



# MINIBARRX CONSIGNMENT AGREEMENT

## Exhibit B to MMCAP Infuse Contract MMS1900142

MMCAP Infuse Customers are to negotiate the terms of the MiniBarRx Consignment Agreement on an individual basis. Please review the attached and contact FFF Enterprises directly for details.

FFF Enterprises, Inc.  
fffcustomer@fffenterprises.com  
1.800.843.7477

## MINIBARRX PROGRAM CONSIGNMENT AGREEMENT

This MinibarRx Program Consignment Agreement (“Agreement”) is made between FFF Enterprises, Inc., a California corporation (“FFF”), its wholly owned subsidiary MinibarRx, LLC, a Maryland limited liability company (“MinibarRx”) and \_\_\_\_\_ (“Customer”).

WHEREAS, FFF is a wholesale distributor of pharmaceuticals and vaccines (collectively, “Pharmaceuticals”) and Customer is a healthcare provider licensed to purchase Pharmaceuticals.

WHEREAS, FFF has developed the MinibarRx Program using the MinibarRx inventory control system comprised of a refrigeration unit, materials and documentation (collectively, the “Cabinet”) and MinibarRx software and systems (the “User Portal”) for real time stock visibility.

WHEREAS, FFF is willing to provide Pharmaceuticals to Customer on a consignment basis provided Customer uses the MinibarRx Program and Cabinet to allow FFF to track the location and storage conditions of the consignment inventory owned by FFF which is in Customer’s possession.

WHEREAS, Customer is entering into this Agreement for the purpose of having Pharmaceuticals available for its own use

NOW, THEREFORE, the parties agree to the following terms and conditions:

### 1. FFF’S AND MINIBARRX’S RIGHTS AND OBLIGATIONS.

1.1 Cabinet and Monitoring Services; User Portal. FFF agrees to provide the Cabinet and MinibarRx agrees to provide the User Portal and to monitor temperature in the Cabinet. MinibarRx grants Customer a limited, non-exclusive license and right to use the User Portal.

1.2 Ownership of Cabinet and User Portal. At all times during and following the termination of this Agreement, FFF shall retain ownership of Cabinet and MinibarRx shall retain ownership of the User Portal. Customer shall have no right, title or interest in or to the Cabinet or the User Portal except the right to use same upon the terms and conditions in this Agreement.

1.3 Placement of Consigned Pharmaceuticals with Customer. Following installation and setup of the Cabinet, FFF will provide Pharmaceuticals to Customer on consignment (“Consigned Pharmaceuticals”) in amounts determined by FFF from time to time. FFF's obligation to provide the Consigned Pharmaceuticals to Customer shall be subject to the availability of adequate quantities of pharmaceuticals to FFF from the manufacturers of pharmaceuticals and Customer meeting the requirements of FFF’s credit approval processes. FFF shall not be responsible for any additional costs incurred by Customer in securing product from other sources.

1.4 Ownership of Consigned Pharmaceuticals. FFF shall retain ownership of the Consigned Pharmaceuticals until the Consigned Pharmaceuticals are removed from the Cabinet.

1.5 Periodic Inspection, Audit and Removal of Consigned Pharmaceuticals. FFF shall have the right to physically inspect, count, audit and remove the inventory of Consigned Pharmaceuticals in FFF’s discretion. Customer hereby grants FFF and its agents, representatives, or designees the right to enter Customer’s premises during business hours at FFF’s request to conduct such activities.

1.6 Use of Data. MinibarRx and its affiliates own and have the right to use data generated by the Cabinet provided the data is de-identified and aggregated prior to being used for any purpose beyond the internal use by Customer and/or MinibarRx.

## 2. CUSTOMER'S OBLIGATIONS.

2.1 Completion of Schedule A; Training To effectively plan and prepare for the deployment Customer must complete a Schedule A with associated details related to each facility, each Cabinet location within each facility and all employees and representatives associated with each facility prior to execution of this Agreement. Prior to installation of a Cabinet, each Customer employee or representative who will access the Cabinet and User Portal must complete online training and pass a test to ensure correct operation of the Cabinet and User Portal. Each additional Customer employee or representative who will access the Cabinet and User Portal must complete online training and pass a test to ensure correct operation of the Cabinet and User Portal. Pass code access will be assigned only to Customer employees and representatives who have completed training and passed a test.

