing services relating to clinical trials by the FDA or any other regulatory authority or professional body in any other jurisdiction. If, during the course of your employment with the Company, you become subject to such investigation or otherwise are restricted or disqualified, you will promptly inform Parent's Legal Department of such event.

**T. Miscellaneous**

**No Implied Entitlement.** Other than as expressly provided herein, you will not be entitled to receive any further pay or compensation, severance pay, notice, payment in lieu of notice, incentives, bonuses, benefits or damages of any kind.

**Continued Effect.** Notwithstanding any changes in the terms and conditions of your employment which may occur in the future, including any changes in position, duties or compensation, the termination provisions in this Agreement will continue to be in effect for the duration of your employment with the Company unless otherwise amended in writing and signed by the Company.

**Authorization to Deduct Debts.** If, on the date you leave employment, you owe the Company any money, you hereby authorize the Company to deduct any such debt from your final pay or any other payment due to you to the extent permitted by applicable law. Any remaining debt will be immediately payable to the Company and you agree to satisfy such debt within fourteen (14) days after any demand for repayment, to the extent permitted by applicable law.

**Dispute Resolution.** IN CONSIDERATION OF YOUR EMPLOYMENT WITH THE COMPANY, ITS PROMISE TO ARBITRATE ALL EMPLOYMENT-RELATED DISPUTES AND YOUR RECEIPT OF THE COMPENSATION AND OTHER BENEFITS PAID TO YOU BY THE COMPANY, AT PRESENT AND IN THE FUTURE, YOU AGREE THAT ANY AND ALL CONTROVERSIES, CLAIMS, OR DISPUTES WITH ANYONE (INCLUDING THE COMPANY AND ANY EMPLOYEE, OFFICER, DIRECTOR, SHAREHOLDER OR BENEFIT PLAN OF THE COMPANY, IN THEIR CAPACITY AS SUCH OR OTHERWISE), ARISING OUT OF, RELATING TO, OR RESULTING FROM YOUR EMPLOYMENT WITH THE COMPANY OR THE TERMINATION OF YOUR EMPLOYMENT WITH THE COMPANY, INCLUDING ANY BREACH OF THIS AGREEMENT, SHALL BE SUBJECT TO BINDING ARBITRATION, AS SET FORTH IN THE CONFIDENTIALITY AGREEMENT.

**Legal Counsel.** You have been advised by the Company to retain independent legal advice with respect to this Employment Agreement.

**Currency.** Except as otherwise specifically indicated, all monetary amounts referenced herein are in U.S. dollars.

**Severability.** If any part, article, section, clause, paragraph or subparagraph of this Agreement is held to be indefinite, invalid, illegal or otherwise voidable or unenforceable for any reason, the entire Agreement will not fail on the account thereof and the validity, legality and enforceability of the remaining provisions will in no way be affected or impaired thereby.

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**Entire Understanding.** We also confirm that this Agreement (including Appendix A) and the attached Confidentiality Agreement, Employee Secondment Agreement Letter and the Equity Incentive Plan and related documentation set forth our entire understanding of the terms of your employment with the Company, and cancels and supersedes all previous invitations, proposals, letters, correspondence, negotiations, promises, agreements with the Parent, the Company, or any related entity (including the Prior Agreement), covenants, conditions, representations and warranties with respect to the subject matter of this Agreement. Any modifications to these employment terms must be made in writing and signed by both you and the Company.

**Fresh Consideration.** The Company is hereby providing you with one hundred dollars (\$100) as fresh consideration for you entering into this Employment Agreement. You hereby accept the receipt and sufficiency of this fresh consideration.

**Governing Law.** This Agreement and all matters arising hereunder will be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without regard for conflict of law provisions.