2.2 Hours of Operation; Receipt of Consigned Pharmaceuticals. Customer will advise FFF of Customer's days and hours of operation so that FFF can ship Consigned Pharmaceuticals for receipt by Customer during Customer's business hours. Customer must notify FFF if Customer changes its business hours. If Customer fails to notify FFF of changes to its business hours and Consigned Pharmaceuticals cannot be delivered as a result, Customer will be responsible for paying for any Consigned Pharmaceuticals which are damaged.

2.3 Inspection of Consigned Pharmaceuticals. Upon receipt of Consigned Pharmaceuticals from FFF, Customer will promptly inspect the Consigned Pharmaceuticals and promptly report to FFF any apparent damage to or irregularity with the Consigned Pharmaceuticals. In the event Customer does not receive any expected shipment of Consigned Pharmaceuticals, Customer will promptly report the non-arrival of the shipment to FFF.

2.4 Prompt Placement of Consigned Pharmaceuticals in Cabinet. Customer will place Consigned Pharmaceuticals received from FFF in the Cabinet within one (1) hour of receipt of Consigned Pharmaceuticals.

2.5 Temperature Monitoring and Corrective Action Requirements. In the event a Customer contact is notified by MinibarRx that the Cabinet temperature has deviated from the designated range, Customer agrees to comply with MinibarRx's request for corrective action sent to Customer's contacts. Customer is responsible for paying for any Pharmaceuticals which are damaged due to Customer's failure to comply with MinibarRx's request for corrective action.

2.6 Shipping and Installation Fee; Customer Use of Cabinet. Customer will pay a shipping and installation fee of \$        per Cabinet. Customer will use the Cabinet, at no additional charge, only for storage of Consigned Pharmaceuticals. Customer will not use the Cabinet for storage of other pharmaceuticals or vaccines or other items.

2.7 Verification of Product Information. Customer will verify the product name, purchase order number, lot number and expiration date of each Consigned Pharmaceutical when loading the Cabinet. Customer will verify the product name and expiration date when removing a Consigned Pharmaceutical from the Cabinet for dispensing.

2.8 Responsibility for Cabinet and Consigned Pharmaceuticals. Customer accepts responsibility for the risk of loss or damage to the Cabinet and the Consigned Pharmaceuticals stored in

the Cabinet. Customer shall use the Cabinet solely at Customer's facility. Customer shall not make any modifications, changes or additions to the Cabinet. Customer agrees to promptly notify FFF with respect to any malfunction of the Cabinet or repairs needed to the Cabinet.

2.9 Care and Operation; Repair. The Cabinet and User Portal shall be used, maintained and operated by Customer, and Customer's employees, contractors and representatives in a careful and proper manner, in accordance with the instructions of FFF and MinibarRx, and in compliance with all laws, ordinances, and regulations relating to the possession, use, or maintenance of the Cabinet and the Consigned Pharmaceuticals stored therein, including any registration, licensing, and insurance requirements imposed on Customer, its employees, contractors and representatives. Customer shall promptly notify MinibarRx at the number listed on Schedule B in the event any component of a Cabinet Unit requires repair or replacement, or for assistance with operational or troubleshooting matters relating to the Cabinet or for assistance with operational or troubleshooting matters relating to the User Portal. All repairs shall be undertaken by MinibarRx, with assistance from Customer, if requested by MinibarRx, provided that Customer shall be billed for any repairs caused by Customer's use that was outside of the standard and intended operations of the Cabinet or not in compliance with the instructions and manuals provided to Customer. Any replacement parts installed in a Cabinet shall be installed at the cost of MinibarRx unless the part requires replacement due to Customer's use that was outside of the standard and intended operations of the Cabinet or not in compliance with the instructions and manuals provided to Customer, in which case the replacement shall be billed to Customer, and upon installation, shall be deemed the property of FFF.

2.10 Overstock Drawer. The Cabinet has an overstock drawer for Customer's use. The purpose of the overstock drawer is to provide a solution when capacity in the cartridges has been maximized. Excess inventory can be placed in the overstock drawer until it can be loaded into the dispensing cartridge.

2.11 Handling of Consigned Pharmaceuticals Dispensed in Error. Customer agrees that Consigned Pharmaceuticals dispensed from the Cabinet in error may not be re-loaded into a dispensing cartridge.

2.12 Clinical Dispensing. Customer shall use Consigned Pharmaceuticals for its own use. Customer acknowledges that FFF will not provide and Customer will not rely upon FFF for advice regarding the selection of Pharmaceuticals or the manner in which Pharmaceuticals are administered.

2.13 Compliance with Laws. Customer will obtain and maintain all required licenses and regulatory approvals, if any, necessary to operate the Cabinet. Customer shall comply with all federal, state and local laws and regulations relating to the storage and use of prescription pharmaceuticals and use of the Cabinet. Customer represents, warrants, and covenants to FFF that, as of the commencement date, and throughout the term of this Agreement, neither Customer nor any of its affiliates or subcontractors or their respective officers, directors, subcontractors, agents, employees, representatives, or personnel have ever been, are not currently, and will not be debarred, excluded, or suspended from any federal or state health care or procurement programs, or convicted of an offense with respect to health care reimbursement or participation, nor is any such action currently pending.

2.14 Insurance. Customer shall, at its expense, keep the Cabinet and the Pharmaceuticals insured against all risks of loss and/or damage. Customer, at its expense, shall carry adequate professional and general liability insurance, including for personal injuries, relating to the Consigned Pharmaceuticals, the Cabinet and its use. Upon request, Customer shall provide FFF with a copy of all insurance policies maintained under this Section.

2.15 Consent to Use of Customer's Name. FFF may request to use Customer's name in communications and advertisements. Customer must provide written authorization prior to FFF using Customer's name in communications or advertisements.

2.16 Segregation, Identification, and Inspection. Customer agrees (i) to separate Consigned Pharmaceuticals from all other goods, including non-consigned products, and store only the Consigned Pharmaceuticals in the Cabinet, (ii) to maintain signage (provided by FFF) on the Cabinet that conspicuously identifies the Cabinet and the Consigned Pharmaceuticals therein as the property of FFF, (iii) not to represent to any other person that the Cabinet or the Consigned Pharmaceuticals belongs to Customer or third parties, and (iv) not to mortgage, pledge, assign, borrow against or otherwise create a security interest in third persons other than FFF in the Cabinet or the Consigned Pharmaceuticals.

2.17 Grant of Security Interest. As stated in Sections 1.2 and 1.4 above, Customer acknowledges and agrees that (i) the Cabinet shall at all times remain the property of FFF, (ii) the User Portal shall at all times be the property of MinibarRx and (iii) the Consigned Pharmaceuticals, until they are used by the Customer, shall at all times remain the property of FFF. As additional protection to FFF against the unintended circumstance in which a court were to disregard the consignment arrangement created by this Agreement, and to nevertheless secure the prompt payment and performance by Customer of all invoices and obligations now and hereafter existing and payable to FFF pursuant to the terms of this Agreement, Customer hereby grants FFF a security interest in the Cabinet and the Consigned Pharmaceuticals, all proceeds (whether from sales, insurance recovery or otherwise) thereof, and all books and records related thereto, and agrees to fully cooperate with FFF to perfect and protect such security interest at FFF's expense. Customer, as debtor, agrees that FFF, as secured party, may file any financing statement including without limitation a Form UCC-1 and agrees to execute any other document or procure any document necessary to protect the security interest and title of FFF against the interests of third parties.

2.18 Audit of Consigned Pharmaceuticals Inventory. Upon request of FFF, Customer shall audit the Consigned Pharmaceuticals by removing the Consigned Pharmaceuticals from the Cabinet and taking an inventory of the Consigned Inventory. Customer shall provide the inventory information to FFF. Customer shall provide FFF with no less than ten (10) business days' notice of the date on which such audit will be conducted. FFF in its discretion may participate in the audit. FFF shall limit its requests for an audit of Consigned Pharmaceuticals to twice each calendar year.