**Protected Activity Not Prohibited.** I understand that nothing in this Agreement shall in any way limit or prohibit me from engaging in any Protected Activity. For purposes of this Agreement, "Protected Activity" means filing a charge or complaint with, or otherwise communicating or cooperating with or participating in any investigation or proceeding that may be conducted by any federal, state or local government agency or commission, including the Securities and Exchange Commission, the Equal Employment Opportunity Commission, the Occupational Safety and Health Administration, and the National Labor Relations Board ("**Government Agencies**"). I understand that in connection with such Protected Activity, I am permitted to disclose documents or other information as permitted by law, and without giving notice to, or receiving authorization from, the Company or Parent. Notwithstanding, in making any such disclosures or communications, I agree to take all reasonable precautions to prevent any unauthorized use or disclosure of any information that may constitute Company Confidential Information to any parties other than the Government Agencies. I further understand that Protected Activity does not include the disclosure of any Company or Parent attorney-client privileged communications. In addition, I hereby acknowledge that the Company has provided me with notice in compliance with the Defend Trade Secrets Act of 2016 regarding immunity from liability for limited disclosures of trade secrets. The full text of the notice is attached in Appendix B.

If you have any questions or concerns regarding the above, please do not hesitate to contact me.

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To accept this Agreement on the terms set out herein, please sign where indicated below, and return a signed copy of this Agreement along with a signed copy of the Confidentiality Agreement and the Secondment Agreement to me before [Date].

Yours sincerely,

**XENON PHARMACEUTICALS USA INC.**

[Signatory Name]

[Signatory Title]

Attachment(s):

1. Confidentiality Agreement
2. Employee Secondment Agreement Letter

I hereby confirm that I have read, understand and voluntarily accept the terms of this Agreement:

\_\_\_\_\_  
Name

\_\_\_\_\_  
DD/MM/YYYY

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## APPENDIX A

### ADDITIONAL TERMS TO EXECUTIVE EMPLOYMENT AGREEMENT

Unless otherwise defined below, capitalized terms used herein will have the meanings set forth in the Agreement.

- A. Conditions to Receipt of Annual Bonus.** Your annual bonus must be paid no later than March 15th of the year following the year for which you earn such bonus.
- B. Conditions to Receipt of Severance.**
- a. *Release of Claims.* The receipt of any vesting acceleration, severance payments and benefits pursuant to Sections M or P of the Agreement will be subject to you signing and not revoking a separation agreement and release of claims related to your service with the Company (which may include an agreement not to disparage the Company, affirmation of your obligations under the Confidentiality Agreement (as defined above), and other standard terms and conditions) in a form reasonably satisfactory to the Company (the “**Release**”) and provided that such Release becomes effective and irrevocable no later than sixty (60) days (or such longer time as may be required by applicable law) following the termination date (such deadline, the “**Release Deadline**”). If the Release does not become effective and irrevocable by the Release Deadline, you will forfeit any rights to severance or benefits under this Agreement. In no event will severance payments or benefits be paid or provided until the Release becomes effective and irrevocable. In the event that the Release Deadline spans two (2) calendar years, then any severance payments or benefits payable under Sections M or P that otherwise constitute Deferred Payments (as defined below) will be paid no earlier than the first day of the second calendar year, subject to any delayed as may be required for Section 409A.
- b. *Section 409A*
- (i) Notwithstanding anything to the contrary in this Agreement, no Deferred Payments will be paid or otherwise provided until you have a “separation from service” (within the meaning of Section 409A) from the relevant position or positions. Similarly, no severance payable to you, if any, pursuant to this Agreement that otherwise would be exempt from Section 409A solely pursuant to Treasury Regulation Section 1.409A-1(b)(9) will be payable until you have a “separation from service” (within the meaning of Section 409A).
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- (ii) Notwithstanding anything to the contrary in this Agreement, if you are a “specified employee” within the meaning of Section 409A at the time of your termination of employment (other than due to death), then the Deferred Payments that are payable within the first six (6) months following your separation from service, will, to the extent required to be delayed pursuant to Section 409A(a)(2)(B) of the Code, become payable on the first payroll date that occurs on or after the date six (6) months and one (1) day following the date of your separation from service. All subsequent Deferred Payments, if any, will be payable in accordance with the payment schedule applicable to each payment or benefit. Notwithstanding anything herein to the contrary, if you die following your separation from service, but prior to the six (6) month anniversary of the separation from service, then any payments delayed in accordance with this paragraph will be payable in a lump sum as soon as administratively practicable after the date of your death and all other Deferred Payments will be payable in accordance with the payment schedule applicable to each payment or benefit. In no event will the Company reimburse you for any taxes that may be imposed on you as a result of Section 409A. Each payment and benefit payable under this Agreement is intended to constitute a separate payment for purposes of Section 1.409A-2(b)(2) of the U.S. Treasury Regulations.
  - (iii) Any amount paid under this Agreement that satisfies the requirements of the “short-term deferral” rule set forth in Section 1.409A-1(b)(4) of the U.S. Treasury Regulations will not constitute Deferred Payments for purposes of this Agreement.
  - (iv) Any amount paid under this Agreement that qualifies as a payment made as a result of an involuntary separation from service pursuant to Section 1.409A-1(b)(9)(iii) of the U.S. Treasury Regulations that does not exceed the Section 409A Limit (as defined below) will not constitute Deferred Payments for purposes of this Agreement.
  - (v) With respect to any expense reimbursements which are not otherwise excludible from your gross taxable income, to the extent required to comply with the provisions of Section 409A, no reimbursement of expenses incurred by you during any taxable year shall be made after the last day of the following taxable year, the right to reimbursement of any such expenses shall not be subject to liquidation or exchange for another benefit, and the amount of expenses eligible for reimbursement during any taxable year may not affect the expenses eligible for reimbursement in any other taxable year.
  - (vi) The provisions of this Agreement and the payments and benefits hereunder are intended to be exempt from or comply with the requirements of Section 409A so that none of the severance or other payments and benefits to be provided hereunder will be subject to the additional tax imposed under Section 409A, and any ambiguities herein will be interpreted to be so exempt or so comply. The Company and you agree to work together in good faith to consider amendments to this Agreement and to take such reasonable actions which are necessary, appropriate or desirable to avoid imposition of any additional tax or income recognition prior to actual payment to you under Section 409A.
  - (vii) Definitions:
    - (A) **“Deferred Payment”** means any severance pay or benefits to be paid or provided to you (or your estate or beneficiaries) pursuant to this Agreement and any other severance payments or separation benefits to be paid or provided to you (or your estate or beneficiaries), that in each case, when considered together, are considered deferred compensation under Section 409A.
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- (B) **“Section 409A”** means Section 409A of the U.S. Internal Revenue Code of 1986 (the **“Code”**) and the final regulations and any guidance thereunder and any applicable state law equivalent, as each may be amended or promulgated from time to time.
- (C) **“Section 409A Limit”** means two (2) times the lesser of: (i) your annualized compensation based upon the annual rate of pay paid to you during your taxable year preceding the taxable year of your separation from service as determined under U.S. Treasury Regulation Section 1.409A-1(b)(9)(iii)(A)(1) and any U.S. Internal Revenue Service guidance issued with respect thereto; or (ii) the maximum amount that may be taken into account under a qualified plan pursuant to Section 401(a)(17) of the Code for the year in which your separation from service occurred.