2.19 Return of Consigned Pharmaceuticals. Customer shall assist and shall cooperate with FFF in effecting a return of Consigned Pharmaceuticals to FFF upon request by FFF. FFF will provide packaging and a pre-paid return label (the "Return Packaging") to Customer. Customer will comply with the packing instructions provided by FFF. Due to the potential expiry of the Consigned Pharmaceuticals, Customer must return the Consigned Pharmaceuticals to FFF in the Return Packaging for receipt by FFF within seven (7) days of Customer's receipt of the Return Packaging. If Customer does not return the Consigned Pharmaceuticals as requested by FFF within seven (7) days or if Customer fails to follow the packing instructions resulting in damage to the Consigned Pharmaceuticals, FFF will invoice Customer for the Consigned Pharmaceuticals and Customer hereby agrees that Customer will be responsible for paying the invoice.

2.20 Good Faith Participation in the MinibarRx Program. Customer agrees to participate in the MinibarRx program in good faith and to use the Consigned Pharmaceuticals in a manner that promotes the goal of minimizing waste, including but not limited to preventable spoilage or expiration of the Consigned Pharmaceuticals. In the context of the MinibarRx Program, good faith participation includes, but is not limited to, Customer's first use of Consigned Pharmaceutical before use of pharmaceuticals purchased from other sources and Customer's use of the Consigned Pharmaceuticals as its primary source of pharmaceutical supply.

### 3. INVOICING AND PAYMENT.

3.1 Price and Invoicing. FFF shall invoice Customer for Consigned Pharmaceuticals removed from the Cabinet including Consigned Pharmaceuticals dispensed from the Cabinet in error. The price for Consigned Pharmaceuticals shall be the price in effect at the time of invoicing.

3.2 Standing Purchase Order. Customer shall issue to FFF a standing purchase order which will authorize FFF to invoice for Consigned Pharmaceuticals removed from the Cabinet and to ship replenishment Consigned Pharmaceuticals to Customer in accordance with the terms of this Agreement. In the event of any inconsistency between the terms of any purchase order and terms of this Agreement, the terms of this Agreement shall control.

3.3 Payment Terms. Customer will pay each invoice for Consigned Pharmaceuticals within thirty (30) days of the date of the invoice for the Consigned Pharmaceuticals. In the event that Customer fails to pay an invoice when due, FFF shall have the right to charge Customer interest at the maximum rate permitted by law until such time as the invoice is paid.

3.4 Change of Pricing Entity. If Customer seeks to change its group purchasing organization (“GPO”), physician buying group (“PBG”) or other price source, Customer must provide FFF with not less than thirty (30) days prior written notice of such change to allow FFF to load the pricing from the new GPO, PBG or other price source.

3.5 Sales Terms and Conditions. Except as otherwise provided herein, all of FFF's standard product sales terms (<http://www.fffenterprises.com/assets/downloads/FFFSalesTermsAndConditions.pdf>) are applicable to the Consigned Pharmaceuticals.

4. WARRANTIES. FFF warrants that it has acquired the Consigned Pharmaceuticals directly from the manufacturer or the exclusive distributor of a manufacturer. FFF is making no other warranties, express or implied, including but not limited to, any implied warranties of merchantability or fitness for a particular purpose to Customer with respect to the Cabinet or the Consigned Pharmaceuticals.

### 5. TERMINATION OF AGREEMENT.

5.1 Term. This Agreement shall commence upon delivery of the Cabinet to Customer and shall continue for a period of three (3) years and thereafter be automatically renewed each year for one (1) additional year.

5.2 Termination of Agreement. Either FFF or Customer may terminate this Agreement with or without cause on thirty (30) days written notice to the other. FFF may also terminate this Agreement immediately upon notice to Customer in the event Customer breaches the terms of this Agreement.

5.3 Return of Cabinet. Upon termination of this Agreement, FFF shall make arrangement for pick-up of the Cabinet. Customer shall disconnect the Cabinet from Customer's office network and make the Cabinet and any component parts (including without limitation, any cabling that was originally provided by FFF when installation occurred and all specifications, operations manuals, and documents furnished by FFF under this Agreement, and any other documentation in Customer's possession relating to the operation and maintenance of the Cabinet and the use of the User Portal) available for pick-up by FFF. The Cabinet and any component parts shall be in the condition and repair required under Section 2.7 and free from any liens and encumbrances.

5.4 Customer Purchase of Consigned Pharmaceuticals upon Termination. Customer agrees to purchase the Consigned Pharmaceuticals in the possession of Customer upon termination of this Agreement by Customer or termination of this Agreement by FFF as a result of Customer's breach of the terms of this Agreement.

6. FORCE MAJEURE. FFF is not responsible for occurrences which are beyond the commercially reasonable control of FFF. FFF's obligations hereunder are subject to force majeure, and performance is contingent on strikes, accidents, acts of God, weather conditions, inability to secure labor and/or products, fire, earthquake, failure of electric power, and rules, regulations or restrictions imposed by any government or governmental agency, or other delays or failure of performance of the Cabinet beyond the commercially reasonable control of FFF.

7. NOTICES. Any notice required or allowed to be given hereunder shall be deemed to have been given one (1) business day following transmittal by next business day air courier or five (5) business days following transmittal by ground courier or United States First Class mail to the party at the address which appears in this Agreement or such other address as has been provided by the otherparty.

8. SUCCESSORS AND ASSIGNS. Customer may not assign this Agreement except with the prior written consent of FFF.

9. MISCELLANEOUS. This Agreement shall be construed and controlled by the laws of the State of California without regard to conflicts of laws. Failure or delay by a party to exercise any right or remedy shall not be a waiver and shall not prevent the enforcement of that or any other right. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof. This Agreement may be modified only by a written Agreement signed by duly authorized representatives of both parties. In the event of litigation relating to the subject matter of this Agreement, the non-prevailing party as specifically determined by the court shall reimburse the prevailing party for all reasonable attorney fees and costs. The parties may execute this Agreement in multiple counterparts, each of which constitutes an original, and all of which collectively constitute one Agreement. For this purpose facsimile and electronically transmitted signatures shall be accepted as originals.

[Signatures appear on the following pages]

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be signed as of the date set forth below the undersigned's signature.

“Customer”

\_\_\_\_\_  
[Customer Name]

\_\_\_\_\_  
[Address]

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

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

Accepted by:

“FFF”

FFF Enterprises, Inc.  
44000 Winchester Road  
Temecula, CA 92590

By: \_\_\_\_\_  
Patrick M. Schmidt, Chief Executive Officer

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

“MinibarRx”

MinibarRx, LLC  
44000 Winchester Road  
Temecula, CA 92590

By: \_\_\_\_\_  
Patrick M. Schmidt, Manager

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



## Schedule A

### Installation Information

#### **Instructions:**

To effectively plan and prepare for your MinibarRx installation, please complete all forms listed below:

1. **“Facility Information”** form for **EACH** facility location.

Complete a “Facility Information” form for each physical address. **IMPORTANT:** If the delivery address has more than one facility with separate MinibarRx cabinets, complete separate “Facility Information” forms for each facility.

2. **“Cabinet Information”** form for **EACH** MinibarRx cabinet.

Complete the “Cabinet Information” form for each facility location in which the MinibarRx cabinet will be installed.

3. **“User Information”** form for all users associated with **EACH** MinibarRx cabinet.

Complete a “User Information” form for each facility location. This form will include information for all users that require access to the MinibarRx cabinet(s).

#### **V3 MinibarRx Cabinet Specs and Requirements**

Before installation, refer to the table below to identify the space and electrical requirements for your MinibarRx cabinet. If you have any questions, please contact the MinibarRx Support Team at (855) 544-2122.

<b>V3 Minibar System</b>			
Dimensions:	L-28" D-26" H-54"	Door:	1 electro-mechanical fixed hinge Left to right open
Weight:	300 lbs	Power:	120v dedicated outlet
Shelves:	2	Ventilation:	1" Gap on all sides
Communication:	Wireless Modem	Flooring:	All acceptable – hard preferred
Noise:	50 dB (Standard Fridge)	Defrost:	Cycle

## Facility Information Form

Complete a Facility Information Form for EACH physical address.