C. **“Cause”** shall mean: (i) your continued failure to substantially perform the material duties and obligations under this Agreement (for reasons other than death or disability), which failure, if curable within the discretion of the Company, is not cured to the reasonable satisfaction of the Company within thirty (30) days after receipt of written notice from the Company of such failure; (ii) your failure or refusal to comply with the policies, standards and regulations established by the Company from time to time which failure, if curable in the discretion of the Company, is not cured to the reasonable satisfaction of the Company within thirty (30) days after receipt of written notice of such failure from the Company; (iii) any act of personal dishonesty, fraud, embezzlement, misrepresentation, or other unlawful act committed by you that benefits you at the expense of the Company; (iv) your violation of a U.S. or Canadian federal, provincial or state law or regulation applicable to the Company’s business; (v) your violation of, or a plea of nolo contendere or guilty to, a felony under the laws of the United States or any state or Canada or any province; (vi) your material breach of the terms of this Agreement or the Confidentiality Agreement; or (vii) the Company’s severe financial distress, whereby the Company is in the process of winding down its business and your employment is terminated in connection with such winding down.

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## Schedule A

### Duties and Responsibilities

Your duties and responsibilities in this position will include those listed below:

1. [XXX]
  2. Other duties as required from time to time.
  3. Strictly adhere to all Company and Parent corporate policies, particularly those concerning confidentiality, intellectual property, and safety.
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## APPENDIX B

### Section 7 of The Defend Trade Secrets Act of 2016

“ . . . 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—(A) is made—(i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. . . . 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—(A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order.”