**Facility Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip Code:** \_\_\_\_\_

**Office Phone:** \_\_\_\_\_

**Facility Hours:**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

*\*Please notify the MinibarRx Customer Support Team if your facility hours change or if you close early for any reason. (i.e. holidays, weather, etc.)*

### Point of Contact for Installation

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

**Phone:** \_\_\_\_\_

**Email:** \_\_\_\_\_

1. Total number of cabinets to be installed within facility: \_\_\_\_\_
2. List location information for each cabinet:

Cabinet Name	Which floor will the cabinet be located on (i.e. ground floor, second floor)?	Where will the cabinet be located? (i.e. break room, room #100)
Cabinet 1		
Cabinet 2		
Cabinet 3		

3. Please provide an adequate location for delivery, drop offs, and de-packaging.

\_\_\_\_\_

4. Please mark if a staircase or an elevator is available for cabinet movement. For installations above ground floor, wide staircases or an elevator is required. Staircases with a clearance of 4 feet or wider is considered acceptable for installation purposes.

☐

Staircase

☐

Elevator

☐

Both

## Cabinet Information Form

**Complete a Cabinet Information Form for EACH MinibarRx cabinet.**

*For any technical questions, please refer to cabinet info table on Installation Information page.*

Facility Name \_\_\_\_\_

Cabinet Name \_\_\_\_\_

*\*(from table on question 2 on Facility Information page, i.e. Cabinet 1)*

- |  |                              |                             |
|--|------------------------------|-----------------------------|
| 1. Will this cabinet be supplied with Vaccines For Children (VFC)?           | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 2. Is there an outlet that is not occupied with a light switch?              | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 3. Is there proper ventilation for a refrigerator?                           | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4. Is there room for the cabinet door to swing open 180 degrees?             | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 5. Do you have knowledge of the cell performance for the following carriers? |                              |                             |
| <i>If yes, please state signal strength (strong, medium, weak)</i>           |                              |                             |
| AT&T _____   |                              |                             |
| Verizon _____  |                              |                             |
| Sprint _____   |                              |                             |

6. I acknowledge by checking the box that I agree to the following:

**IMPORTANT:** *The cabinet must stay on the stand provided and cannot be placed on or beneath a counter top.*

I agree

☐

7. Describe any concerns or considerations relating to the area where cabinet will be installed.

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8. Insert a photo of the location where the MinibarRx unit will be placed.  
*(To insert file, select photo icons)*

## User Contact Information Form

Complete the User Information Form for all users associated with **EACH** MinibarRx cabinet.

**Facility Name:** \_\_\_\_\_

Instructions:

**1. 24/7 Emergency Contact**

- a. Identify at least three authorized users who MinibarRx can contact in the event of a temperature monitoring or excursion alert occurs.

**2. Vendee**

- a. Identify authorized users who are responsible to vending products from the MinibarRx cabinet. **Vendee** users are assigned a **four-digit access code** upon completion of the online training course.

**3. Refiller**

- a. Identify at least two authorized users who are responsible for refilling and restocking the cabinet. Their refiller access includes advanced functions. **Refiller** users are assigned a **six-digit access code** upon completion of the online training course.

**4. All Access**

- a. Identify authorized users who require access to all cabinets within the facility.

Staff (First and Last Name)	Cabinet Name	Role	Email Address (one per contact, no duplicates, personal emails may be used if necessary)	Direct #	Cell #	Text?	Emergency Contact	Vendee	Refiller	All Access

In the table below, please indicate additional products you would like to see placed in the MinibarRx cabinet on consignment.

1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

**Schedule B  
Contact Information**

**Administrative or Technical Issues**

Submit a ticket to [Support@MinibarRx.com](mailto:Support@MinibarRx.com) or phone (855) 544-2122 option 2.

**Sales Questions**

Contact Sales at (855) 544-2122 option 1.

**Lockbox Address for Payments**

FFF Enterprises, Inc.

P.O. Box 840150

Los Angeles, CA 90084-0150

DRAFT